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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 330

RIN 3206–AF36

Full Consideration of Displaced Defense Employees

AGENCY: U.S. Office of Personnel Management.

ACTION: Final regulation.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final rule to remove the regulations regarding full consideration of displaced Department of Defense employees because the implementing statute has expired and the program has been superseded.

EFFECTIVE DATE: This regulation is effective on May 19, 2000.

FOR FURTHER INFORMATION CONTACT: Jacqueline Yeatman on (202) 606–0960, FAX (202) 606–2329, TDD (202) 606–0023 or by email at jryeatma@opm.gov.

SUPPLEMENTARY INFORMATION: The regulations at 5 CFR part 330 subpart I were published April 9, 1993, implementing section 4432 of the National Defense Authorization Act for Fiscal Year 1993 (Pub. L. 102–484). The statute provided up to 2 years of full consideration in non-Defense jobs for Department of Defense employees who were separated by reduction in force between October 23, 1991 and September 30, 1997. This section of Public Law 102–484 preceded the regulations at 5 CFR part 330 Subpart G, which in 1996 established the Interagency Career Transition Assistance Plan (ICTAP). DOD employees separated by reduction in force are currently eligible for ICTAP selection priority for vacancies in non-Defense agencies under those regulations. Because this section of the Public Law has expired and been superseded by the ICTAP, OPM is deleting the current material in part 330 (subpart I) and reserving this subpart for future use.

Regulatory Flexibility Act

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

Executive Order 12866, Regulatory Review

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

List of Subjects in 5 CFR Part 330

Armed forces reserves, Government employees.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, the Office of Personnel Management is amending 5 CFR part 330 as follows:

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

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

Authority: 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp., p. 218; § 330.102 also issued under 5 U.S.C. 3327; subpart B also issued under 5 U.S.C. 3315 and 8151; § 330.401 also issued under 5 U.S.C. 3310; subpart H also issued under 5 U.S.C. 8337(h) and 8457(b); subpart K also issued under sec. 11203 of Pub. Law 105–33.

Subpart I—[Reserved]

2. In part 330, subpart I consisting of § 330.901 through § 330.903, is removed and reserved.

[FR Doc. 00–9727 Filed 4–18–00; 8:45 am]
BILLING CODE 6325–01–P

FEDERAL ELECTION COMMISSION

11 CFR Parts 9007, 9034, 9035, and 9038

[Notice 2000–8]

Public Financing of Presidential Primary and General Election Candidates

AGENCY: Federal Election Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: On November 15, 1999, the Commission published the text of revised regulations governing publicly financed Presidential campaigns. 64 FR 61777 (Nov. 15, 1999). The revised rules modify the Commission's audit procedures. They also address the "bright line" between primary and general election expenses, and the formation of Vice Presidential committees prior to nomination. The Commission announces that these rules are effective as of April 19, 2000.

EFFECTIVE DATE: April 19, 2000.

FOR FURTHER INFORMATION CONTACT: Ms. Rosemary C. Smith, Assistant General Counsel, 999 E Street, NW, Washington, DC 20463, (202) 694–1650 or toll free (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission is announcing the effective date of revised regulations at 11 CFR 9007.1, 9034.4 and 9038.1, and new regulations at 11 CFR 9035.3. The revisions to 11 CFR 9007.1 and 9038.1 replace the Exit Conference Memorandum that is currently provided to audited committees at the exit conference following an audit with a Preliminary Audit Report that will be approved by the Commission before it is provided to the audited committees after the exit conference. Revised 11 CFR 90934.4 clarifies the applicability of the so-called "bright line" rules that govern expenditures made in connection with both the primary and the general election, and revises those portions allocating payroll and overhead costs for the use of campaign offices prior to a candidate's nomination. New 11 CFR 9035.3 addresses when contributions to, and expenditures by, Vice Presidential committees must be aggregated with contributions to, and expenditures by, the primary campaign of that party's eventual Presidential nominee, for purposes of the contribution and expenditure limits for publicly funded Presidential campaigns.

Sections 9009(c) and 9039(c) of Title 26, United States Code, require that any rules or regulations prescribed by the Commission to carry out the provisions of Title 26 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate thirty legislative days prior to final promulgation. These rules were

transmitted to Congress on November 9, 1999. Thirty legislative days expired in the Senate and the House of Representatives on April 3, 2000.

Announcement of Effective Date: New 11 CFR 9035.3 and amended 11 CFR 9007.1, 9034.4 and 9038.1, as published at 64 FR 61777 (Nov. 15, 1999), are effective as of April 19, 2000.

Dated: April 13, 2000.

Darryl R. Wold,

Chairman, Federal Election Commission.

[FR Doc. 00–9732 Filed 4–18–00; 8:45 am]

BILLING CODE 6715–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–SW–14–AD; Amendment 39–11692; AD 2000–08–06]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model SA–366G1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Eurocopter France Model SA–366G1 helicopters, that requires replacing certain electrical modules with airworthy electrical modules. This amendment is prompted by the discovery of several defective electrical modules. The actions specified by this AD are intended to prevent loss of electrical continuity, which could cause loss of critical systems and subsequent loss of control of the helicopter.

EFFECTIVE DATE: May 24, 2000.

FOR FURTHER INFORMATION CONTACT: Robert McCallister, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5121, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Eurocopter France Model SA–366G1 helicopters was published in the **Federal Register** on January 10, 2000 (65 FR 1353). That action proposed to require replacing certain electrical modules with airworthy electrical modules.

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

The FAA estimates that 94 helicopters of U.S. registry will be affected by this AD, that it will take approximately 100 work hours per helicopter to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $2,969 for the maximum number of modules replaced per helicopter, but the manufacturer has stated that the parts will be provided at no cost. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $564,000.

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

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 Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

AD 2000–08–06 Eurocopter France: Amendment 39–11692. Docket No. 99–SW–14–AD.

Applicability: Model SA–366G1 helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise 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 request approval for an alternative method of compliance in accordance with paragraph (b) 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 400 hours time-in-service or within 6 calendar months, whichever occurs first, unless accomplished previously.

To prevent loss of electrical continuity, which could cause loss of required systems and subsequent loss of control of the helicopter, accomplish the following:

(a) Replace each "CONNECTRAL" green electrical module that does not have a white dot on the face and that has a manufacturing code of 95/16 through 96/21 with an airworthy electrical module. Those manufacturing codes identify modules manufactured between the beginning of the 16th week of 1995 and the end of the 21st week of 1996.

Note 2: Eurocopter France Service Bulletin No. 01.25, dated May 28, 1998, pertains to the subject of this AD.

(b) 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, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

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

(c) 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.

(d) This amendment becomes effective on May 24, 2000.

Note 4: The subject of this AD is addressed in Direction Generale De L'Aviation Civile AD 98–251–022(A), dated July 1, 1998.

Issued in Fort Worth, Texas, on April 11, 2000.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 00–9820 Filed 3–18–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–SW–70–AD; Amendment 39–11690; AD 2000–08–04]

RIN 2120–AA64

Airworthiness Directives; Robinson Helicopter Company Model R44 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Robinson Helicopter Company (RHC) Model R44 helicopters. This action requires replacing certain serial number (S/N) sprag clutches with an airworthy sprag clutch as specified in this AD. This amendment is prompted by several reports of sprag clutch failures. The actions specified by this AD are intended to prevent a sprag clutch failure, loss of main rotor RPM during autorotation, and subsequent loss of control of the helicopter.

DATES: Effective May 4, 2000. Comments for inclusion in the Rules Docket must be received on or before June 19, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–70–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Elizabeth Bumann, Aviation Safety Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, California 90712–4137, telephone (562) 627–5265; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: On April 5, 1999, the FAA issued AD 99–07–18, Amendment 39–11127 (64 FR 17964, April 13, 1999), to require inserting a Special Pilot Caution into the Rotorcraft Flight Manual (RFM) to alert pilots of the potential for the sprag clutch failing to overrun during autorotation maneuvers. The Special Pilot Caution was an interim measure until permanent corrective action was developed by the manufacturer. The FAA now believes that the affected sprag clutches need to be replaced within 30 days or 50 hours time-in-service (TIS), whichever occurs first. Since the sprag clutch is such a critical component of the rotor drive system, this AD requires replacing sprag clutch part number (P/N) C188–3, S/N 0003 through 0505, inclusive, with sprag clutch, P/N C188–3, S/N 0506 and higher. This amendment is prompted by several reports of clutch assemblies, including one from wreckage of an accident, with cracked or fractured sprag ends. The actions specified by this AD are intended to prevent a sprag clutch failure, loss of main rotor RPM during autorotation, and subsequent loss of control of the helicopter.

The FAA has reviewed RHC Service Bulletin SB–36, dated November 5, 1999, which describes replacing the sprag clutch, P/N C188–3, S/N 0453 through 0505, inclusive, with sprag clutch, P/N C188–3, S/N 0506 and subsequent. RHC Service Bulletin SB–32, dated March 22, 1999, affected this same P/N, S/N 0003 through 0452.

Since an unsafe condition has been identified that is likely to exist or develop on other Robinson R44 helicopters of the same type design, this AD is being issued to prevent a sprag clutch failure, loss of main rotor RPM during autorotation, and subsequent loss of control of the helicopter. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability of the helicopter after an actual engine failure. Therefore, replacing sprag clutch, P/N C188–3, S/N 0003 through 0505, inclusive, with sprag clutch, P/N C188–3, S/N 0506 and higher, is required within 30 calendar days or 50 hours time-in-service after the effective date of this AD, whichever occurs first, and this AD must be issued immediately.

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

The FAA estimates that 200 helicopters will be affected by this proposed AD, that it will take approximately 4 work hours to replace a sprag clutch, and that the average labor rate is $60 per work hour. Required parts will cost approximately $3,600 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $768,000.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99–SW–70–AD." The postcard will be date stamped and returned to the commenter.

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, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency

regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

AD 2000–08–04 Robinson Helicopter Company: Amendment 39–11690. Docket No. 99–SW–70–AD.

Applicability: Model R44 Helicopters, serial number (S/N) 0001 through 0541, inclusive, 0543, 0550, 0556, and 0565 with sprag clutch, part number (P/N) C188–3, S/N 0003 through 0505, inclusive, 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 otherwise 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 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: Within 30 calendar days or 50 hours time-in-service, whichever occurs first, unless accomplished previously.

To prevent sprag clutch failure, loss of main rotor RPM during autorotation, and subsequent loss of control of the helicopter, accomplish the following:

(a) Replace sprag clutch, P/N C188–3, S/N 0003 through 0505, inclusive, with sprag clutch P/N C188–3, S/N 0506 or higher.

(b) Remove from the Rotorcraft Flight Manual the Special Pilot Caution, dated March 22, 1999, contained in Robinson Helicopter Company R44 Service Bulletin SB–32 dated March 22, 1999, or the Special Pilot Caution insert in the Normal Procedures Section of the Rotorcraft Flight Manual between pages P.4–8 and P.4–9 required by AD 99–07–18, Docket No. 99–SW–25–AD, Amendment 39–11127 (64 FR 17964, April 13, 1999), as applicable.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(d) 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.

(e) This amendment becomes effective on May 4, 2000.

Issued in Fort Worth, Texas, on April 11, 2000.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 00–9818 Filed 4–18–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29995; Amdt. No. 1986]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendments is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM0 as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the FIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (RERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(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) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on April 14, 2000.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective May 18, 2000*

Ocala, FL, Ocala Regional/Jim Taylor Field, ILS RWY 36, Orig
Ocala, FL, Ocala Regional/Jim Taylor Field, LOC RWY 36, Amdt 8a, CANCELLED

** * * Effective June 15, 2000*

Oxnard, CA, Oxnard, VOR RWY 25, Amdt 9
Oxnard, CA, Oxnard, ILS RWY 25, Amdt 9
Destin, FL Destin-Fort Walton Beach, GPS RWY 14, Orig, CANCELLED
Destin, FL Destin-Fort Walton Beach, RNAV RWY 14, Orig
Destin, FL Destin-Fort Walton Beach, GPS RWY 32, Orig, CANCELLED
Destin, FL Destin-Fort Walton Beach, GPS RWY 32, Orig
Tampa, FL, Tampa Intl, GPS RWY 9, Orig, CANCELLED
Tampa, FL, Tampa Intl, RNAV RWY 9, Orig
Tampa, FL, Tampa Intl, GPS RWY 27, Orig, CANCELLED
Tampa, FL, Tampa Intl, RNAV RWY 27, Orig
Tampa, FL, Tampa Intl, GSP RWY 36R, Orig, CANCELLED
Tampa, FL, Tampa Intl, GPS RWY 36R, Orig
Chicago, IL, Chicago O'Hare Intl, VOR RWY 22R, Amdt 9
Chicago, IL, Chicago O'Hare Intl, LOC RWY 4L, Amdt 19
Chicago, IL, Chicago O'Hare Intl, NDB RWY 9R, Amdt 17
Chicago, IL, Chicago O'Hare Intl, NDB RWY 14L, Amdt 23
Chicago, IL, Chicago O'Hare Intl, NDB RWY 14R, Amdt 22
Chicago, IL, Chicago O'Hare Intl, VOR RWY 27R, Amdt 23
Chicago, IL, Chicago O'Hare Intl, ILS RWY 9L, Amdt 7
Chicago, IL, Chicago O'Hare Intl, ILS RWY 9L, Amdt 14
Chicago, IL, Chicago O'Hare Intl, ILS RWY 27R, Amdt 25
Chicago, IL, Chicago O'Hare Intl, RNAV RWY 9R, Orig
Chicago/Lake In The Hills, IL, Lake In The Hills, VOR–A, Orig, CANCELLED
Chicago/Lake In The Hills, IL, Lake In The Hills, VOR–A, Orig
Chicago/Lake In The Hills, IL, Lake In The Hills, VOR RWY 26, Amdt 3
Chicago/Lake In The Hills, IL, Lake In The Hills, GPS RWY 8, Orig, CANCELLED
Chicago/Lake In The Hills, IL, Lake In The Hills, RNAV RWY 8, Orig
Chicago/Prospect Heights/Wheeling, IL, Palwaukee Muni, VOR RWY 1, Orig-A, CANCELLED
Chicago/Prospect Heights/Wheeling, IL, Palwaukee Muni, VOR RWY 16, Orig
Chicago/Prospect Heights/Wheeling, IL, Palwaukee Muni, ILS RWY 16, Amdt 1
Chicago/Waukegan, IL, Waukegan Regional, NDB OR GPS RWY 23, Amdt 2
Chicago/Waukegan, IL, Waukegan Regional, ILS RWY 23, Amdt 4
Chicago/Waukegan, IL, Waukegan Regional, VOR/DME RNAV OR GPS RWY 5, Amdt 2
Grayslake, IL, Campbell, VOR OR GPS–A, Amdt 4, CANCELLED
Grayslake, IL, Campbell, VOR—A, Orig
Grayslake, IL, Campbell, RNAV–B, Orig
Greenwood/Wonder Lake, IL, Galt Field, VOR–A, Amdt 10
Greenwood/Wonder Lake, IL, Galt Field, RNAV–B, Orig
Burlington, IA, Burlington Regional, VOR/DME OR GPS RWY 12, Amdt 5
Burlington, IA, Burlington Regional, VOR OR GPS RWY 30, Amdt 12
Georgetown, KY, Georgetown Scott County-Marshall Field, GPS RWY 3, Orig, CANCELLED
Georgetown, KY, Georgetown Scott County-Marshall Field, RNAV RWY 3, Orig
Georgetown, KY, Georgetown Scott County-Marshall Field, GPS RWY 21, Orig, CANCELLED
Georgetown, KY, Georgetown Scott County-Marshall Field, RNAV RWY 21, Orig, CANCELLED
Alexandria, LA, Alexandria Intl, VOR OR GPS RWY 32, Amdt 1
New Orleans, LA, Lakefront, VOT/DME OR GPS RWY 36L, Amdt 8
Sanford, ME, Sanford Regional, ILS RWY 7, Amdt 3
Northhampton, MA, Northmapton, VOR/DME–B, Amdt 5

Elko, NV, Elko Muni-J.C. Harriis Field, VOR OR GPS–A, Amdt 4
Elko, NV, Elko Muni-J.C. Harriis Field, VOR/DME OR GPS–B, Amdt 3
Elko, NV, Elko Muni-J.C. Harriis Field, LDA/DME RWY 23, Amdt 5
Newark, NJ, Newark Intl, VOR/DME RWY 22R, Amdt 4
Newark, NJ, Newark Intl, VOR/DME RWY 22L, Orig
Newark, NJ, Newark Intl, ILS RWY 22R, Amdt 3
Newark, NJ, Newark Intl, ILS RWY 22L, Amdt 10
Newark, NJ, Newark Intl, GPS RWY 22L, Orig, CANCELLED
Newark, NJ, Newark Intl, RNAV RWY 22L, Orig
Newburgh, NY, Stewart Intl, ILS RWY 9, Amdt 8
Lancaster, PA, Lancaster, VOR/DME RWY 8, Amdt 4
Lancaster, PA, Lancaster, VOR/DME OR GPS RWY 26, Amdt 8
Philadelphia, PA, Northeast Philadelphia, LOC BC RWY 6, Amdt 6
Philadelphia, PA, Philadelphia International, ILS RWY 27L, Amdt 10
Murfreesboro, TN, Murfreesboro Muni, RNAV RWY 18, Orig
Murfreesboro, TN, Murfreesboro Muni, RNAV RWY 36, Orig
Dallas, TX, Dallas-Love Field, ILS RWY 13L, Amdt 30
Dallas, TX, Dallas-Love Field, ILS RWY 13R, Amdt 4
Hot Springs, VA, Ingalls Field, ILS RWY 25, Amdt 3
Fond Du Lac, WI, Fond Du Lac County, NDB OR GPS RWY 9, Amdt 6A, CANCELLED
Oshkosh, WI, Wittman Regional, LOC/DME BC RWY 18, Amdt 6

The FAA published an amendment in Docket No. *29977*, Amdt. No. *1985* to Part 97 of the Federal Aviation Regulations (Vol. 65, No. 67 Page 17991; Dated Thursday, April 6, 2000), Under Section 97.27 effective *June 15, 2000* which is hereby amended as follows:

Cuba, Mo, Cuba Muni, NDB or GPS RWY 18, Amdt 2, Cancelled Cuba, MO, Cuba Muni, NDB or GPS RWY 36, Amdt 2, Cancelled

** * * Effective August 10, 2000*

Mobile, AL, Mobile Downtown, VOR RWY 18, Orig-A
Mobile, AL, Mobile Downtown, NDB OR GPS RWY 14, Amdt 2B
Muscle Shoals, AL, Muscle Shoals/Northwest Alabama Regional, VOR/DME or GPS RWY 11, Amdt 5D
Muscle Shoals, AL, Muscle Shoals/Northwest Alabama Regional, VOR or GPS RWY 29, Amdt 26D
Talladega, AL, Talladega Muni, GPS RWY 21, Orig-A
Tuscaloosa, AL, Tuscaloosa Muni, VOR or TACAN RWY 22, Amdt 14B
Coretz, CO, Cortez Muni, GPS RWY 21, Orig-A
Grand Junction, CO, Walker Field, GPS RWY 29, Orig-A
Alton/St. Louis, IL, St. Louis Regional, LOC BC RWY 11, Amdt 7B
Champaign/Urbana, IL, University of Illinois-Willard, LOC BC RWY 14R, Amdt 7B
Champaign/Urbana, IL, University of Illinois-Willard, GOS RWY 18, Orig-A
Chicago, IL, Chicago Midway, VOR/DME RNAV or GPS RWY 22L, Amdt 3A
Decatur, Il, Decatur, VOR RWY 18, Orig-A
Mount Vernon, VOR RWY 5, Amdt 16A
Mount Vernon, GPS RWY 5, Orig-A
Quincy, IL, Qunicy Muni Baldwin Field, NDB RWY 4, Amdt 17A
Quincy, IL, Qunicy Muni Baldwin Field, VOR/DME RNAV or GPS RWY 31, Amdt 3A
Goodland, KS, Goodland Muni, NDB or GPS RWY 30, Amdt 6B
Great Bend, KS, Great Bend Muni, NDB or GPS RWY 35, Amdt 2A
Battle Creek, MI, W.K. Kellogg, GPS RWY 5, Orig-A
Alliance, NE, Alliance Muni, VOR RWY 12, Amdt 3A
Alliance, NE, Alliance Muni, VOR RWY 30, Amdt 2A
Fremont, NE, Fremont Muni, VOR RWY 13, Orig-C
Fremont, NE, Fremont Muni, GPS RWY 13, Orig-A
Hastings, NE, Hastings Muni, VOR RWY 14, Amdt 16C
Hastings, NE, Hastings Muni, NDB RWY 14, Amdt 12C
Hastings, NE, Hastings Muni, GPS RWY 14, Orig-B
Poughkeepsie, NY, Dutchess County, VOR/DME or GPS RWY 24, Amdt 3C
Syracuse, NY, Syracuse Hancock Intl, VOR RWY 15, Amdt 22C
Syracuse, NY, Syracuse Hancock Intl, GPS RWY 33, Orig-C
Siler City, NC, Siler City Municipal, VOR or GPS–A, Amdt 2
Siler City, NC, Siler City Municipal, NDB RWY 22, Amdt 1
Siler City, NC, Siler City Municipal, RNAV RWY 22, Orig
Akron, OH, Akron-Canton Regional, VOR or GPS RWY 5, Amdt 2A
Dayton, OH, James M. Cox Dayton Intl, VOR/DME RNAV or GPS RWY 6R, Amdt 8A
Corvallis, OR, Corvallis Muni, GPS RWY 35, Orig-A
Allentown, PA, Lehigh Valley International LOC BC RWY 24, Amdt 20A
College Station, TX, Easterwood Field, NDB RWY 34, Amdt 11C
Newport News, VA, Newport News/Williamsburg Intl, NDB RWY 7, Amdt 3D
Bremerton, WA, Bremerton National, GPS RWY 1, Amdt 1A
Moses Lake, WA, Grant County Intl, VOR–3, RWY, 14L, Amdt 1A
Moses Lake, WA, Grant County Intl, VOR RWY, 22, Amdt 5A
Walla Walla, WA, Walla Walla Regional, GPS RWY 2, Orig-A
Appleton, WI, Outagamie County Regional, NDB RWY 29, Amdt 1B
Appleton, WI, Outagamie County Regional, NDB or GPS RWY 3, Amdt 14D
Jamesville, WI, Rock County, VOR/DME RWY 22, Orig-B
Jackson, WY, Jackson Hole, VOR/DME or GPS RWY 36, Amdt 4B
Laramie, WY, Laramie Regional, VOR or TACAN or GPS RWY 12, Amdt 5A
Rock Springs, WY, Rock Springs-Sweetwater Springs, VOR/DME or GPS RWY 9, Amdt 2A

[FR Doc. 00–9831 Filed 4–18–00; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29996; Amdt. No. 1987]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the District of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charters printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Polices and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on April 14, 2000.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	SIAP
02/18/00	OH	Wilmington	Airborne Airpark	0/1635	NDB Rwy 4L, Amdt 2C... Replaces TL–07
02/30/00	CA	Concord	Buchanan Field	0/3142	VOR Rwy 19R Amdt 12A... This replaces FDC 0/1403 in TL 00–06
03/13/00	CT	Windsor Locks	Bradley Intl	0/2438	ILS Rwy 6 Amdt 34 (CAT I, II, III)...
03/14/00	MD	Hagerstown	Hagerstown Regional-Richard A. Henson Field.	0/2527	ILS Rwy 27 Amdt 8...

FDC date	State	City	Airport	FDC No.	SIAP
03/18/00	WY	Gillette	Gilette-Campbell Co	0/2664	LOC/DME BC Rwy 16, Amdt 3... Replaces TL–09
03/18/00	WY	Gillette	Gillette-Campbell Co	0/2665	ILS Rwy 34, Amdt 2A... Replaces TL–09
03/18/00	WY	Gillette	Gillette-Campbell Co	0/2667	VOR or GPS Rwy 17, AMDT 6A... Replaces TL–09
03/28/00	AK	Anaktuvuk Pass	Anaktuvuk Pass	0/3086	NDB–B, Orig...
03/28/00	IL	Morris	Morris Muni-James R. Washburn Field	0/3089	VOR or GPS–A, Amdt 9...
03/29/00	CA	Colusa	Colusa County	0/3130	VOR or GPS–A Amdt 4B...
03/29/00	CA	Visalia	Visalia Muni	0/3097	VOR Rwy 12 Amdt 5...
03/29/00	CA	Visalia	Visalia Muni	0/3098	GPS Rwy 12 Orig...
03/29/00	MA	Mansfield	Mansfield Muni	0/3123	NDB Rwy 32 Amdt 6A...
03/30/00	CA	Oakland	Metropolitan Oakland Intl	0/3165	VOR or GPS Rwy 9R, Amdt 7...
03/31/00	ND	Fargo	Hector Intl	0/3201	ILS Rwy 35, Amdt 32C...
03/31/00	OH	Findlay	Findlay	0/3196	VOR or GPS Rwy 7, Amdt 11...
04/03/00	AR	Rogers	Rogers Muni-Carter Field	0/3231	NDB or GPS Rwy 19, Orig–B...
04/03/00	AR	Rogers	Rogers Muni-Carter Field	0/3232	ILS Rwy 19, Amdt 2B...
04/03/00	FL	Orlando	Orlando Intl	0/3243	Radar-1, Amdt 5A...
04/03/00	FL	Orlando	Orlando Intl	0/3245	ILS Rwy 18R, Amdt 5...
04/03/00	FL	Orlando	Orlando Intl	0/3246	GPS Rwy 36L, Amdt 1...
04/03/00	FL	Orlando	Orlando Intl	0/3259	VOR/DME or GPS Rwy 36R, Amdt 9...
04/03/00	FL	Orlando	Orlando Intl	0/3260	VOR Rwy 18L, Amdt 3...
04/03/00	FL	Orlando	Orlando Intl	0/3263	VOR/DME or GPS Rwy 18R Amdt 5...
04/03/00	FL	Orlando	Orlando Intl	0/3264	VOR Rwy 18R Amdt 3...
04/03/00	FL	Orlando	Orlando Intl	0/3265	VOR/DME or GPS Rwy 18L Amdt 5...
04/03/00	FL	Orlando	Orlando Intl	0/3266	VOR/DME Rwy 36L Amdt 4A...
04/03/00	MN	Duluth	Duluth Intl	0/3258	ILS Rwy 9, Amdt 19...
04/03/00	PR	San Juan	Luis Munoz Marin Intl	0/3272	ILS Rwy 8, Amdt 15C...
04/03/00	PR	San Juan	Luis Munoz Marin Intl	0/3273	HI–ILS/DME Rwy 8, Orig-A...
04/04/00	CA	Chino	Chino	0/3302	ILS Rwy 26R Amdt 5...
04/04/00	CA	San Diego	Montgomery Field	0/3285	NDB or GPS Rwy 28R Amdt 1A...
04/04/00	FL	Orlando	Orlando Intl	0/3292	ILS Rwy 36R, Amdt 6 (Cat I, II, III)...
04/04/00	MT	Colstrip	Colstrip	0/3289	GPS Rwy 6, Orig...
04/04/00	MT	Colstrip	Colstrip	0/3290	GPS Rwy 24, Orig...
04/04/00	RI	Westerly	Westerly State	0/3286	LOC Rwy 7 Amdt 5A...
04/05/00	GUA	Agna	Guam Intl	0/3339	NDB/DME Rwy 24R Orig-A...
04/05/00	HI	Kahului	Kahului	0/3334	VOR Rwy 20 Orig...
04/05/00	HI	Kahului	Kahului	0/3335	NDB Rwy 20 Amdt 11...
04/05/00	HI	Kahului	Kahului	0/3337	LOC/DME BC Rwy 20 Amdt 13...
04/05/00	HI	Kahului	Kahului	0/3338	ILS Rwy 2 Amdt 23...
04/05/00	HI	Kahului	Kahului	0/3370	NDB/DME or GPS Rwy 2 Amdt 2...
04/05/00	HI	Lihue	Lihue	0/3340	VOR/DME or Tacan Rwy 21 Amdt 3...
04/05/00	MP	Tinian Island	West Tinian	0/3341	NDB–A Amdt 1A...
04/05/00	TN	Jackson	McKellar-Sipes Regional	0/3330	ILS Rwy 2, Amdt 7A...
04/06/00	CA	Oakland	Metropolitan Oakland Intl	0/3409	ILS Rwy 11 Amdt 4...
04/06/00	MN	Thief River Falls	Thief River Falls Regional	0/3403	ILS Rwy 31, Amdt 2A...
04/06/00	TN	Dyersburg	Dyersburg Muni	0/3394	NDB Rwy 4 Orig...
04/06/00	WI	Madison	Dane County Regional-Truax Field	0/3406	VOR or Tacan or GPS Rwy 31, Amdt 24B...
04/07/00	CA	Ukia	Ukiah Muni	0/3430	LOC Rwy 15 Amdt 5...
04/07/00	MN	Minneapolis	Minneapolis-St Paul Intl (Wold-Chamberlain).	0/3437	ILS PRM Rwy 30L, Amdt 3C...
04/07/00	MN	Minneapolis	Minneapolis-St Paul Intl (Wold-Chamberlain).	0/3438	ILS PRM Rwy 30R, Amdt 5...
04/07/00	MN	Minneapolis	Minneapolis-St Paul Intl (Wold-Chamberlain).	0/3439	ILS PRM Rwy 12R Amdt 2B...
04/07/00	MN	Minneapolis	Minneapolis-St Paul Intl (Wold-Chamberlain).	0/3440	ILS PRM Rwy 12L, Amdt 3A...
04/11/00	CA	Visalia	Visalia Muni	0/3561	NDB Rwy 30 Amdt 3A...
04/11/00	CA	Visalia	Visalia Muni	0/3562	ILS Rwy 30 Amdt 5A...
04/11/00	CA	Visalia	Visalia Muni	0/3564	GPS Rwy 30 Orig...
04/11/00	MO	Kansas City	Kansas City Downtown	0/3567	ILS Rwy 19, Amdt 20D...
04/11/00	ND	Fargo	Hector Intl	0/3557	ILS Rwy 17, Amdt 4B...
04/11/00	VT	Burlington	Burlington Intl	0/3510	HI–ILS/DME Rwy 33 Amdt 1...
04/11/00	VT	Burlington	Burlington Intl	0/3512	ILS/DME Rwy 33 Orig-B...

FDC date	State	City	Airport	FDC No.	SIAP
04/11/00	VT	Burlington	Burlington Intl	0/3513	NDB or GPS Rwy 15 Amdt 19B...
04/11/00	VT	Burlington	Burlington Intl	0/3514	ILS Rwy 15 Amdt 21 C...
04/11/00	VT	Burlington	Burlington Intl	0/3515	VOR or GPS Rwy 1 Amdt 11A...
12/03/99	HI	Kailua-Kona	Keahole-Kona Intl at Keahole	0/9515	ILS DME Rwy 17 Amdt 9...

[FR Doc. 00–9832 Filed 4–18–00; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29997; Amdt. No. 1988]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAP's) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAP's, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedures Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAP's. The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 14 CFR 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Form 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAP's, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers or aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAP's contained in this amendment are based on the criteria contained in the United States Standards for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with a Global Positioning System (GPS) and or Flight Management System (FMS) equipment. In consideration of the above, the applicable SIAP's will be altered to include "or GPS or FMS" in the title without otherwise reviewing or modifying the procedure. (Once a stand alone GPS or FMS procedure is developed, the procedure title will be altered to remove "or GPS or FMS" from these non-localizer, non-precision instrument approach procedure titles.)

The FAA has determined through extensive analysis that current SIAP's intended for use by Area Navigation (RNAV) equipped-aircraft can be flow by aircraft utilizing various other types of navigational equipment. In consideration of the above, those SIAP's currently designated as "RNAV" will be redesignated as "VOR/DME RNAV" without otherwise reviewing or modifying the SIAP's.

Because of the close and immediate relationship between these SIAP's and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are, impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which

frequent and routine amendments are necessary to keep them operationally current. It, therefore—(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) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on April 14, 2000.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113–40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

2. Amend 97.23, 97.27, 97.33 and 97.35, as appropriate, by adding, revising, or removing the following SIAP's, effective at 0901 UTC on the dates specified.

§§ 97.23, 97.27, 97.33, 97.35 [Amended]

* * * *Effective June 15, 2000*

Aniak, AK, Aniak, NDB/DME or GPS RWY 28, Amdt 2, CANCELLED
Aniak, AK, Aniak, NDB/DME RWY 28, Amdt 2
Ketchikan, AK, Ketchikan Intl, NDB/DME or GPS–A, Amdt 6B, CANCELLED
Ketchikan, AK, Ketchikan Int, NDB/DME–A, Amdt 6B
McGrath, AK, McGrath, NDB or GPS–B, Amdt 1, CANCELLED
McGrath, AK, McGrath, NDB–B, Amdt 1
St. George, AK, St. George, NDB/DME or GPS–A, Orig, CANCELLED
St. George, AK, St. George, NDB/DME–A, Orig
Sandpoint, AK, NDB/DME or GPS–B, Orig, CANCELLED
Sandpoint, AK, NDB/DME–B, Orig
Sitka, AK, Sitka Rocky Gutierrez, NDB/DME or GPS–B, Orig, CANCELLED
Sitka, AK, Sitka Rocky Gutierrez, NDB/DME–B, Orig
Decatur, AL, Decatur/Pryor Field Regional, VOR or GPS RWY 18, Amdt 12, CANCELLED
Decatur, AL, Decatur/Pryor Field Regional, VOR RWY 18, Amdt 12
Colusa, CA, Colusa County, VOR or GPS–A, Amdt 4B, CANCELLED
Colusa, CA, Colusa County, VOR–A, Amdt 4B
Logansport, IN, Logansport Muni, VOR/DME RNAV or GPS RWY 27, Amdt 3, CANCELLED
Logansport, IN, Logansport Muni, VOR/DME RNAV RWY 27, Amdt 3
Somerset, KY, Somerset-Pulaski County—J.T. Wilson Field, NDB or GPS RWY 4, Amdt 6, CANCELLED
Somerset, KY, Somerset-Pulaski County—J.T. Wilson Field, NDB RWY 4, Amdt 6
Monroe, LA, Monroe Regional, NDB or GPS RWY 4, Amdt 14B, CANCELLED
Monroe, LA, Monroe Regional, NDB RWY 4, Amdt 14B
Kansas City, MO, Kansas City Intl, NDB or GPS RWY 9, Amdt 8, CANCELLED
Kansas City, MO, Kansas City Intl, NDB RWY 9, Amdt 8
Meridian, MS, Meridian/Key Field, NDB or GPS RWY 1, Amdt 19, CANCELLED
Meridian, MS, Meridian/Key Field, NDB RWY 1, Amdt 19
Dickinson, ND, Dickinson Muni, NDB or GPS RWY 32, Orig, CANCELLED
Dickinson, ND, Dickinson Muni, NDB RWY 32, Orig
Santa Fe, NM, Santa Fe Muni, NDB or GPS RWY 2, Amdt 4, CACELLED
Santa Fe, NM, Santa Fe Muni, NDB RWY 2, Amdt 4
Middletown, NY, Middletown/Randall, NDB or GPS–A, Orig, CANCELLED
Middletown, NY, Middletown/Randall, NDB–A, Orig
El Paso, TX, El Paso Intl, VOR or GPS RWY 26L, Amdt 29B, CANCELLED
El Paso, TX, El Paso Int, VOR RWY 26L, Amdt 29B
Cheyenne, WY, Cheyenne, NDB or GPS RWY 26, Amdt 13, CANCELLED
Cheyenne, WY, Cheyenne, NDB RWY 26, Amdt 13

[FR Doc. 00–9833 Filed 4–18–00; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 154, 161, 250, and 284

[Docket Nos. RM98–10–002 and RM98–12–002]

Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services

Issued April 12, 2000.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; order extending time for compliance filings.

SUMMARY: The Federal Energy Regulatory Commission is extending the time for pipelines to make filings to comply with Order No. 637 relating to regulation of short-term natural gas transportation services and regulation of interstate natural gas transportation services which was published in the **Federal Register** of February 25, 2000.

DATES: Pipeline compliance filings will be due on June 15, 2000, July 17, 2000, and August 15, 2000, according to the schedule set out in **SUPPLEMENTARY INFORMATION.**

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC, 20426.

FOR FURTHER INFORMATION CONTACT:

Michael Goldenberg, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–2294; and
Robert A. Flanders, Office of Markets, Tariffs, and Rates Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–2084.

SUPPLEMENTARY INFORMATION:

Order Extending Time for Compliance

On February 9, 2000, The Federal Energy Regulatory Commission (Commission) issued Order No. 637 [1] that, among other things, required pipelines to file pro forma tariff sheets on May 1, 2000, to comply with the adopted regulations. Shippers were given 30 days to file comments or protests. The Commission is extending the time for filing and staggering the compliance schedule.

On March 10, 2000, the Pipeline Transportation Customer Coalition [2] filed a motion requesting the Commission to extend the filing of the *pro forma* tariff sheets beyond the May 1, 2000 date. They contend the Commission should adopt a staggered schedule to provide customers on multiple pipelines with the opportunity to effectively respond to the pipeline

[1] Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services, 65 FR 10156 (Feb. 25, 2000), III FERC Stats. & Regs. Regulations Preambles ¶ 31,091 (Feb. 9, 2000).

[2] Independent Petroleum Association of America, Process Gas Consumers Group, American Iron and Steel Institute, Georgia Industrial Group, American Forest & Paper Association, Alcoa, Inc., United States Gypsum Company, Dynegy Marketing and Trade, Natural Gas Supply Association, American Public Gas Association, Pennsylvania Office of Consumer Advocate, Ohio Consumers' Counsel, and National Association of State Utility Consumer Advocates.

filings. They also request an extension of the time within which to prepare comments or protests to 45 days.

The Commission is extending and staggering the schedule for *pro forma* compliance filings to provide shippers an opportunity to fully respond to each pipeline filing. The revised schedule is set out below. The Commission denies the request to extend the time period for comments. Given the staggered schedule, shippers should be able to file comments within the 30 day period.

The pipelines listed below are to make their *pro forma* tariff filing by the date indicated:

Pipelines To File on June 15, 2000

Algonquin Gas Transmission Co.
Algonquin LNG, Inc.
ANR Pipeline Co.
ANR Storage Co.
Arkansas Western Pipeline Co., LLC
Black Marlin Pipeline Company
Blue Lake Gas Storage Co.
Canyon Creek Compression Co.
Caprock Pipeline Co.
Carnegie Interstate Pipeline Co.
Chandeleur Pipe Line Company
CNG Transmission Corp.
Colorado Interstate Gas Co.
Columbia Gas Transmission Corp.
Columbia Gulf Transmission Co.
Crossroads Pipeline Co.
Dauphin Island Gathering Partnership
Destin Pipeline Company, LLC
Discovery Gas Transmission, LLC
Dynegy Midstream Pipeline, Inc
East Tennessee Natural Gas Co.
Egan Hub Partners, L.P.
El Paso Natural Gas Co.
Garden Banks Gas Pipeline, LLC
Great Lakes Gas Transmission, L.P.
Kansas Pipeline Co.
Kinder Morgan Interstate Gas Transmission, LLC
Kern River Gas Transmission Co.
KN Wattenberg Transmission, L.L.C.
Koch Gateway Pipeline Co.
MIGC, Inc.
Mojave Pipeline Co.

Pipelines To File on July 17, 2000

Eastern Shore Natural Gas Co.
Equitrans, L.P.
Florida Gas Transmission Co.
Gas Transport, Inc.
Granite State Gas Transmission Corp.
Gulf States Transmission Corp.
High Island Offshore System, LLC
Iroquois Gas Transmission System
KO Transmission Co.
Maritimes & Northeast Pipeline Co.
Michigan Gas Storage Co.
Mid Louisiana Gas Co.
Midcoast Interstate Transmission Co.
Midwestern Gas Transmission Co.
Mississippi Canyon Gas Pipeline, LLC
Mississippi River Transmission Co.
National Fuel Gas Supply Corp.
Natural Gas Pipeline Co. of America
Nautilus Pipeline Company, LLC
Nora Transmission Co.
Norteno Pipeline Co.
Northern Border Pipeline Co.
Northern Natural Gas Co.
Northwest Pipeline Corp.
OkTex Pipeline Co.
Overthrust Pipeline Co.
Ozark Gas Transmission, LLC
Pacific Interstate Offshore Co.
Paiute Pipeline Co.
Panhandle Eastern Pipe Line Co.
PG&E Gas Transmission, Northwest
Pine Needle LNG Company, LLC
Questar Pipeline Co.

Pipelines To File on August 15, 2000

Cove Point LNG, L.P.
Petal Gas Storage Co.
Portland Natural Gas Transmission Corp.
Reliant Energy Gas Transmission Corp.
Sabine Pipe Line Co.
Sea Robin Pipeline Company
South Georgia Natural Gas Co.
Southern Natural Gas Co.
Southwest Gas Storage Company
Steuben Gas Storage Co.
Stingray Pipeline Company
TCP Gathering Co.
Tennessee Gas Pipeline Co.
Texas Eastern Transmission Corp.
Texas Gas Transmission Corp.
Texas-Ohio Pipeline, Inc.
Total Peaking Services, LLC
Trailblazer Pipeline Co.
TransColorado Gas Transmission
Transcontinental Gas Pipe Line Co.
Transwestern Pipeline Co.
Trunkline Gas Co.
Trunkline LNG Co.
Tuscarora Gas Transmission Co.
USG Pipeline Company
U–T Offshore System, LLC
Venice Gathering System, LLC
Viking Gas Transmission Co.
WestGas InterState, Inc.
Western Gas Interstate Co.
Williams Gas Pipelines Central
Williston Basin Interstate Pipeline Co.
Wyoming Interstate Company, Ltd.
Young Gas Storage Company, Ltd.

Any interstate pipeline providing Part 284 service that is not included in this list is required to make its *pro forma* compliance filing on August 15, 2000.

By the Commission.

David P. Boergers,

Secretary.

[FR Doc. 00–9629 Filed 4–18–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Parts 41 and 42

[Public Notice 3283]

Visas: Documentation of Immigrants and Nonimmigrants Under the Immigration and Nationality Act, as Amended

AGENCY: Bureau of Consular Affairs, DOS.

ACTION: Final rule.

SUMMARY: The enactment of legislation over the past few years has created new immigrant and nonimmigrant visa categories. Additionally, some visa classification symbols are removed due to the expiration of certain immigrant visa programs. This rule amends both the immigrant and nonimmigrant classification tables.

EFFECTIVE DATE: This rule takes effect on April 19, 2000.

ADDRESSES: Chief, Legislation and Regulation Division, Visa Office, Washington, DC 20522–1013.

FOR FURTHER INFORMATION CONTACT: H. Edward Odom, Chief, Legislation and Regulations Division, 202–663–1204.

SUPPLEMENTARY INFORMATION:

How Is the Nonimmigrant Visa Table Affected?

The rule amends the nonimmigrant visa classification table at 22 CFR 41.12 by removing the classification H–1A and by adding a new classification H–1C. This rule implements sec. 2 of Public Law 106–95. The law adds a new class of nonimmigrants for nurses coming to areas where there is a health professional shortage. These nurses have been given the classification symbol H–1C. The same law repeals INA 101(a)(15)(H)(i) relating to former registered nurses classified as H–1A. This rule, therefore, removes the H–1A category and adds the H–1C category to the nonimmigrant table.

The Department is also taking this opportunity to correct a typographical error for the NATO–2 entry.

How Is the Immigrant Visa Classification Table Affected?

This rule amends the immigrant visa classification table at 22 CFR 42.11 by including NATO employees and their spouses and children in the special immigrant categories SK1, SK3 and SK4. The rule implements section 421(a) of Public Law 105–277 which added NATO employees and their spouse and unmarried children to the special

immigrant category under INA 101(a)(27)(L).

This rule removes the ES1 category established by sec. 4 of Public Law 102–509, which provided for the issuance of visas for no more than 750 scientists of exceptional ability from the independent states and the Baltics over a four-year period commencing October 24, 1992. These scientists were given the classification symbol ES1. The program terminated on October 23, 1996.

Final Rule

Administrative Procedure Act

The Department is publishing this rule as a final rule pursuant to 5 U.S.C. 553(a)(2) and the "good cause" provisions of 5 U.S.C. 553(b)(B); notice and comment are not necessary in light of the fact that this rule relates to agency management and merely establishes or removes visa symbols used internally by the Department. The rule makes no substantive regulatory changes.

Regulatory Flexibility Act

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

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

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

Executive Order 12866

The Department of State does not consider this rule, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement.

Paperwork Reduction Act

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

List of Subjects

22 CFR Part 41

Aliens, Passports and visas.

22 CFR Part 42

Immigration, Passports and visas.

Accordingly, the Department of State amends 22 CFR Chapter I as set forth below.

PART 41—[AMENDED]

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

Authority: 8 U.S.C. 1104; Pub. L. 105–277, 112 Stat. 2681 *et seq.*

2. Amend the table in § 41.12 as follows:

a. Remove the entry for H–1A;

b. Add a new entry for H–1C, in alpha-numeric order; and

c. Amend the NATO–2 entry in the second column by adding "or Immediate Family" following the words "Such a Force".

The addition reads as follows:

§ 41.12 Classification symbols.

* * * * *

NONIMMIGRANTS

Symbol	Class	Section of law
*	*	*
H–1C	Nurses in health professional shortage areas	101(a)(15)(H)(i)(c).
*	*	*

PART 42—[AMENDED]

3. The authority citation for part 42 continues to read as follows:

Authority: 8 U.S.C. 1104.

4. Amend the table in § 42.11 as follows:

a. Remove the entry for ES1 from the section entitled "Employment 2nd Preference * * *"; and

b. Revise the entries for SK1, SK–2, SK3 and SK4 in the section entitled "Employment 4th Preference * * *.".

The revisions read as follows:

§ 42.11 Classification symbols.

* * * * *

IMMIGRANTS

Symbol	Class	Section of law
*	*	*
	Employment 4th Preference (Certain Special Immigrants)	
SK1	Certain Retired International Organization or NATO employees	101(a)(27)(I)(iii) & 101(a)(27)(L).
SK2	Spouse of SK1	101(a)(27)(I)(iv) & 101(a)(27)(L).

IMMIGRANTS—Continued

Symbol	Class	Section of law
SK3	Certain Unmarried Sons or Daughters of an International Organization or NATO Employee	101(a)(27)(I)(i) & 101(a)(27)(L).
SK4	Certain Surviving Spouses of Deceased International Organization or NATO Employee	101(a)(27)(I)(ii) & 101(a)(27)(L).

Dated: March 6, 2000.

Mary A. Ryan,

Assistant Secretary of State for Consular Affairs, U.S. Department of State.

[FR Doc. 00–9104 Filed 4–18–00; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 247

RIN 1510–AA44

Regulations Governing FedSelect Checks

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Final rule; removal.

SUMMARY: The Financial Management Service (FMS) is removing Part 247 from Title 31 of the Code of Federal Regulations. This Part governs the use of FedSelect checks by Federal agencies in making certain Federal payments. The Debt Collection Improvement Act of 1996 (DCIA) and implementing regulations require that most Federal payments be made electronically after January 1, 1999. The increased use of electronic funds transfer (EFT) has resulted in lower check volumes and reduced Federal agency reliance on non-EFT payment mechanisms. Due to the decrease in check volume and the availability of low cost alternatives to FedSelect, such as third party drafts, FMS has determined that FedSelect is no longer a cost-effective mechanism for making certain Federal government payments and is terminating the program on March 31, 2000.

EFFECTIVE DATE: This removal of 31 CFR Part 247 is effective April 19, 2000.

FOR FURTHER INFORMATION CONTACT: Matthew Helfrich, Financial Program Specialist, at (202) 874–6754; Sally Phillips, Senior Financial Program Specialist, at (202) 874–7106; Cynthia L. Johnson, Director, Cash Management Policy and Planning Division, at (202) 874–6590; or James Regan, Attorney-Advisor, at (202) 874–6680.

SUPPLEMENTARY INFORMATION: On May 16, 1995, FMS published a final rule codified at 31 CFR Part 247 governing the use of FedSelect checks for paying certain obligations of Federal agencies [60 FR 25993]. The final rule included procedural instructions for using FedSelect checks and defined the rights and liabilities of the United States, Federal Reserve Banks, banks, and others in connection with FedSelect checks. FedSelect checks were developed for use by Federal agencies for "on-demand" payment needs. On September 25, 1998, FMS published a final rule in the **Federal Register** (63 FR 51490), Management of Federal Agency Disbursements, codified at 31 CFR part 208 (EFT rule), implementing certain requirements of the DCIA, Pub. L. 104–134, chap. 10, 110 stat. 1321–358. The EFT rule requires Federal agencies to make most payments by EFT after January 1, 1999.

Because this rule relates to a payment system for Federal agencies, notice and comment are not required pursuant to 5 U.S.C. 553(a)(2) and (b)(A). Moreover, notice and comment are contrary to the public interest because the prompt removal of the current FedSelect regulations will result in savings to taxpayers without adversely affecting federal payments. For these reasons, good cause is found pursuant to 5 U.S.C. 553(d)(3) to make removal of the FedSelect regulations immediately effective. Because notice and comment are not required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601) do not apply. Finally, this rule is not a significant regulatory action for purposes of Executive Order 12866.

The number of Treasury-disbursed, non-tax refund payments made by EFT rose from 55% in FY 1995 to 75% by the close of FY 1999. The number of check payments over this period have decreased correspondingly. Moreover, cost-effective alternatives to FedSelect have emerged, such as third party drafts and government purchase card convenience checks. Due to the decrease in check volume and the growing use of more cost-effective alternatives by Federal agencies, the FedSelect program will be terminated on March 31, 2000.

PART 247—[REMOVED]

For the reasons set out above, 31 CFR Part 247 is removed.

Authority: 31 U.S.C. 3321, 3325, and 3327.

Richard L. Gregg,

Commissioner.

[FR Doc. 00–9755 Filed 4–18–00; 8:45 am]

BILLING CODE 4810–35–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NY40–2–209, FRL–6573–1]

Approval and Promulgation of Implementation Plans; New York; Nitrogen Oxides Budget and Allowance Trading Program

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is announcing approval of New York's State Implementation Plan (SIP) revision for ozone. This SIP revision relates to New York's portion of the Ozone Transport Commission's September 27, 1994 Memorandum of Understanding, which includes a regional nitrogen oxides budget and allowance (NO_X Budget) trading program that will significantly reduce NO_X emissions generated within the Ozone Transport Region, which includes New York State. EPA is approving New York's regulations, which implement Phase II of the NO_X Budget Trading Program, since they reduce NO_X emissions and help achieve the national ambient air quality standard for ozone.

DATES: This rule is effective on May 19, 2000.

ADDRESSES: Copies of the State submittal and supporting documents are available for inspection during normal business hours, at the following addresses:

Environmental Protection Agency, Region II Office, Air Programs Branch,

290 Broadway, 25th Floor, New York, New York 10007–1866.
New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: Richard Ruvo, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4014.

SUPPLEMENTARY INFORMATION:

Overview

The EPA is approving the New York State Department of Environmental Conservation's (New York's) Nitrogen Oxides Budget and Allowance (NO_X Budget) Trading Program for 1999, 2000, 2001 and 2002.

The following table of contents describes the format for this **SUPPLEMENTARY INFORMATION** section:

EPA's Action

What Action Is EPA Approving?

The EPA is approving a revision to New York's Ozone State Implementation Plan (SIP) which New York submitted on April 29, 1999. This SIP revision relates to New York's NO_X Budget Trading Program, also referred to as Phase II. New York's regulations which implement the NO_X Budget Trading Program are:

- New Subpart 227–3, "Pre-2003 Nitrogen Oxides Emissions Budget and Allowance Program"
- Guidance for Implementation of Emissions Monitoring Requirements for the NO_X Budget Program, January 28, 1997
- NO_X Budget Program Monitoring Certification and Reporting Requirements, July 3, 1997
- Electronic Data Reporting, Acid Rain Program/NO_X Budget Program, July 3, 1997
- Amended Part 200, "General Provisions"
- Amended Subpart 227–1, "Stationary Combustion Installations" and
- Amended Subpart 227–2, "Reasonably Available Control Technology (RACT) for Oxides of Nitrogen (NO_X)."

Part 200 contains general provisions applicable to New York's Title 6 regulations. Part 200 includes definitions and references to other applicable documents, guidelines and methodologies that a source should consult when meeting requirements of specific New York regulations. New York originally incorporated these documents when New York proposed and adopted the regulations themselves. Part 200 lists these documents for reference along with where anyone can obtain them.

EPA is approving those provisions of part 200 needed for the purposes of enforcing the SIP, as well as for enforcing New York's NO_X Budget Trading Program. Specifically, EPA is approving sections 200.1 "Definitions," section 200.6 "Acceptable ambient air quality," section 200.7 "Maintenance of equipment," and most of section 200.9 "Referenced material."

EPA has previously discussed its approval of the state definitions in section 200.1 in prior actions which approved specific New York regulations that relied on the definitions, such as parts 218 and 227–3. Section 200.1 contains a definition of "federally enforceable" which EPA accepts with the following understanding: (1) the definition applies to provisions of a Title V permit that are correctly identified as federally enforceable, and (2) a source accepts operating limits and conditions to lower its potential to emit to become a minor source, not to "avoid" any applicable requirement. New York should clarify this definition in the future.

EPA is not incorporating sections 200.2 "Safeguarding information," 200.3 "False statement," 200.4 "Severability," 200.5 "Sealing," and 200.8 "Conflict of interest" because EPA can take enforcement actions related to one of these sections under its own corresponding federal regulations.

EPA is approving and including section 200.9 in the table in 40 CFR 52.1679 of EPA approved regulations for the benefit of the regulated community. Section 200.9 incorporates by reference specific federal and state laws and regulations including the three emissions monitoring guidance documents referenced above. Most of these were previously approved in past rulemakings. EPA is not approving the federal laws and regulations incorporated by reference in section 200.9 because they are already federally enforceable.

Section 200.10 lists regulations promulgated by the EPA. Since these regulations are already federally enforceable EPA is not incorporating them into the SIP. EPA is not including section 200.10 in the table in 40 CFR 52.1679.

Why Is EPA Approving This Action?

EPA is approving this action to:

- Fulfill New York's and EPA's requirements under the Clean Air Act (the Act)
- Make New York's NO_X Budget Trading Program federally-enforceable, and
- Make the significant NO_X emission reductions available for credit toward the attainment SIP.

When Did EPA Propose To Approve New York's Program?

On October 14, 1999, EPA published in the **Federal Register** (64 FR 55667) a Proposed Rulemaking to approve New York's regulations as a SIP revision and providing for a 30-day public comment period, which ended on November 15, 1999.

What Are the Public's Comments on EPA's Proposal?

EPA received no public comments regarding the Proposed Rulemaking.

What Is the Ozone Transport Commission's Memorandum of Understanding?

The Ozone Transport Commission (OTC) adopted a Memorandum of Understanding (MOU) on September 27, 1994, which committed the signatory states to the development and proposal of a region-wide reduction in NO_X emissions, with one phase of reductions by 1999 and another phase of reductions by 2003. The Act required RACT to reduce NO_X emissions by May of 1995. The OTC MOU obligated further reductions in NO_X emissions by 1999 (known as Phase II) and by 2003 (known as Phase III).

Where Is Additional Information Available on EPA's Action?

A detailed discussion of this program is available in the October 14, 1999 Proposed Rulemaking (64 FR 55667). A Technical Support Document, prepared in support of the proposed rulemaking, contains the full description of New York's submittal and EPA's evaluation. A copy of the Technical Support Document is available upon request from the EPA Regional Office listed in the **ADDRESSES** section.

Conclusion

EPA is approving New York's program which implements the Ozone

Transport Commission's September 27, 1994 Memorandum of Understanding (Phase II). The EPA is approving, as part of the SIP, the new regulation, Subpart 227–3, and amendments to the sections as discussed of the regulations part 200, subpart 227–1 and subpart 227–2, which implement Phase II of the NO_x Budget Trading Program. EPA is approving these regulations, submitted by New York on April 29, 1999, as part of the SIP.

Administrative Requirements

Executive Order 12866

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

Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation. This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

Executive Order 13045

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

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

Executive Order 13084

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

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

Regulatory Flexibility Act

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

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

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

Unfunded Mandates

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

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements

under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

Submission to Congress and the Comptroller General

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

National Technology Transfer and Advancement Act

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

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

Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 19, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: March 28, 2000.

William J. Muszynksi,

Acting Regional Administrator, Region 2.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart HH—New York

2. Section 52.1670 is amended by adding new paragraph (c)(95) to read as follows:

§ 52.1670 Identification of plan.

* * * * *

(c) * * *

* * * * *

(95) A revision to the State Implementation Plan submitted on April 29, 1999 by the New York State Department of Environmental Conservation that establishes the NO_X Budget Trading Program.

(i) Incorporation by reference:

(A) Regulation Subpart 227–3 of Title 6 of the New York Code of Rules and Regulations, entitled "Pre-2003 Nitrogen Oxides Emissions Budget and Allowance Program" adopted on January 12, 1999, and effective on March 5, 1999.

(B) Amendments to Title 6 of the New York Code of Rules and Regulations, Part 200, "General Provisions," Subpart 227–1, "Stationary Combustion Installations," and Subpart 227–2, "Reasonably Available Control Technology (RACT) for Oxides of Nitrogen (NO_X)" adopted on January 12, 1999, and effective on March 5, 1999.

(ii) Additional information:

(A) Letter from the New York Department of Environmental Conservation dated April 29, 1999, submitting the NO_X Budget Trading Program as a revision to the New York State Implementation Plan for ozone.

(B) Guidance for Implementation of Emissions Monitoring Requirements for the NO_X Budget Program, dated January 28, 1997.

(C) NO_X Budget Program Monitoring Certification and Reporting Requirements, dated July 3, 1997.

(D) Electronic Data Reporting, Acid Rain/NO_X Budget Program, dated July 3, 1997.

3. In § 52.1679, the table is amended as follows:

A. By revising the entry for Part 200;

B. By removing the entry for "Part 227, Stationary Combustion Installations (except as noted)";

C. By removing the entry for "Part 227, Stationary Combustion Installations/section 27.2(b)(1)"; and

D. By adding a new entry for "Part 227, Stationary Combustion Installations";

E. By adding a new entries for subparts 227–1, 227–2, and 227–3 to read as follows:

The revised and added entries read as follows:

§ 52.1679 EPA—approved New York regulations.

New York State regulation	State effective date	Latest EPA approval date	Comments
Part 200, General Provisions sections 200.1, 200.6, 200.7 and 200.9.	3/5/99	[4/19/00 and FR page citation].	Redesignation of non-attainment areas to attainment areas (200.1(av)) does not relieve a source from compliance with previously applicable requirements as per letter of Nov. 13, 1981 from H. Hovey, NYSDEC. Changes in definitions are acceptable to EPA unless a previously approved definition is necessary for implementation of an existing SIP regulation.

New York State regulation	State effective date	Latest EPA approval date	Comments
			EPA is including the definition of "federally enforceable" with the understanding that (1) the definition applies to provisions of a Title V permit that are correctly identified as federally enforceable, and (2) a source accepts operating limits and conditions to lower its potential to emit to become a minor source, not to "avoid" applicable requirements. EPA is approving incorporation by reference of those documents that are not already federally enforceable.
* * *		*	* * *
Part 227, Stationary Combustion Installations [1972 version]/section 227.2(b)(1).	5/1/72	9/22/72 ..... 37 FR 19814	
Part 227, Stationary Combustion Installations	.....	.....	Existing Part 227 is renumbered Subpart 227–1.
Subpart 227–1, Stationary Combustion Installations ...	3/5/99	[4/19/00 and FR page citation].	Renumbered sections 227–1.2(a)(2), 227–1.4(a), and 227–1.4(d) continue to be disapproved according to 40 CFR 52.1678(d) and 52.1680(a). (New York repealed existing Part 227.5.)
Subpart 227–2, Reasonably Available Control Technology (RACT) for Oxides of Nitrogen (NO_X)/sections 227–2.3(h), 227–2.5(b), 227–2.5(e), and 227–2.6.	3/5/99	[4/19/00 and FR page citation].	EPA is including sections 227–2.3(h), 227–2.5(b), 227–2.5(e), and 227–2.6 as part of the SIP for purposes of the NO_X Budget Trading Program. EPA will act on the remaining sections of 227–2 in a future rulemaking.
Subpart 227–3, Pre-2003 Nitrogen Oxides Emissions Budget and Allowance Program.	3/5/99	[4/19/00 and FR page citation].	Approval of NO_X Budget Trading Program for 1999, 2000, 2001 and 2002. To meet its attainment demonstration commitments and the interstate MOU, New York will need to amend their regulations to establish the NO_X caps in the State during 2003 and beyond.
* * *		*	* * *

[FR Doc. 00–9544 Filed 4– 18–00; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NY41–210; FRL–6572–9]

Approval and Promulgation of Air Quality Implementation Plans; New York; Approval of Carbon Monoxide State Implementation Plan Revision; Removal of the Oxygenated Gasoline Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving a State Implementation Plan (SIP) revision submitted by the State of New York on August 30, 1999. That revision removes New York's oxygenated gasoline program as a carbon monoxide control measure from the State's SIP. EPA is approving that revision because EPA has also determined that the New York—Northern New Jersey—Long Island carbon monoxide nonattainment area has attained the carbon monoxide National Ambient Air Quality Standards.

EFFECTIVE DATE: This rule will be effective May 19, 2000.

ADDRESSES: Copies of the state submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866

New York State Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233

FOR FURTHER INFORMATION CONTACT: Michael P. Moltzen, Air Programs Branch, 290 Broadway, 25th Floor, New York, NY 10007–1866, (212) 637–3710.

SUPPLEMENTARY INFORMATION: EPA is determining that the New York—Northern New Jersey—Long Island carbon monoxide (CO) nonattainment area [1] has attained the health-related CO National Ambient Air Quality Standards (NAAQS). EPA is also determining that New York's winter-time oxygenated gasoline (oxyfuel) program is no longer needed to ensure that air quality levels remain healthful. As a consequence of these determinations, EPA is approving a State Implementation Plan (SIP) revision submitted by the State of New York on August 30, 1999. That revision removes New York's oxyfuel program as a CO control measure from the State's CO SIP. It has been determined that the program is no longer necessary to keep ambient CO concentrations below the CO NAAQS. For additional detail regarding this determination, the reader is referred to the proposal for today's action, published in the October 8, 1999 **Federal Register** (64 FR 54851). Additional detail regarding that determination can also be found in EPA's proposed and final rules removing oxyfuel in New Jersey, which are published in the September 9, 1999 **Federal Register** (64 FR 48970) and the November 22, 1999 **Federal Register** (64 FR 63690), respectively. In addition, EPA's direct final action approving the removal of the oxyfuel program in Connecticut can be found in the December 1, 1999 **Federal Register** (64 FR 67188). It should be noted that there were no adverse comments associated with the proposed removal of the winter-time oxyfuel program in New York State.

EPA intends to propose action on the remainder of New York's August 30, 1999 CO SIP revision in a separate notice which will be published in the **Federal Register** shortly. Neither New

[1] This area is comprised of counties in Northern New Jersey, downstate New York and Southwestern Connecticut. The Connecticut portion of the area was redesignated to attainment on March 10, 1999 at 64 FR 12005. The remainder of the area is still designated nonattainment.

York's redesignation request nor any of the other elements in that submittal are directly related to, or required for, the action EPA is finalizing today.

Conclusion

EPA is finalizing a rulemaking to approve New York's August 30, 1999 SIP revision to remove the State's oxygenated gasoline program from the federally-approved SIP. Therefore, sections of New York's regulation Part 225–3, "Fuel Composition and Use—Gasoline", specifically those that provide for the oxyfuel program, are removed from the SIP. See § 52.1670 *Identification of Plan*, in the regulations section of this notice, for further detail on the sections of New York's Part 225–3 which pertain to the oxyfuel program and which are removed from the State's CO SIP. EPA's authority to approve removal of a state's oxyfuel program is set forth at Clean Air Act section 211(m)(6). EPA has determined that the criteria of section 211(m)(6) have been satisfied and removal of the oxyfuel program at this time is appropriate.

Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the states, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts state law unless the Agency consults with state and local officials early in the process of developing the proposed regulation. This final rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

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

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

E. Regulatory Flexibility Act

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

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

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

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that

achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

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

G. Submission to Congress and the Comptroller General

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

H. National Technology Transfer and Advancement Act

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

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

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 19, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations.

Dated: March 23, 2000.

William J. Muszynski,

Acting Regional Administrator, Region 2.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart HH—New York

2. Section 52.1670 is amended by adding new paragraph (c)(96) to read as follows:

§ 52.1670 Identification of plan.

* * * * *

(c) * * *

* * * * *

(96) Revisions to the New York State Implementation Plan (SIP) for carbon monoxide concerning the oxyfuel program, dated August 30, 1999, submitted by the New York State Department of Environmental Conservation (NYSDEC).

3. The table in § 52.1679 is amended by removing the existing entry for Subpart 225–3, "Fuel Composition and Use—Gasoline," and adding a new entry for Subpart 225–3 in numerical order to read as follows:

§ 52.1679 EPA—approved New York State regulations.

State regulation	State effective date	EPA approved date	Comments
* * *	*	* * *	
Part 225–3, "Fuel Composition and Use—Gasoline;" sections 225–3.1, 225–3.2, 225–3.3, 225–3.6, 225–3.8, 225–3.10.	9/2/93	[4/19/00 and citation of this document].	This action removes the following sections of Part 225–3, which pertain to the oxygenated gasoline program, from the State's CO SIP: sections 225–3.4, 225–3.5, 225–3.7, 225–3.9. The Variance adopted by the State pursuant to section 225–3.8 becomes applicable only if approved by EPA as a SIP revision.
* * *	*	* * *	

[FR Doc. 00–9543 Filed 4–18–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 214–0232; FRL–6578–6]

Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District, Sacramento Metropolitan Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) and Sacramento Metropolitan Air Quality Management District (SMAQMD) portions of the California State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on January 26, 2000 and concern volatile organic compound (VOC) emissions from gasoline transfer into stationary storage container, delivery vessels and bulk plants, and from organic chemical manufacturing operations. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

EFFECTIVE DATE: These rules are effective on May 19, 2000.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted rules at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC. 20460

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

San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, Suite 200, Fresno, CA 93721

Sacramento Metropolitan Air Quality Management District, 8411 Jackson Road, Sacramento, CA 95826

FOR FURTHER INFORMATION CONTACT: Max Fantillo, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1183.

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

I. Proposed Action

On January 26, 2000 (65 FR 4208), EPA proposed to approve the following rules into the California SIP.

Local agency	Rule No. #	Rule title	Adopted	Submitted
SJVUAPCD	4621	Gasoline Transfer into Stationary Containers, Delivery Vessels, and Bulk Plants	06/18/98	08/21/98
SMAQMD	464	Organic Chemical Manufacturing Operations	07/23/98	05/13/99

We proposed to approve these rules because we determined that they complied with the relevant CAA requirements. Our proposed action contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

No comments were submitted that change our assessment that the submitted rules comply with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving these rules into the California SIP.

IV. Administrative Requirements

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

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

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 19, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 30, 2000.

Nora McGee,

Acting Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(263)(i)(C)(*2*) and (c)(273) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(263) * * *

(i) * * *

(C) * * *

(*2*) Rule 464, adopted on July 23, 1998.

* * * * *

(273) New and amended regulations for the following APCD's were submitted on August 21, 1998, by the Governor's designee.

(i) Incorporation by reference.

(A) San Joaquin Valley Unified Air Pollution Control District.

(*1*) Rule 4621, amended on June 18, 1998.

* * * * *

[FR Doc. 00–9542 Filed 4–18–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA095–0234; FRL–6579–3]

Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval of revisions to the Ventura County Air Pollution Control District (VCAPCD) portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on February 22, 2000 and concerns emissions of sulfur dioxide (SO_2). Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action approves a local rule that regulates emissions of sulfur compounds and directs California to correct a rule deficiency. There will be no sanctions clock as Ventura County Air Pollution Control District is in attainment for SO_2.

EFFECTIVE DATE: This rule is effective on May 19, 2000.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted rule revisions at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington DC 20460.

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

Ventura County APCD, 669 County Square Dr., 2nd Fl., Ventura, CA 93003–5417.

FOR FURTHER INFORMATION CONTACT: Stanley Tong, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1191.

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

I. Proposed Action

On February 22, 2000 (65 FR 8676), EPA proposed a limited approval of the following rule that was submitted for incorporation into the California SIP.

Local agency	Rule No.	Rule title	Adopted	Submitted
VCAPCD	54	Sulfur Compounds	6/14/94	7/13/94

We proposed a limited approval because we determined that this rule improves the SIP and is largely consistent with the relevant CAA requirements. However, we cannot grant a full approval because the rule contains a deficiency which was discussed in our proposed action. Our proposed action contains more information on the rule and our evaluation.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

As authorized in sections 110(k)(3) and 301(a) of the Act, EPA is finalizing a limited approval of the submitted rule. This action incorporates the submitted rule into the California SIP, including the provision that was identified as deficient. As stated in the proposed rule, EPA is finalizing this action in

order to strengthen the SIP. There is no sanctions clock as VCAPCD is in attainment for SO_2. Note that the submitted rule has been adopted by the VCAPCD, and EPA's final limited approval does not prevent the local agency from enforcing the rule.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

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

C. Executive Order 13084

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

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

D. Executive Order 13132

Executive Order 13121, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Regulatory Flexibility Act

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

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

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

F. Unfunded Mandates

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

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

additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

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

H. National Technology Transfer and Advancement Act

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

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

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 19, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: April 3, 2000.

Laura Yoshii,

Acting Regional Administrator Region IX.

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

PART 52—[AMENDED]

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(198)(i)(J)(*4*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(198) * * *

(i) * * *

(J) * * *

(*4*) Rule 54, amended on June 14, 1994.

* * * * *

[FR Doc. 00–9660 Filed 4–18–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 00–777; MM Docket No. 99–344; RM–9709]

Radio Broadcasting Services; Lampasas and Leander, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document reallots Channel 255C1 from Lampasas, Texas, to Leander, Texas, and modifies the license for Station KJFK to specify operation on Channel 255C1 at Leander in response to a petition filed by Shamrock Communications, Inc. See 64 FR 71098, December 20, 1999. The coordinates for Channel 255C1 at Leander are 30–43–34 and 97–59–23. With this action, this proceeding is terminated.

EFFECTIVE DATE: May 22, 2000.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 99–344, adopted March 29, 2000, and released April 7, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

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 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Lampasas, Channel 255C1, and adding Leander, Channel 255C1.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 00–9776 Filed 4–18–00; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 224 and 226

[Docket No. 000404093–0093–01; I.D. 121198A]

RIN 0648–AN90

Endangered and Threatened Species; Final Rule to Remove Umpqua River Cutthroat Trout From the Federal List of Endangered and Threatened Species

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

ACTION: Final rule.

SUMMARY: NMFS has determined that the Umpqua River cutthroat trout (*Oncorhynchus clarki clarki*) population, formerly identified as an Evolutionarily Significant Unit (ESU) of the species, is part of a larger population segment that previously was determined to be neither endangered nor threatened

as defined by the Endangered Species Act (ESA). Therefore, NMFS determines that the Umpqua River cutthroat trout should be removed from the Federal List of Endangered and Threatened species. This action will remove all ESA protections, including critical habitat designated for this species in the Umpqua River basin. The U.S. Fish and Wildlife Service (FWS) concurs with this action and has recently obtained sole jurisdiction over this species. In the future, FWS will be responsible for ESA actions pertaining to all cutthroat trout.

DATES: This rule is effective April 19, 2000.

FOR FURTHER INFORMATION CONTACT: Garth Griffin at (503) 231–2005 or Christopher Mobley at (301) 713–1401 of NMFS, or Catrina Martin (503) 231–6131 of FWS. Reference materials regarding this determination can also be obtained via the internet at www.nwr.noaa.gov.

SUPPLEMENTARY INFORMATION:

Species Background

The coastal cutthroat trout subspecies (*Oncorhynchus clarki clarki*) is native to western North America and is found in the coastal temperate rainforests from southeast Alaska to northern California (Trotter, 1989). The populations addressed in this document inhabit the Umpqua River basin of coastal Oregon. Details of the coastal cutthroat trout's life history and ecology, including particular aspects of the various resident and migratory life forms, can be found in published reviews by Pauley et al. (1989), Trotter (1989), Behnke (1992), Johnson et al. (1994), and Johnson et al. (1999).

Previous Federal ESA Actions Related to Coastal Cutthroat Trout

Descriptions of previous Federal ESA actions pertaining to coastal cutthroat trout are summarized in the proposed rule (64 FR 16397, April 5, 1999) and the initial listing determination (61 FR 41514, August 9, 1996). In response to an ESA petition, NMFS proposed to list the Umpqua River cutthroat trout ESU as endangered on July 8, 1994 (59 FR 35089), and made the listing final on August 9, 1996 (61 FR 41514). The listing was followed by a critical habitat designation on January 9, 1998 (63 FR 1388).

After making these findings, NMFS conducted an expanded ESA review of coastal cutthroat trout that identified six ESUs in Washington, Oregon, and California (Johnson, 1999). One of the conclusions of this more comprehensive review was that the Umpqua River cutthroat trout populations are part of a larger Oregon Coast ESU bounded by Cape Blanco in the south and the Columbia River mouth in the north. Moreover, NMFS determined that the larger ESU did not warrant listing under the ESA. In light of these findings, NMFS and FWS proposed to delist the Umpqua River ESU on April 5, 1999 (64 FR 16397).

This proposal was announced jointly with FWS because section 4(a)(2)(B) of the ESA requires its concurrence on any NMFS delisting action. The proposal also noted that a determination would be made regarding which of the two agencies should have sole ESA jurisdiction over this species. On [insert publication date of "cutthroat jurisdiction" FRN], the agencies published a notice announcing that FWS would retain this authority but that NMFS would complete the final determination on the Umpqua delisting proposal. FWS will deal with other elements of the April 5, 1999, proposed rule (e.g., the proposed listing of cutthroat trout populations from Southwestern Washington and the lower Columbia River) in a separate rulemaking. It should be noted that FWS does not employ the phrase "ESU" to describe a Distinct Population Segment (DPS) under the ESA. In addition, NMFS' April 1999 classification of the Oregon Coast ESU as a "candidate species" may no longer apply because FWS' definition of candidates differs from NMFS' definition (see 61 FR 7596, February 28, 1996, and 64 FR 33466, June 23, 1999).

The agencies requested informatin on all aspects of the April 1999 proposal, and NMFS held public hearings on May 25–26, 1999, to solicit additional comments (64 FR 20248, April 26, 1999). In accordance with a July 1, 1994, interagency policy (59 FR 34270), NMFS also solicited scientific peer review on the proposal from 12 species experts and received three responses. Government agencies, non-government organizations, the scientific community, and other individuals submitted a total of 26 comments on the proposal. Many respondents offered similar comments, hence these are addressed together in this document. NMFS has evaluated only those comments specific to ESU delineations for cutthroat trout in Oregon coastal basins. FWS will address comments on other issues (e.g., population status, efficacy of conservation efforts, factors contributing to the species' decline, etc.) in future determinations relating to coastal cutthroat trout.

Summary of Comments

Comment 1: Some commenters questioned the sufficiency and accuracy of the data NMFS employed in the de-listing proposal. In contrast, the peer reviewers generally found that NMFS' status review was comprehensive and credible even though they may have not concurred with all of the conclusions. Two peer reviewers cited additional data and reports that the agencies should assess before making a risk assessment and noted an apparent omission in NMFS' status review document (Johnson et al., 1999).

Response: Section 4(b)(1)(A) of the ESA requires that NMFS make its listing determinations solely on the basis of the best available scientific and commercial data, after reviewing a species' status and taking into account any efforts being made to protect it. NMFS believes that information contained in the agency's status reviews (Johnson et al., 1994; Johnson et al., 1999), together with more recent information obtained in response to the proposed rule, represent the best scientific and commercial information presently available for the Umpqua River cutthroat trout populations addressed in this final rule. NMFS has made every effort to conduct an exhaustive review of all available information, solicited information and opinion from all interested parties, and subjected the conclusions to peer reviewers.

With respect to the data/reports cited by peer reviewers, NMFS agrees that these and other data sets may be helpful in determining the degree of risk the species currently faces. However, for this final rule the agency has focused solely on information that relates to identifying ESUs along the Oregon coast (specifically whether any new data would contradict the agency's proposal to include the Umpqua River populations as part of a larger Oregon Coast ESU). Much of the data provided by reviewers specifically focused on abundance data that were not directly relevant to delineating ESU boundaries. As previously described in this document, FWS will be responsible for making any future risk assessments for coastal cutthroat trout. NMFS has transmitted all relevant information and data sets to FWS.

NMFS recognizes the omission that two peer reviewers cited in the status review's description of average annual river flows (Figure 8, page 26 of Johnson *et al.*, 1999). The agency notes that a representation of the correct figure can be found in NMFS' status review for West Coast chinook salmon (Figure 5, page 16 of Myers *et al.*, 1998).

Comment 2: Some commenters contended that the ESUs were delineated in an arbitrary manner and they questioned NMFS' analyses and interpretation of genetic results. One peer reviewer suggested that NMFS should de-emphasize the genetic data when determining ESUs and give more consideration to other types of information, e.g., life history traits and ecological data.

Response: NMFS disagrees with the contention that cutthroat trout ESUs were delineated in an arbitrary manner and believes that available genetic and ecological data do support NMFS' ESU delineations for this species. For example, the status review (Johnson et al., 1999) describes the marked genetic differences between cutthroat trout populations from the Washington and Oregon coasts. These differences, coupled with a significant migrational barrier at the mouth of the Columbia River and a major biogeographic boundary for marine and terrestrial species at Cape Blanco, provide substantial evidence of a distinct population segment along the Oregon coast. Similar findings using both genetic and ecological data formed the basis for other ESU delineations.

Since the beginning of the coastal cutthroat trout status review in 1993, NMFS has continually sought and evaluated input from the public, comanagers, and species experts regarding how best to characterize the population structure and status of *O. clarki clarki*. The agency has made every attempt to conduct a rigorous scientific assessment of this species and document the rationale for the resultant ESA decisions. In comparison with ESA status reviews for other salmonids, these decisions were more difficult to make because key data were often scarce or nonexistent. In particular, while genetic and life history data suggested that cutthroat trout populations may be structured differently than other Pacific salmon species, it was not clear how these differences should be interpreted in terms of ESU delineations.

NMFS has published a policy describing how it will apply the ESA definition of "species" to anadromous salmonid species (56 FR 58612, November 20, 1991). More recently, NMFS and FWS published a joint policy, which is consistent with NMFS' policy, regarding the definition of "distinct population segments" (61 FR 4722, February 7, 1996). NMFS' policy states that one or more naturally reproducing salmonid populations will be considered to be distinct and, hence, species under the ESA, if they represent an ESU of the biological species. To be considered an ESU, a population must satisfy two criteria: (1) It must be reproductively isolated from other population units of the same species; and (2) it must represent an important component in the evolutionary legacy of the biological species. The first criterion, reproductive isolation, need not be absolute but must have been strong enough to permit evolutionarily important differences to occur in different population units. The second criterion is met if the population contributes substantially to the ecological or genetic diversity of the species as a whole. Guidance for applying this policy is contained in a scientific paper entitled "Pacific Salmon (*Oncorhynchus* spp.) and the Definition of 'Species' Under the Endangered Species Act" (Waples, 1991a) and in a NOAA Technical Memorandum: "Definition of 'Species' Under the Endangered Species Act: Application to Pacific Salmon" (Waples, 1991b).

NMFS continues to believe that genetic analyses are an essential component of ESA status reviews. These analyses, in conjunction with life history and ecological assessments, provide an important view into the population structure of a species while helping to discern whether a species faces a genetically-based conservation risk. During the past year, NMFS has compiled additional genetic data relevant to the Oregon Coast/Umpqua ESU determination. Preliminary analyses of these new data (including 16 samples from the Oregon coast) do not change any of the major relationships observed among coastal cutthroat trout populations during the coastwide status review (NMFS, 2000). As was the case before the proposed delisting, genetic samples for the Umpqua River populations are loosely clustered within a group encompassing the Oregon and Northern California coasts.

While some commenters provided independent interpretations of the existing data, none provided substantial new information regarding ESU configurations along the Oregon coast. NMFS concurs with comments by several reviewers that unique ecological conditions in the Umpqua River basin could make these cutthroat trout populations adaptively different from populations in other coastal basins. As Johnson et al. (1999) describe, there was considerable uncertainty about how best to characterize ESUs for this species. NMFS scientists evaluated several alternative ESU scenarios (ranging from a single subspecies ESU to numerous basin-sized ESUs) and ultimately identified six ESUs for the species. A considerable part of these deliberations focused on the Umpqua River basin and its cutthroat trout populations. In the end, NMFS scientists concluded that "new information that has become available since completion of the status review does not materially change our understanding of any factors that contribute to ESU determinations for coastal Oregon cutthroat trout" (NMFS, 2000).

Comment 3: Some commenters stated that Umpqua River cutthroat trout should be removed from endangered species status only when the population actually recovers, not when it is redefined as part of a larger ESU. Many were concerned that removing ESA protections could cause the Umpqua River populations to become extinct. One commenter suggested that NMFS should establish measurable delisting criteria.

Response: NMFS believes that ESA determinations should reflect the best available information on a species' status and population structure and that § 3(15) of the ESA requires that listing decisions be made at a scale no smaller than a DPS. According to criteria at 50 CFR 424.11(d), NMFS may delist a species if information shows that the species is no longer endangered or threatened because of (1) extinction, (2) recovery, or (3) the original data for classifying the species were in error. NMFS believes that the latter case applies to this delisting, i.e., new information indicates that the original listing was in error and that the Umpqua River populations should be considered part of a larger DPS.

As described in Comment #2, NMFS' policy states that a DPS of Pacific salmon must represent an ESU of the biological species (56 FR 58612, November 20, 1991). When appropriate, NMFS will revise the boundaries of an ESU (e.g., the recent cases of chum salmon (64 FR 14508, March 25, 1999) and chinook salmon (64 FR 50394, September 16, 1999)). In the case of the Umpqua River cutthroat trout, this revision resulted in a revised risk assessment wherein NMFS concluded that the larger Oregon Coast ESU was neither threatened nor endangered under the ESA (64 FR 16397, April 5, 1999). NMFS shares many of the concerns expressed about the health of the Umpqua River populations, in particular the precarious status of the anadromous (sea-run) life form. It is unclear whether de-listing the Umpqua River cutthroat trout will lead to a local extinction, but the agency anticipates that local, state, and Federal conservation efforts will continue to progress. Key among these will be the Northwest Forest Plan (overarching

management strategy for Federal lands in the basin) and the state and locally driven Oregon Plan for Salmon and Watersheds. NMFS will encourage, and where possible support these and other efforts to help Umpqua Basin cutthroat trout.

Determinations

Based on an assessment of the available scientific and commercial information, and after taking into account public and peer review comments, NMFS finds that the Umpqua River cutthroat trout is no longer a "species" as defined by the ESA. New information collected during the coastwide status review indicate that the Umpqua River populations are part of a larger Oregon Coast ESU that previously was determined to be neither threatened nor endangered under the ESA (64 FR 16397, April 5, 1999). Therefore, NMFS concludes that the Umpqua River cutthroat trout should be removed from the Federal List of Endangered and Threatened species, thereby removing all protections provided by the ESA. FWS concurs with this action in accordance with 4(a)(2)(B) of the ESA.

As a result of this delisting, the taking, interstate commerce, import, and export of Umpqua River cutthroat trout will no longer be prohibited by the ESA. In addition, Federal agencies will no longer be required to consult with NMFS under section 7 of the ESA in the event activities they authorize, fund, or carry out adversely affect Umpqua River cutthroat trout.

In accordance with 5 U.S.C. 553(d), NMFS has determined that this rule relieves an existing restriction and that there is good cause to make the effective date of this delisting immediate. Delaying the delisting would keep the ESA's take prohibitions in place (as well as the resultant ESA consultation and permitting requirements) and result in needless expenditures of time and money. An immediate delisting will provide prompt public notification and allow NMFS and other Federal agencies to focus limited resources on actions affecting listed species.

Critical Habitat

Critical habitat for the Umpqua River cutthroat trout was designated on January 9, 1998 (63 FR 1388). It includes all estuarine areas and river reaches accessible to the species in the Umpqua River basin, except areas above longstanding, naturally impassable barriers. The ESA defines critical habitat as "specific areas within the geographical area occupied by the species, at the time it is listed on which are found those physical or biological features essential to the conservation of the species and which may require special management considerations or protection." Because critical habitat can be designated only for species listed as endangered or threatened under the ESA, there will be no designated critical habitat for the Umpqua River cutthroat trout upon publication of this final rule.

Classification

The 1982 amendments to the ESA, in section 4(b)(1)(A), restrict the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation* v. *Andrus*, 675 F.2d 825 (6th Cir. 1981), NMFS concluded that all ESA listing actions are not subject to environmental assessment requirements of the National Environmental Policy Act. See NOAA Administrative Order 216–6 (see **ADDRESSEES**).

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered in determinations regarding the status of species. Therefore, the economic analysis requirements of the Regulatory Flexibility Act are not applicable to the listing process. In addition, this proposed rule is exempt from review under Executive Order 12866.

This final rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

References

A complete list of all references cited herein is available upon request (see **ADDRESSES**) and can also be obtained from the internet at *www.nwr.noaa.gov*.

List of Subjects

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

50 CFR Part 224

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and record keeping requirements, Transportation.

50 CFR Part 226

Endangered and threatened species.

Dated: April 14, 2000.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 224 and 226 are amended as follows:

PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

1. The authority citation for part 224 continues to read as follows:

Authority: 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

§ 224.101 [Amended]

2. In § 224.101, in paragraph (a), remove the words "Umpqua River cutthroat trout (*Oncorhynchus clarki clarki*)".

PART 226—DESIGNATED CRITICAL HABITAT

3. The authority citation for part 226 continues to read as follows:

Authority: 16 U.S.C. 1533.

§ 226.206 [Removed and reserved]

4. Remove and reserve § 226.206.

Table 4 to Part 226 [Removed and reserved]

5. Remove and reserve Table 4 to part 226.

[FR Doc. 00–9842 Filed 4–18–00; 8:45 am]
BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 981216308-9124-02; I.D. 040500B]

RIN 0648–AJ67

Atlantic Highly Migratory Species (HMS) Fisheries; Vessel Monitoring Systems

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

ACTION: Delay of effectiveness.

SUMMARY: NMFS further delays the effective date of a section of a final rule published May 28, 1999, which required certain vessel owner/operators to install a NMFS-approved vessel monitoring system (VMS). The effective date of the VMS requirement is delayed until September 1, 2000.

DATES: The effective date of 50 CFR 635.69 is September 1, 2000.

ADDRESSES: Copies of the Highly Migratory Species Fishery Management Plan (HMS FMP), the final rule and supporting documents can be obtained from Rebecca Lent, Chief, Highly Migratory Species Division, Office of

Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Jill Stevenson, NMFS, (301) 713–2347, or Buck Sutter (727) 570–5447.

SUPPLEMENTARY INFORMATION: The final regulations to implement the HMS FMP, and Amendment 1 to the Atlantic Billfish Fishery Management Plan (64 FR 29090, May 28, 1999) included a provision requiring an owner or operator of a commercial vessel permitted to fish for Atlantic HMS under § 635.4 and that fishes with a pelagic longline to install a NMFS-approved VMS unit on board the vessel and operate the VMS unit whenever the vessel leaves port with pelagic longline gear on board. The VMS requirement of the final rule (§ 635.69) was to be effective September 1, 1999.

On August 9, 1999, NMFS delayed the effective date of this final rule until January 1, 2000 (64 FR 43101). On October 14, 1999, NMFS again delayed the effective date of this final rule until June 1, 2000 (64 FR 55633). NMFS further delays the effective date of implementation of the VMS regulations until September 1, 2000.

Dated: April 10, 2000.

George H. Darcy,

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

[FR Doc. 00–9699 Filed 4–18–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 000211039–0039–01; I.D. 041200A]

Fisheries of the Exclusive Economic Zone Off Alaska, Pacific Cod in the Gulf of Alaska

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

ACTION: Apportionment of reserve.

SUMMARY: NMFS is apportioning the initial reserve of Pacific cod in the Gulf of Alaska (GOA). This action is necessary to allow incidental catch of Pacific cod to be retained in other directed fisheries and to account for previous harvest of the total allowable catch (TAC) in the GOA.

This action is necessary to meet the objectives in the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and is intended to further the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP).

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 19, 2000, until 2400 hrs, A.l.t., December 31, 2000. Comments must be received by May 4, 2000.

ADDRESSES: Comments may be sent to Sue Salveson, Assistant Administrator for Fisheries, Sustainable Fisheries Division, Alaska Region, NMFS, 709 West 9th Street, Room 453, Juneau, AK 99801 or P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel. Hand delivery or courier delivery of comments may be sent to the Federal Building, 709 West 9th St., Room 453, Juneau, AK 99801. Comments will not be accepted if submitted via e-mail or Internet.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, (907)481–1780, fax (907)481–1781, or tom.pearson@noaa.gov.

SUPPLEMENTARY INFORMATION:

NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the FMP prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The initial TAC of Pacific cod in the Western, Central, and Eastern Regulatory Areas of the GOA was established by the Final 2000 Harvest Specifications for Groundfish of the GOA (65 FR 8298, February 18, 2000) as 16,500 metric tons (mt), 27,264 mt, and 3,208 mt, respectively. Directed fishing for Pacific cod for processing by the offshore component in the Western Regulatory Area of the GOA was closed on February 7, 2000, and by the inshore component in the Western and Central Regulatory Areas of the GOA on March 4, 2000, under § 679.20(d)(1)(iii), in order to prevent exceeding the allocation for processing by the offshore and inshore components in these areas (65 FR 6561, February 10, 2000, and 65 FR 12137 and 12138, March 8, 2000).

The reserves of Pacific cod in the GOA were created by the Final 2000 Harvest Specifications for Groundfish of the GOA (65 FR 8298, February 18, 2000) as a management buffer to prevent exceeding the TACs and to provide greater assurance that Pacific cod could be retained as bycatch throughout the fishing year.

The Administrator, Alaska Region, NMFS, (Regional Administrator), has determined that the initial TAC for Pacific cod in the GOA needs to be supplemented from the Pacific cod reserve for the GOA in order to allow incidental catch of Pacific cod to be retained in other fisheries and to account for prior harvest. Therefore, in accordance with § 679.20(b)(3)(i)(A), NMFS is apportioning 11,743 mt of Pacific cod from the reserve to the TAC in the GOA: 4,125 mt in the Western, 6,816 mt in the Central, and 802 mt in the Eastern Regulatory Areas.

Pursuant to § 679.20(a)(6)(iii), the apportionment of the Pacific cod reserve in the GOA is allocated to vessels catching Pacific cod for processing by the inshore and offshore components as 90 percent and 10 percent of the TAC respectively. This action increases the total allocation of the 2000 Pacific cod TACs for vessels catching Pacific cod for processing by the inshore component to 18,563 mt, 30,672 mt, and 3,609 mt in the Western, Central, and Eastern Regulatory Areas respectively, and for the offshore component to 2,062 mt, 3,408 mt and 401 mt in the Western, Central, and Eastern Regulatory Areas respectively. In accordance with § 679.20(b)(3)(iii)(A), NMFS finds that there is good cause for not providing the public with a prior opportunity to comment. As of March 25, 2000, NMFS estimates the initial TACs of 14,850 mt and 24,538 mt allocated to the inshore component in the Western and the Central Regulatory Areas of the GOA have been reached and that the initial TAC of 1,650 mt allocated to the offshore component in the Western Regulatory Area of the GOA has been reached. This action is necessary to allow retention of amounts of Pacific cod that are caught incidentally while conducting directed fishing for other species in these areas.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the initial TAC limitations for Pacific cod established in the Final 2000 Harvest Specifications for Groundfish in the GOA. This action will allow incidental catch of Pacific cod to be retained in other directed fisheries. The alternative is to prohibit retention of Pacific cod which is contrary to the FMP goals of providing the opportunity to more fully utilizing the available TACs and reducing discards. A delay in the effective date is impracticable and

contrary to the public interest as it relieves a potential restriction. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C 553(d), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.20 and is exempt from review under E.O. 12866.

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

Dated: April 13, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–9844 Filed 4–18–00; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 65, No. 76
Wednesday, April 19, 2000

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–77–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A310 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A310 series airplanes. This proposal would require modification of the position 1 flap screw jack. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent fracture of the lead screw of the position 1 flap screw jack, which could result in failure of the tie bar and possible disconnection of the flap structure from the airplane.

DATES: Comments must be received by May 19, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–77–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110: fax (425) 227–1149

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 shall 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 summarizing 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 Number 2000–NM–77–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, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–77–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A310 series airplanes. The DGAC advises that, during routine maintenance, a fractured lead screw was detected in a position 1 flap screw jack. After an inspection of the fleet, additional occurrences of broken or cracked lead screws were reported. Investigation into the fractured lead screws revealed that the cause was attributed to interference between the ball nut and the trunnion fork end due to the installation of the ball nut being offset 180 degrees after maintenance. Such interference between the ball nut and trunnion fork end could lead to fracture of the lead screw of the position 1 flap screw jack. This condition, if not corrected, could result in failure of the tie bar and possible disconnection of the flap structure from the airplane.

Explanation of Relevant Service Information

The manufacturer has issued Airbus Service Bulletin A310–27–2075, Revision 02, dated February 8, 2000, which describes procedures for modification of the position 1 flap screw jack. The modification involves the installation of a bracket, which will prevent incorrect installation of the ball nut. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 1999–510–299(B), dated December 29, 1999, in order to assure the continued airworthiness of these airplanes in France.

The Airbus service bulletin references Lucas/Liebherr Service Bulletin 537–27–M537–15, dated May 12, 1994, as an additional source of service information for accomplishing the modification proposed by this AD.

FAA's Conclusions

This airplane model is manufactured in France 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 DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require modification of the position 1 flap control screw jack. The actions would be required to be accomplished in accordance with the Airbus service bulletin described previously.

Cost Impact

The FAA estimates that 41 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed modification, and that the average labor rate is $60 per work hour. Required parts would cost approximately $105 per airplane. Based on these figures, the cost impact of the proposed modification AD on U.S. operators is estimated to be $9,225, or $225 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic 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 is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

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 the following new airworthiness directive:

Airbus Industrie: Docket 2000–NM–77–AD.

Applicability: Model A310 series airplanes, certificated in any category, except those airplanes on which Airbus Modification 10855 or Airbus Service Bulletin A310–27–2075 has been accomplished.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise 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 as indicated, unless accomplished previously.

To prevent fracture of the lead screw of the position 1 flap screw jack, which could result in failure of the tie bar and possible disconnection of the flap structure from the airplane, accomplish the following:

Modification

(a) Within 18 months after the effective date of this AD, modify the position 1 flap screw jack in accordance with Airbus Service Bulletin A310–27–2075, Revision 02, dated February 8, 2000.

Note 2: Modifications accomplished prior to the effective date of this AD, in accordance with Airbus Service Bulletin A310–27–2075, dated November 18, 1994, or Revision 01, dated July 20, 1995, are considered acceptable for compliance with the modification specified by this AD.

Note 3: The Airbus service bulletin references Lucas/Liebherr Service Bulletin 537–27–M537–15, dated May 12, 1994, as an additional source of service information for accomplishing the applicable action required by this AD.

Spares

(b) As of the effective date of this AD, no person shall install on any airplane a position 1 flap screw jack having part number 537G0000–02, unless modified in accordance with this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(d) 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.

Note 5: The subject of this AD is addressed in French airworthiness directive 1999–510–299(B), dated December 29, 1999.

Issued in Renton, Washington, on April 13, 2000.

Charles D. Huber,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–9823 Filed 4–18–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–54–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300, A300–600, and A310 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A300, A300–600, and A310 series airplanes. This proposal would require replacement of the transformer rectifier units (TRU) in the avionics compartment with new, improved TRU's. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority.

The actions specified by the proposed AD are intended to prevent failure of the TRU's. Failure of multiple TRU's could result in loss of the thrust reversers, autothrottle, flaps, and various systems (wing/cockpit window anti-ice, trim tank pumps, and windshield wipers) on the airplane; or incorrect information displayed to the flight crew.

DATES: Comments must be received by May 19, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–54–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte,.31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

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 shall 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 summarizing 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 Number 2000–NM–54–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, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–54–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A300, A300–600, and A310 series airplanes. The DGAC advises that it has received reports of failures in operation of the direct current (DC) electrical power transformer rectifier units (TRU). Investigation of these failures revealed that the temperature level that triggers the fan may lead to the overheat and failure of one or more TRU's. Failure of multiple TRU's, if not corrected, could result in loss of the thrust reversers, autothrottle, flaps, and various systems (wing/cockpit window anti-ice, trim tank pumps, and windshield wipers) on the airplane; or incorrect information displayed to the flight crew.

Explanation of Relevant Service Information

The manufacturer has issued Airbus Service Bulletin A300–24–0089, dated March 4, 1998 (for Model A300 series airplanes), A300–24–6068, dated January 28, 1998 (for Model A300–600 series airplanes), and A310–24–2077, dated January 21, 1998 (for Model A310 series airplanes). These service bulletins describe procedures for replacement of the TRU's in the avionics compartment with new, improved TRU's. The new TRU's utilize a reduced working temperature, thus improving the reliability of the TRU's. The DGAC classified these service bulletins as mandatory and issued French airworthiness directive 1999–435–296(B), dated November 3, 1999, in order to assure the continued airworthiness of these airplanes in France.

The Airbus service bulletins reference AUXILEC Service Bulletin F11QB3121–24–007, dated February 2, 1998, as an additional source of service information for accomplishing the replacement proposed by this AD.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require replacement of the TRU's in the avionics compartment with new, improved TRU's. The actions would be required to be accomplished in accordance with the service bulletins described previously, except as discussed below.

Differences Between Proposed Rule and Foreign Airworthiness Directive

The proposed rule would differ from the French airworthiness directive in that it would require accomplishment of the replacement described previously, within 6 months after the effective date of this AD. The parallel French airworthiness directive specifies accomplishment of the replacement prior to September 30, 2001 (18 months after the effective date). In developing an appropriate compliance time for this AD, the FAA considered not only the DGAC's and the manufacturer's recommendations, but the degree of urgency associated with addressing the subject unsafe condition and the average utilization of the affected fleet. In light of these factors, the FAA finds a 6-month compliance time for the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Cost Impact

The FAA estimates that 122 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed replacement, and that the average labor rate is $60 per work hour. Required

parts would be provided by the manufacturer at no cost to the operators if modification of the TRU's is accomplished at the vendor's (AUXILEC) facilities, otherwise the required parts would cost approximately $253 per TRU. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be between $120 and $1,132 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic 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 is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

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 the following new airworthiness directive:

Airbus Industrie: Docket 2000–NM–54–AD.

Applicability: Model A300, A300–600, and A310 series airplanes; certificated in any category; equipped with AUXILEC transformer rectifier units (TRU) having part number (P/N) F11QB3121.

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 as indicated, unless accomplished previously.

To prevent failure of multiple TRU's, which could result in loss of the thrust reversers, autothrottle, flaps, and various systems (wing/cockpit window anti-ice, trim tank pumps, and windshield wipers) on the airplane; or incorrect information displayed to the flight crew; accomplish the following:

Replacement

(a) Within 6 months after the effective date of this AD, replace the TRU's in the avionics compartment with new, improved TRU's, in accordance with Airbus Service Bulletins A300–24–0089, dated March 4, 1998 (for Model A300 series airplanes); A300–24–6068, dated January 28, 1998 (for Model A300–600 series airplanes); or A310–24–2077, dated January 21, 1998 (for Model A310 series airplanes); as applicable.

Note 2: The Airbus service bulletins reference AUXILEC Service Bulletin F11QB3121–24–007, dated February 2, 1998, as an additional source of service information for accomplishing the replacement required by this AD.

Alternative Methods of Compliance

(b) 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, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, International Branch, ANM–116.

Special Flight Permits

(c) 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.

Note 4: The subject of this AD is addressed in French airworthiness directive 1999–435–296(B), dated November 3, 1999.

Issued in Renton, Washington, on April 13, 2000.

Charles D. Huber,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–9822 Filed 4–18–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–363–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 707, 727C, and 727–100C Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 707, 727C, and 727–100C series airplanes, that currently requires repetitive inspections to detect cracking of the main cargo door skin and frames, and repair, if necessary. The existing AD also provides optional terminating modifications. This action would mandate follow-on repetitive inspections of repaired or modified areas for certain airplanes. This proposal is prompted by reports of cracking and/or tearing of the main cargo door outer skin and subsequent failure of the door frame. The actions specified by the proposed AD are intended to detect and correct such cracking and/or tearing, which could result in failure of the door frame and consequent rapid decompression of the airplane.

DATES: Comments must be received by June 5, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–363–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Walt Sippel, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2774; fax (425) 227–1181.

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 shall 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 summarizing 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 Number 99–NM–363–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, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–363–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On January 17, 1983, the FAA issued AD 83–02–09, amendment 39–4549 (48 FR 6953, February 17, 1983), applicable to certain Boeing Model 707, 727C, and 727–100C airplanes, to require inspection and repair, if necessary, of the main cargo door structure. That action was prompted by reports of skin cracking and door frame failures. The requirements of that AD are intended to detect cracking prior to reaching critical length, which could result in rapid decompression or loss of a portion of the main cargo door.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the FAA has reviewed and approved Boeing Service Bulletin 727–52A0079, Revision 6, dated January 11, 1990. The service bulletin describes procedures for repetitive detailed visual, eddy current, and X-ray inspections of the main cargo door outer skin and the door frames between body stations (BS) 505 and 595 to detect cracking, and repair of any cracks. The service bulletin also describes procedures for modification of the main cargo door and detailed visual and eddy current inspections of the modified or repaired areas. Revisions 4 and 5 of the service bulletin were referenced in the existing AD as an appropriate source of service information for accomplishment of the inspections and modifications for the Model 727 series airplanes.

The FAA also has reviewed and approved Revision 4 of Boeing Service Bulletin 2999, dated January 31, 1991. Revision 3 of the service bulletin was referenced in the existing AD as the appropriate source of service information for accomplishment of the inspections and modifications for the Model 707 series airplanes. The requirements for inspections and modifications of the Model 707 are unchanged in this proposed AD because the detailed visual and eddy current inspections of the modified or repaired areas are required by AD 85–12–01 R1, amendment 39–5439 (51 FR 36002, October 8, 1986).

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 83–02–09 to continue to require repetitive inspections to detect cracking of the main cargo door outer skin and frames, and repair, if necessary. This proposed AD would mandate follow-on repetitive inspections of modified or repaired areas for certain airplanes.

Paragraph (e) of the existing AD will not be restated in this proposal due to the FAA's determination that calculating the number of landings/flight cycles by fleet average would not allow for detection of cracks in a timely manner.

Additionally, restatement of the requirements of the existing AD has been revised to remove all references to the use of "later FAA-approved revisions of the applicable service bulletin," in order to be consistent with FAA policy in that regard. The FAA has determined that this change will not increase the economic burden on any operator, nor will it increase the scope of the AD, since later revisions of the service bulletin may be approved as an alternative method of compliance with this AD, as provided by paragraph (g)(1) of this AD.

Difference Between Proposed Rule and Service Bulletins

Operators should note that, although the service bulletins specify that the manufacturer may be contacted for disposition of certain repair conditions, this proposed AD would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA, or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings.

Cost Impact

There are approximately 50 Model 707 and 308 Model 727 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1 Model 707 and 81 Model 727 airplanes of U.S. registry would be affected by this proposed AD.

The cost impact information in AD 83–02–09 inadvertently contained information relevant only to the X-ray inspection; however, since the detailed visual and eddy current inspections are also acceptable methods to detect cracking, this proposed AD includes the estimated number of work hours necessary to accomplish any one of the three inspection methods. Additionally, the FAA has recently reviewed the figures it has used over the past several years in calculating the economic impact of AD activity. In order to account for various inflationary costs in the airline industry, the FAA has determined that it is necessary to increase the labor rate used in these calculations from $40 per work hour to

$60 per work hour. The cost impact information, below, has been revised to reflect these changes.

Should an operator elect to accomplish the detailed visual inspection that is currently required by AD 83–02–09, it would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the detailed visual inspection is estimated to be $60 per airplane.

Should an operator elect to accomplish the eddy current inspection that is currently required by AD 83–02–09, it would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the eddy current inspection is estimated to be $60 per airplane.

Should an operator elect to accomplish the X-ray inspection that is currently required by AD 83–02–09, it would take approximately 3 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the X-ray inspection is estimated to be $180 per airplane.

The detailed visual inspection (for Model 727 series airplanes only) proposed by this AD would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the detailed visual inspection is estimated to be $4,860, or $60 per airplane.

The eddy current inspection (for Model 727 series airplanes only) proposed by this AD would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the eddy current inspection is estimated to be $4,860, or $60 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic 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 is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

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 removing amendment 39–4549 (48 FR 6953, February 17, 1983), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 99–NM–363–AD. Supersedes AD 83–02–09, Amendment 39–4549.

Applicability: Model 707, 727C, and 727–100C series airplanes; as listed in Boeing Service Bulletins 2999, Revision 3, dated January 12, 1972, and 727–52–79, Revision 4, dated June 19, 1981; certificated in any category.

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 (g)(1) 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 as indicated, unless accomplished previously.

To detect and correct cracking of the main cargo door skin and frames, which could result in failure of the door frame, and consequent rapid decompression of the airplane, accomplish the following:

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

Restatement of Requirements of AD 83–02–09

Initial Inspection

(a) Within 500 landings after March 3, 1983 (the effective date of AD 83–02–09, amendment 39–4549), or prior to the accumulation of 25,000 total landings after March 3, 1983, whichever occurs later: Perform an inspection (detailed visual, eddy current, or X-ray) to detect cracks of the main cargo door outer skin and frames between body stations (BS) 505 and 595, from the lower edge of the door hinge a minimum of 6 inches down, and 6 inches above, and 3 inches below the center line of stringer 10, in accordance with Boeing Service Bulletin 2999, Revision 3, dated January 12, 1972, or Revision 4, dated January 31, 1991 (for Model 707 series airplanes); or Boeing Service Bulletin 727–52–79, Revision 4, dated June 19, 1981, or Boeing Alert Service Bulletin 727–52A0079, Revision 5, dated June 17, 1983, or Revision 6, dated January 11, 1990 (for Model 727 series airplanes); as applicable.

Repetitive Inspections

(b) Repeat the inspection required by paragraph (a) of this AD at the times specified in paragraph (b)(1), (b)(2) or (b)(3) of this AD; as applicable; until accomplishment of the modification required by paragraph (d) of this AD.

(1) Repeat the detailed visual inspection at intervals not to exceed 500 landings.

(2) Repeat the eddy current inspection at intervals not to exceed 750 landings.

(3) Repeat the X-ray inspection at intervals not to exceed 1,000 landings.

Repair

(c) If any cracking is detected during any inspection required by paragraph (a) or (b) of this AD: Prior to further flight, repair any cracks detected in accordance with Boeing Service Bulletin 2999, Revision 3, dated January 12, 1972, or Revision 4, dated January 31, 1991 (for Model 707 series airplanes); or Boeing Service Bulletin 727–52–79, Revision 4, dated June 19, 1981, or Boeing Alert Service Bulletin 727–52A0079, Revision 5, dated June 17, 1983, or Revision 6, dated January 11, 1990 (for Model 727 series airplanes), as applicable.

Optional Terminating Action

(d) Modification of the main cargo door in accordance with Part II, Option 1 or Option

2, as applicable, of the Accomplishment Instructions of Boeing Service Bulletin 2999, Revision 3, dated January 12, 1972, or Revision 4, dated January 31, 1991 (for Model 707 series airplanes); or Boeing Service Bulletin 727–52–79, Revision 4, dated June 19, 1981, or Boeing Alert Service Bulletin 727–52A0079, Revision 5, dated June 17, 1983, or Revision 6, dated January 11, 1990 (for Model 727 series airplanes); as applicable; constitutes terminating action for the requirements of paragraphs (a) and (b) of this AD.

New Requirements of This AD

Post-Repair/Post-Mod Repetitive Inspections

(e) For Model 727 series airplanes: Within 27,000 flight cycles after accomplishment of the repair specified in paragraph (c) of this AD, and/or the modification specified in paragraph (d) of this AD, as applicable; or within 1,000 flight cycles after the effective date of this AD; whichever occurs later; accomplish the requirements of paragraph (e)(1) or (e)(2) of this AD, as applicable.

(1) For airplanes that have accomplished the modification specified in Part II, Option 1, of the Accomplishment Instructions of Boeing Service Bulletin 727–52–79, Revision 4, dated June 19, 1981, or Boeing Alert Service Bulletin 727–52A0079, Revision 5, dated June 17, 1983, or Revision 6, dated January 11, 1990: Perform a detailed visual and eddy current inspection of the modified area and/or any repaired area, to detect cracks, in accordance with the service bulletin. Repeat the inspections at intervals not to exceed 3,800 flight cycles.

(2) For airplanes that have accomplished the modification specified in Part II, Option 2, of the Accomplishment Instructions of Boeing Service Bulletin 727–52–79, Revision 4, dated June 19, 1981, or Boeing Alert Service Bulletin 727–52A0079, Revision 5, dated June 17, 1983, or Revision 6, dated January 11, 1990: Perform an internal and external detailed visual and an eddy current inspection of the modified area to detect cracks in accordance with the service bulletin. Repeat the inspections at intervals not to exceed 3,800 flight cycles.

Repair

(f) If any cracking is detected during any inspection required by paragraph (e)(1) or (e)(2) of this AD: Prior to further flight, repair any cracks detected in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Alternative Methods of Compliance

(g)(1) 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, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(2) Alternative methods of compliance approved previously in accordance with AD 83–02–09, amendment 39–4549, are approved as alternative methods of compliance with this AD.

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

Note 4: Incorporation of the Boeing Model 707–720 Supplemental Structural Inspection Document (SSID) into the operator's approved airplane maintenance program constitutes an approved alternative method of compliance for Model 707 and 720 series airplanes.

Special Flight Permits

(h) 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.

Issued in Renton, Washington, on April 13, 2000.

Charles D. Huber,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–9821 Filed 4–18–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–SW–80–AD]

Airworthiness Directives; Bell Helicopter Textron Canada Model 206L, L–1, L–3, and L–4 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to Bell Helicopter Textron Canada (BHTC) Model 206L, L–1, L–3, and L–4 helicopters. That AD currently requires removing the horizontal stabilizer supports and inspecting the edges of the tailboom skins around the horizontal stabilizer openings for a crack. This action would require inspecting the tailboom skins for a crack, replacing a cracked tailboom with a modified tailboom before further flight, and implementing a recurring inspection of the modified tailboom. This proposal is prompted by several additional reports of cracks found during mandatory inspections. The actions specified by the proposed AD are intended to detect a crack in the tailboom and to prevent separation of the tailboom from the helicopter and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before June 19, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–80–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec JON1LO, telephone (800) 463–3036, fax (514) 433–0272. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Sharon Miles, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations Group, Fort Worth, Texas 76193–0111 telephone (817) 222–5122, fax (817) 222–5961.

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 summarizing 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. 99–SW–80–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, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–80–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

On June 16, 1999, the FAA issued AD 99–13–12, Amendment 39–11207 (64 FR 33747, June 24, 1999), to require at specified time intervals visually inspecting and preflight checking for cracks around the horizontal stabilizer opening. The AD also requires within 50 hours time-in-service (TIS) removing the horizontal stabilizer supports and visually inspecting the edges of the tailboom skins around the horizontal stabilizer openings for a crack using a fluorescent-penetrant inspection. That action was prompted by crack growth analysis that indicated the need to detect cracks before they propagate from underneath the horizontal stabilizer supports. The requirements of that AD are intended to detect a crack in the tailboom skin, prevent separation of the tailboom from the helicopter, and subsequent loss of control of the helicopter.

Since the issuance of that AD, several additional cracks in tailbooms were found during mandatory inspections.

Since an unsafe condition has been identified that is likely to exist or develop on other BHTC Model 206L, L–1, L–3, and L–4 helicopters of the same type design, the proposed AD would supersede AD 99–13–12 to require the following:

- Inspecting the tailboom skins for a crack;
- Replacing any cracked tailboom with an airworthy modified tailboom;
- Modifying the tailboom within the next 300 hours time-in-service (TIS) by adding a doubler on the left side of the tailboom in the area of the left horizontal stabilizer, and
- Inspecting the modified tailboom for a crack at intervals not to exceed 1200 hours TIS.

This proposal is prompted by several additional reports of cracks found during mandatory inspections. The actions specified by the proposed AD are intended to detect a crack in the tailboom and to prevent separation of the tailboom from the helicopter and subsequent loss of control of the helicopter.

Transport Canada, which is the airworthiness authority for Canada, has notified the FAA that an unsafe condition may exist on BHTC Model 206L, L–1, L–3, and L–4 helicopters. Transport Canada advises that cracks were found on the tailboom skins in the area of the horizontal stabilizer.

BHTC has issued Alert Service Bulletin 206L–99–115, Revision D, dated January 26, 2000 (ASB), which specifies modifying the tailboom by adding a doubler on the left side of the tailboom in the area of the left horizontal stabilizer and inspecting the modified tailboom for a crack at intervals not to exceed 1200 hours of operation. Transport Canada classified Revision A of this ASB as mandatory and issued AD CF–98–42R2, dated July 22, 1999. Transport Canada has subsequently issued AD CF–1998–42R3, dated February 17, 2000, which extended the compliance date.

These helicopter models are manufactured in Canada and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada, reviewed all available information, and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

The FAA estimates that 1546 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 52 work hours to inspect and replace the tailbooms, if necessary, and that the average labor rate is $60 per work hour. Required parts would cost approximately $22,954 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $40,310,404 if all tailbooms must be replaced.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic 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 is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

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 removing Amendment 39–11207 (64 FR 33747, June 24, 1999), and by adding a new airworthiness directive (AD), to read as follows:

Bell Helicopter Textron Canada: Docket No. 99–SW–80–AD. Supersedes AD 99–13–12, Amendment 39–11207, Docket No. 99–SW–23–AD.

Applicability: Model 206L, serial numbers (S/N) 45004 through 45049, 45051 through 45153, and 46601 through 46617; Model 206L–1, S/N 45154 through 45790; Model 206L–3, S/N 51001 through 51612; and Model 206L–4, S/N 52001 through 52163, 52165 through 52212, and 52214 through 52216, with tailboom, part number (P/N) 206–033–004-all dash numbers, 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 otherwise 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 request approval for an alternative method of compliance in accordance with paragraph (g) 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 as indicated, unless accomplished previously.

To detect a crack in the tailboom skin and to prevent separation of the tailboom from the helicopter and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight and thereafter at intervals not to exceed 10 hours time-in-service (TIS) until accomplishing the one-time fluorescent-penetrant inspection (FPI) required by paragraph (c)(2) of this AD, visually inspect for any crack in the shaded areas shown in Figure 1. Use a 10-power or higher magnifying glass. If a crack is found, replace the tailboom with an airworthy tailboom modified according to the requirements of paragraph (e) of this AD before further flight.

(b) At intervals not to exceed 5 hours TIS, visually check for any crack in the tailboom as depicted by the shaded areas shown in Figure 1. If any crack is found, replace the tailboom with an airworthy tailboom modified according to the requirements of paragraph (e) of this AD before further flight. The visual check may be performed by an owner/operator (pilot) holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with paragraph (b) of this AD in accordance with sections 43.11 and 91.417 (a)(2)(v) of the Federal Aviation Regulations (14 CFR sections 43.11 and 91.417 (a)(2)(v)).

(c) Within 50 hours TIS:

(1) Remove all 4 horizontal stabilizer supports, P/N 206–023–100-all dash numbers, from the tailboom and the horizontal stabilizer.

(2) Perform a one-time FPI of the edges of the tailboom skins for any crack around the left and right horizontal stabilizer openings (Figure 1). Remove paint and primer to inspect the edges and exterior skin surface in the skin area at least ¾ inch around the edges of the horizontal stabilizer openings.

(3) If a crack is found, replace the tailboom with an airworthy tailboom modified according to the requirements of paragraph (e) of this AD before further flight.

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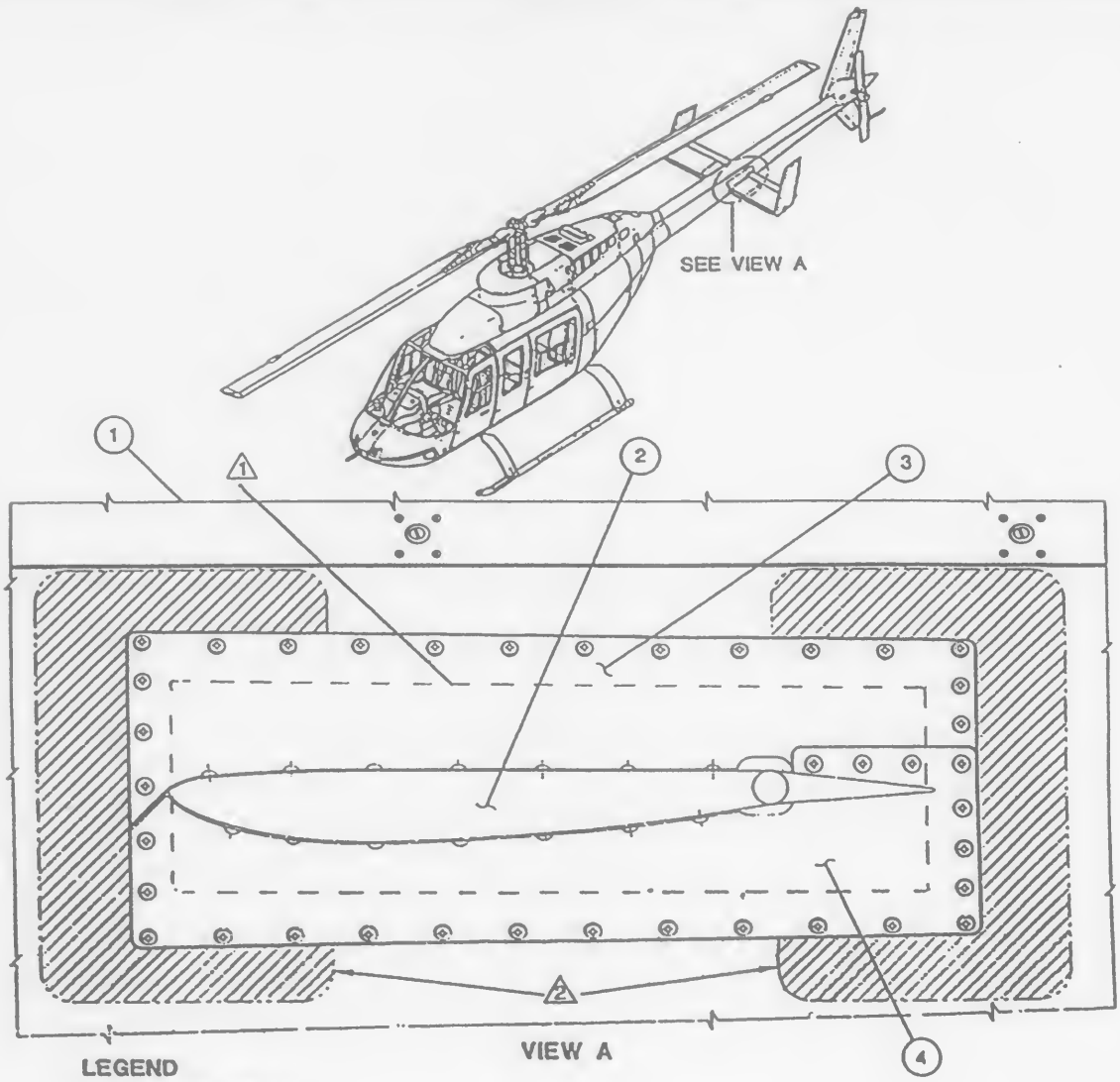

LEGEND

1. Tailboom assembly
2. Horizontal stabilizer
3. Upper support
4. Lower support

NOTES

2 Inspect for a crack in these two areas on both sides of the tailboom.

1 Inspect entire edge of stabilizer opening on both sides of the tailboom.

Figure 1

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(d) At intervals not to exceed 100 hours TIS after completion of the FPI, accomplish the following:

(1) Remove all 4 horizontal stabilizer supports, P/N 206–023–100-all dash numbers, from the tailboom and the horizontal stabilizer.

(2) Visually inspect the entire edge of the horizontal stabilizer opening on both sides of the tailboom for any crack using a 10-power or higher magnifying glass.

(3) If a crack is found, replace the tailboom with an airworthy tailboom modified according to the requirements of paragraph (e) of this AD before further flight.

(e) Within the next 300 hours TIS, inspect and modify the tailboom in accordance with Parts I, II, and III of Bell Helicopter Textron Canada (BHTC) Alert Service Bulletin 206L–99–115, Revision D, dated January 26, 2000 (ASB). If a crack is found while accomplishing Part I of the ASB, replace the tailboom with an airworthy tailboom modified as required by this paragraph before further flight. After accomplishing the modification, inspect the modified tailboom at intervals not to exceed 1200 hours TIS in accordance with Part IV of the ASB.

(f) Modifying and inspecting the tailboom in accordance with paragraph (e) of this AD is terminating action for the requirements of paragraphs (a) through (d) of this AD.

(g) 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, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

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

(h) Special flight permits may be issued for a one-time flight, not to exceed 5 hours TIS and a maximum of one landing 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. The visual preflight check required by paragraph (b) of this AD must be accomplished prior to making a one-time flight.

Note 3: The subject of this AD is addressed in Transport Canada (Canada) AD CF–98–42R3, dated February 17, 2000.

Issued in Fort Worth, Texas, on April 12, 2000.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 00–9819 Filed 4–18–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ASO–9]

Proposed Amendment to Class D and Class E5 Airspace, Greenwood, MS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to amend Class D and Class E airspace at Greenwood-Leflore Airport, Greenwood, MS. An Area Navigation (RNAV) Runway (RWY) 18 Standard Instrument Approach Procedure (SIAP) has been developed for Greenwood, MS. As a result, additional controlled airspace extending upward from the surface and extending upward from 700 feet above Ground Level (AGL) is needed to accommodate the SIAP.

DATES: Comments must be received on or before May 19, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 00–ASO–9, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 00–ASO–9." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class D and Class E5 airspace at Greenwood-Leflore Airport, Greenwood, MS. An RNAV RWY 18 SIAP has been developed for Greenwood-Leflore Airport. Additional controlled airspace extending upward from the surface and extending upward from 700 feet AGL is needed to accommodate the SIAP. Class D airspace designations are published in Paragraph 5000, Class E4 airspace designations are published in Paragraph 6004, and Class E5 airspace designations are published in Paragraph 6005 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E5 airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (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) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by Reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 289.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 5000 Class D airspace.

* * * * * *

ASO MS D Greenwood, MS [Revised]

Greenwood-Leflore Airport, MS
(Lat. 33°29′44″ N, long. 90°05′03″ W)

That airspace extending upward from the surface, to and including 2,700 feet MSL within a 4.4-mile radius of the Greenwood-Leflore Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * * *

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D Airspace Area.

* * * * * *

ASO MS E4 Greenwood, MS [Revised]

Greenwood-Leflore Airport, MS
(Lat. 33°29′44″ N, long. 90°05′03″ W)
Greenwood VORTAC
(Lat. 33°27′50″ N, long. 90°16′38″ W)

That airspace extending upward from the surface within 1.4 miles each side of the Greenwood VORTAC 079° radial, extending from the 4.4-mile radius of Greenwood-Leflore Airport to 4 miles east of the VORTAC. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * * *

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the earth.

* * * * * *

ASO MS E5 Greenwood, MS [Revised]

Greenwood-Leflore Airport, MS
(Lat. 33°29′44″ N, long. 90°05′03″ W)
Greenwood VORTAC
(Lat. 33°27′50″ N, long. 90°16′38″ W)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of Greenwood-Leflore Airport and within 1.2 miles each side of the Greenwood VORTAC 079° radial, extending from the 6.9-mile radius to 2 miles east of the VORTAC.

* * * * * *

Issued in College Park, Georgia, on March 31, 2000.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 00–9216 Filed 4–18–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–10]

Proposed Establishment of Class E Airspace; Minneapolis, Crystal Airport, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Minneapolis, Crystal Airport, MN. Crystal Airport is served by Federal Aviation Regulations Part 135 air carrier operations. Controlled airspace extending upward from the surface is needed to contain aircraft executing instrument flight procedures and provide a safer operating environment when the control tower is closed. The airport meets the minimum communications and weather observation and reporting requirements for controlled airspace extending upward from the surface. This action proposes to create controlled airspace with a 3.8-mile radius for this airport.

DATES: Comments must be received on or before May 22, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Regional Counsel, AGL–7, Rules Docket No. 00–AGL–10, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 00–AGL–10." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for

comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to establish Class E airspace at Minneapolis, Crystal Airport, MN, to accommodate FAR Part 135 (14 CFR part 135) air carrier aircraft executing instrument flight rules procedure during periods when the control tower is closed. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from the surface of the earth are published in paragraph 6002 of FAA Order 7400.9G dated September 11, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an establishment body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(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) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 11, 1999, and effective September 16, 1999, is amended as follows:

* * * * *

Paragraph 6002 Class E airspace designated as a surface area.

* * * * *

AGL MN E2 Minneapolis, Crystal Airport, MN [New]

Crystal Airport, MN
(Lat. 45°08′42″N., long 93°12′41″W.)

Within a 3.8-mile radius of the Minneapolis, Anoka County-Blaine Airport. This Class E airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Des Plaines, Illinois on March 22, 2000.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 00–9215 Filed 4–18–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 864, 866, 868, 870, 872, 874, 876, 878, 884, 886, and 888

[Docket No. 99N–0035]

Medical Devices; Reclassification of 38 Preamendments Class III Devices Into Class II

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening for 90 days the comment period for the submission of comments regarding 6 of the 38 devices proposed for reclassification from class III into class II. The proposed rule was published in the **Federal Register** of March 15, 1999 (64 FR 12774). The agency is taking this action in part in response to a request for more time to submit comments to FDA regarding several of the guidance documents that were not made available when the March 15, 1999, proposed rule was published. Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of these guidance documents for comment.

DATES: Submit written comments on the proposed rule by July 18, 2000.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ–215), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–827–2974.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of March 15, 1999 (64 FR 12774), FDA published a proposed rule to reclassify 38 preamendments class III devices into class II and to establish special controls for these devices. Interested persons were given until June 14, 1999, to comment on the proposed rule.

A trade association requested that FDA reopen the comment period for the following six devices: (1) Vascular graft prosthesis of less than 6 millimeters diameter, (2) pacemaker lead adaptor, (3) annuloplasty ring, (4) cardiopulmonary bypass defoamer, (5) cardiopulmonary bypass arterial line blood filter, and (6) cardiopulmomonary bypass oxygenator. The request noted that FDA had not made the guidance documents that were proposed as special controls for these six devices available for comment through the agency's Good Guidance Practices (GGP's). The request further noted that it was impossible to comment on the proposed reclassification without the guidance documents being available. Therefore, the trade association requested that FDA extend the comment period until at least 90 days after the guidance documents are publicly available for comment.

FDA also identified an additional three devices for which the agency had

not issued the guidance documents proposed as special controls in accordance with the GGP policy: The indwelling blood carbon dioxide partial pressure (Pco^2) analyzer, the indwelling blood hydrogen ion concentration (pH) analyzer, and the indwelling blood oxygen partial pressure (Po^2) analyzer. In the near future, FDA intends to announce the availability of two guidance documents for these three devices and will reopen the comment period on the reclassification of those devices at that time.

Accordingly, FDA is reopening the comment period for the March 15, 1999, proposed rule to allow additional time for interested persons to comment on the following six devices:

TABLE 1

21 CFR Section	Device Name
870.3450	Vascular graft prosthesis of less than 6 millimeters diameter
870.3620	Pacemaker lead adaptor
870.3800	Annuloplasty ring
870.4230	Cardiopulmonary bypass defoamer
870.4260	Cardiopulmonary bypass arterial line blood filter
870.4350	Cardiopulmonary bypass oxygenator

II. Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding the proposed rule only with respect to the six devices listed above by July 18, 2000. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 3, 2000.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 00–9709 Filed 4–18–00; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[FRN–6581–7]

RIN 2050–AE07

Hazardous Waste Identification Rule (HWIR); Extension of Public Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of the public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is extending the comment period on an exemption from hazardous waste management discussed in the proposed Hazardous Waste Identification Rule (HWIR) **Federal Register** document published on November 19, 1999 (64 FR 63382). To ensure we consider your comments on the November 19, 1999 **Federal Register** discussion of the concentration-based HWIR exemption and the possible revisions to the Land Disposal Restriction (LDR) treatment standards (64 FR 63382, Sections V–XX and Sections XXI–XVI, as applicable, of the preamble), they must be postmarked on or before August 15, 2000.

Please note that today's document does *not* re-open the comment period on the revisions to the mixture and derived-from rules that were proposed in the November 19, 1999 HWIR proposed rule (64 FR 63382, Sections I–IV, Sections XXI–XVI (as applicable) of the preamble and the proposed regulatory language amending 40 CFR part 261). That comment period ended February 17, 2000.

DATES: Comments must be submitted on or before August 15, 2000.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F–1999–WH2P–FFFFF to: (1) if using regular US Postal Service mail: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 1200 Pennsylvania Avenue, NW, Washington, DC 20460–0002, or (2) if using special delivery, such as overnight express service: RCRA Docket Information Center (RIC), Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, VA 22202. Comments may also be submitted electronically through the Internet to: rcra-docket@epa.gov. Comments in electronic format should also be identified by the docket number F–1999–WH2P–FFFFF and must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, SW, Washington, DC 20460–0002.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling 703–603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. The index and some supporting materials are available electronically. See the **SUPPLEMENTARY INFORMATION** section for information on accessing them.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at 800–424–9346 or TDD 800–553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call 703–412–9810 or TDD 703–412–3323.

For information on specific aspects of notice, contact Tracy Atagi, Office of Solid Waste 5304W, U.S. Environmental Protection Agency Headquarters (EPA, HQ), 1200 Pennsylvania Avenue, NW, Washington, DC 20460–0002, (703) 308–8672, atagi.tracy@epa.gov; for specific information on the risk modeling system, contact David Cozzie, Office of Solid Waste 5307W, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460–0002, (703) 308–0479, cozzie.david@epa.gov.

SUPPLEMENTARY INFORMATION: The notice and other material associated with this action can be electronically accessed on the Internet at http://www.epa.gov/epaoswer/hazwaste/id/hwirwste/index.htm.

The official record for this rulemaking will be kept in paper form. Accordingly,

EPA will transfer all comments received electronically into paper form and place them in the official record, which will also include all comments submitted directly in writing. The official record is the record maintained at the address in **ADDRESSES** at the beginning of this document.

We will respond to submitted comments, whether written or electronic, in a notice in the **Federal Register** or in a response to comments document placed in the official record for this rulemaking. We will not immediately reply to electronically submitted comments other than to seek clarification of comments that may be garbled in transmission or during conversion to paper form, as discussed above.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Waste treatment and disposal.

Dated: April 5, 2000.

Elizabeth A. Cotsworth,

Director, Office of Solid Waste.

[FR Doc. 00–9795 Filed 4–18–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–782; MM Docket No. 00–64, RM–9117]

Radio Broadcasting Services; Tullahoma, TN and Madison, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Tennessee Valley Radio, Inc., proposing the reallotment of Channel 227C1 from Tullahoma, Tennessee, to Madison, Alabama, and the modification of Station WPZM(FM)'s license accordingly. Channel 227C1 can be reallotted to Madison in compliance with the Commission's minimum distance separation requirements with a site restriction of 50.6 kilometers (31.4 miles) northeast at petitioner's presently licensed site. The coordinates for Channel 227C1 at Madison are 35–02–04 North Latitude and 86–22–52 West Longitude. In accordance with the provisions of section 1.420(i) of the Commission's Rules, we will not accept competing expressions of interest in the use of Channel 227C1 at Madison, Alabama.

DATES: Comments must be filed on or before May 30, 2000, reply comments on or before June 14, 2000.

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: Jocelyn R. Roy, Gardner, Carton & Douglas, 1391 K Street, NW., Suite 900, East Tower, Washington, DC. 20005 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–64, adopted March 29, 2000, and released April 7, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, 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 CFR 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 00–9777 Filed 4–18–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–775; MM Docket No. 00–60, RM–9827; MM Docket No. 00–61, RM–9840; MM Docket No. 00–62; RM–9846]

Radio Broadcasting Services; Sheffield, PA; Erie, IL; Due West, SC

AGENCYL: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes three new allotments at Sheffield, Pennsylvania; Erie, Illinois; and Due West, South Carolina.

DATES: Comments must be filed on or before May 30, 2000, and reply comments on or before June 14, 2000.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Arthur V. Belendiuk, Esq., Smithwick & Belendiuk, P.C., 1990 M Street, NW., Suite 510, Washington, DC 20036 (Counsel for Port Erie Communications); Lee J. Peltzman, Shainis & Peltzman, Chartered, 1901 L Street, NW., Suite 290, Washington, DC 20036 (Counsel Erie Foods International, Inc.); Patricia M. Chuh, Pepper & Corazzini, LLP, 1776 K Street, NW, Suite 200, Washington, DC 20006–2334 (Counsel for Sutton Radiocasting Corporation).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–60; MM Docket No. 00–61; and MM Docket No. 00–62, adopted March 29, 2000, and released April 7, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036 .

The Commission requests comments on a petition filed by Port Erie Communications proposing the allotment of Channel 286A at Sheffield, Pennsylvania, as the community's first local aural transmission service. Channel 286A can be allotted to Sheffield in compliance with the

Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 286A at Sheffield are 41–42–42 North Latitude and 79–00–56 West Longitude. Since Sheffield is located within 320 kilometers (200 miles) of the U.S.-Canadian border, Canadian concurrence has been requested.

The Commission requests comments on a petition filed by Erie Foods International, Inc., proposing the allotment of Channel 288A at Erie, Illinois, as the community's first local aural transmission service. Channel 288A can be allotted to Erie in compliance with the Commission's minimum distance separation requirements with a site restriction of 0.6 kilometers (0.4 miles) east to avoid a short-spacing to licensed site of Station KQLI(FM), Channel 285C3, DeWitt, Iowa. The coordinates for Channel 288A at Erie are 41–39–22 North Latitude and 90–04–23 West Longitude.

The Commission also requests comments on a petition filed by Sutton Radiocasting Corporation proposing the allotment of Channel 237A at Due West, South Carolina, as the community's first local aural transmission service. Channel 237A can be allotted to Due West in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.5 kilometers (3.4 miles) south to avoid a short-spacing to the licensed site of Station WBTS(FM), Channel 238C1, Athens, Georgia. The coordinates for Channel 237A at Due West are 34–17–13 North Latitude and 82–24–23 West Longitude.

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.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 00–9778 Filed 4–18–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 00–776, MM Docket No. 00–63, RM–9837]

Radio Broadcasting Services; Greenville and Cooper, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by KRBE LICO, Inc. requesting the reallotment of Channel 228C3 from Greenville, Texas, to Cooper, Texas, and modification of the license for Station KIKT(FM) to specify Cooper, Texas, as the community of license. The coordinates for Channel 228C3 at Cooper are 33–21–55 and 95–41–55. In accordance with Section 1.420(i) of the Commission's Rules, we shall not accept competing expressions of interest in the use of Channel 228C3 at Cooper.

DATES: Comments must be filed on or before May 30, 2000, and reply comments on or before June 14, 2000.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Mark N. Lipp, 600 14th Street, NW, Suite 800, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–63, adopted March 29, 2000, and released April 7, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

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* contact.

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. 00–9779 Filed 4–18–00; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 567 and 568

[Docket No. NHTSA–99–5673]

RIN 2127–AE27

Vehicles Built in Two or More Stages

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

ACTION: Notice of establishment of a negotiated rulemaking advisory committee and notice of meeting.

SUMMARY: NHTSA announces the establishment of a Negotiated Rulemaking Committee to develop recommended amendments to the existing NHTSA regulations (49 CFR parts 567, 568) governing the certification of vehicles built in two or more stages to the Federal motor vehicle safety standards (49 CFR part 571). The purpose of the amendments would be to assign certification responsibilities more equitably among the various participants in the multi-stage vehicle manufacturing process. The Committee will develop its recommendations through a negotiation process. The Committee will consist of persons who represent the interests that would be affected by the proposed rule, such as first-stage, intermediate and final-stage manufacturers of motor vehicles, equipment manufacturers, vehicle converters, testing facilities, trade associations that represent various manufacturing groups, and consumers. This notice also announces the time and place of the first advisory committee meeting. The public is invited to attend; an opportunity for members of the public to make oral presentations will be provided if time permits.

DATES: The meeting will be from 10:00 a.m. to 5:00 p.m. on Wednesday, May

10, 2000, and will continue from 9:00 a.m. to 3:00 p.m. on Thursday, May 11, 2000.

ADDRESSES: The meeting will take place at 1752 N Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

For non-legal issues, you may call Charles Hott, Office of Crashworthiness Standards, at 202–366–4920.

For legal issues, you may call Rebecca MacPherson, Office of the Chief Counsel, at 202–366–2992.

You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC, 20590.

SUPPLEMENTARY INFORMATION:

I. Background

On May 20, 1999, the National Highway Traffic Safety Administration (NHTSA) published a notice of intent to establish an advisory committee (Committee) for a negotiated rulemaking to develop recommendations for regulations governing the certification of vehicles built in two or more stages. The notice requested comment on membership, the interests affected by the rulemaking, the issues that the Committee should address, and the procedures that it should follow. The reader is referred to that notice (64 FR 27499) for further information on these issues.

NHTSA received 17 comments on the notice of intent. All commenters endorsed the concept of using the negotiated rulemaking process for this subject. Commenters generally supported the proposed list of issues without specific comment.

Based on this response, and for the reasons stated in the notice of intent, we have determined that establishing an advisory committee on this subject is appropriate and in the public interest. In accordance with the Federal Advisory Committee Act (FACA; 5 U.S.C. App. I sec. 9(c)), we prepared a Charter for the Establishment of a Negotiated Rulemaking Advisory Committee. We intend to file the charter within fifteen (15) days from the date of this publication.

II. Membership

A total of 20 individuals were nominated or applied for membership to the Committee, either through written comments or through follow-up telephone calls.

In considering requests for representation on the Committee, we had to first determine whether the requesters represent interests significantly affected by the proposed rulemaking. As identified in the notice of intent, in addition to the Department of Transportation (DOT), these interests are: manufacturers of various stages of motor vehicles, equipment manufacturers, vehicle converters, testing facilities, trade associations that represent various manufacturing groups, and consumers of the affected vehicles.

Following is the list of Committee members, identified by interest. Members are encouraged to designate alternates who can serve in place of the member if necessary. As noted in the notice of intent, the Committee will make its decisions through a process of negotiation leading to consensus. "Consensus" means the unanimous concurrence among the interests represented on the Committee, unless the Committee explicitly adopts a different definition.

The meetings of the Committee will be facilitated by Phillip Harter and Alan Strasser of the Mediation Institute. The organizations and interests that will participate in the negotiated rulemaking are:

National Highway Traffic Safety Administration:

1. Rebecca MacPherson, Department of Transportation, NHTSA;

Incomplete Vehicle Manufacturers:

2. Timothy Blubaugh, Freightliner Corporation;
3. Lindsay Harding, Ford Motor Company;
4. Paul Murphy, Motor Coach Industries, International;
5. David Stensland, Navistar International Transportation Corporation;
6. Glenn Zuchniewicz, General Motors Corporation;

Component Manufacturers:

7. Jerome Loftus, Atwood Mobile Products;
8. Paul Wagner, Bornemann Products, Inc.

Final Stage Manufacturers:

9. Andy Callaway, Mark III Industries;
10. Phillip Headley, Environmental Industries Association;
11. David Humphreys, Recreational Vehicle Industry Association (RVIA);
12. Michael Kastner, National Truck Equipment Association (NTEA);
13. Mark Sidman, Ambulance Manufacturers Division, Manufacturers Council of Small School Buses, and Mid-Size Bus Manufacturers Association;
14. Thomas Turner, Blue Bird Body Company;
15. Becky Plank, National Mobility Equipment Dealers Association (NMEDA);

Dealers:

16. Douglas Greenhaus, National Automobile Dealers Association (NADA);

Testing Facilities:

17. John Phillips, Transportation Research Center (TRC);

Consumer Representatives:

18. Christopher Amos, National Association of Fleet Manufacturers;
19. Mark Edwards, AAA;
20. Clarence Ditlow, Center for Auto Safety;
21. Bob Herman, Paralyzed Veterans of America (PVA).

III. Participation by Non-Members

Meetings of the Committee will be open to the public so that individuals who are not part of the Committee may attend and observe. Any person attending the Committee meetings may address the Committee, if time permits, or file statements with the Committee.

IV. Key Issues for Negotiation

In its notice of intent, NHTSA tentatively identified major issues that should be considered in this negotiated rulemaking and asked for comment concerning the appropriateness of these issues for consideration and whether other issues should be added. These issues were:

- Equitable and effective allocation of certification responsibility;
- Enforcement issues relevant to each stage of manufacturing;
- Costs to regulated parties of testing or certification;
- Effects on safety;
- Effects on small businesses;
- Enforceability against later-stage manufacturers of standards that include dynamic testing;
- Feasibility and cost effectiveness of alternate methods (e.g., testing, computer modeling, or other as-yet-unspecified methods) to ensure compliance of completed vehicles with requirements of applicable FMVSSs;
- Mechanisms for incorporating alternate methods of ensuring compliance into these regulations;
- Mechanisms for sharing costs of testing;
- Requirements tailored to the capabilities and circumstances of each class of vehicles;
- Extended leadtime for implementation of FMVSSs for final-stage manufacturers;
- Recall and warranty responsibilities of manufacturers;
- Pass-through certification as a compliance option;
- Relative administrative/compliance burdens of certification on first-stage and later-stage manufacturers; and

• Scope of compliance "envelopes" prescribed by first-stage manufacturers and ability of intermediate- and final-stage manufacturers to stay within those envelopes.

Commenters neither objected to these issues nor suggested that additional issues be addressed. Accordingly, they will be the issues considered by the Committee.

V. Procedures and Schedule

Staff support for the Committee will be provided by NHTSA and the facilitator, and meetings will take place in Washington, DC, unless agreed otherwise by the Committee.

Consistent with FACA requirements, the facilitator will prepare summaries of each Committee meeting. These summaries and all documents submitted to the Committee will be placed in the public docket for this rulemaking.

As stated in the notice of intent, the Committee's objective is to prepare a report containing an outline of its recommendations for a notice of proposed rulemaking with suggestions for specific preamble and regulatory language based on the Committee's recommendations, as well as information relevant to a regulatory evaluation and an evaluation of the impacts of the proposal on small businesses.

NHTSA intends to accept the Committee recommendations, keeping in mind its statutory authority and other legal requirements. In the event that the agency rejects any of the recommendations, the preamble to a NPRM addressing the issues that were the subject of the negotiations will explain the reasons for the rejection.

VI. Authority

5 U.S.C. sections 561 *et seq.*, delegation of authority at 49 CFR 1.50.

Issued on: April 14, 2000.

Stephen R. Kratzke,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 00–9829 Filed 4–18–00; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF92; RIN 1018–AF95

Endangered and Threatened Wildlife and Plants; Extension of Comment Periods on Proposed Critical Habitat for the Spectacled Eider and Steller's Eider

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of extension of comment period.

SUMMARY: The Fish and Wildlife Service (Service) provides notice that the comment periods on the proposed rules designating critical habitat for spectacled eider (*Somateria fischeri*) and Steller's eider (*Polysticta stelleri*) are extended. The spectacled eider and Steller's eider are found in marine waters and coastal wetlands in Alaska. All interested parties are invited to submit comments on these proposals.

DATES: The comment period for the proposed rule concerning spectacled eiders, which originally closed on May 8, 2000, now closes on June 30, 2000. The comment period for the proposed rule concerning Steller's eiders, which originally closed on May 12, 2000, now closes on June 30, 2000.

ADDRESSES: Written data or comments on the spectacled eider should be submitted to the Field Supervisor, Ecological Services Field Office, Anchorage, U.S. Fish and Wildlife Service, 605 W. 4th Ave. Rm G–62, Anchorage, AK 99501; Fax: 907/271–2786. Written data or comments on the Steller's eider should be submitted to the Field Supervisor, Northern Alaska Ecological Services, 101 12th Ave., Rm 110, Fairbanks, AK 99701. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

The deadline for requesting public hearings for the spectacled eider critical habitat proposal was March 24, 2000. The deadline for requesting public hearings for the Steller's eider critical habitat proposal is April 27, 2000. In order to be considered valid, requests must have been, or must be, submitted in writing and received at the offices indicated above before the public hearing request deadline date.

FOR FURTHER INFORMATION CONTACT: For the proposed rule concerning spectacled eiders, contact Ann G. Rappoport, Field Supervisor, Ecological Services Field Office, Anchorage, U.S. Fish and Wildlife Service, 605 W. 4th Ave. Rm G–62, Anchorage, AK 99501; phone: 907/271–2787 or toll-free 800/272–4174; Fax: 907/271–2786. For the proposed rule concerning Steller's eiders, contact Ted Swem, Endangered Species Branch, at Northern Alaska Ecological Services, 101 12th Ave., Rm 110, Fairbanks, AK, 99701; phone: 907/456–0203; fax: 907/456–0208.

SUPPLEMENTARY INFORMATION:

Background

The spectacled eider is a large seaduck found in marine waters and coastal areas from the Nushagak Peninsula of southwestern Alaska north to Barrow and east nearly to the Canadian Border. The species may be threatened by habitat degradation, lead poisoning, increased predation rates, and hunting and other human disturbance. The Steller's eider is a seaduck found in coastal and marine waters from the eastern Aleutian Islands around the western and northern coasts of Alaska to the Canada border. The Alaska-breeding population of this species is thought to have decreased significantly, but the causes of the suspected decline are unknown. On February 8, 2000, the Service published a proposed rule (65 FR 6114) to designate critical habitat for the spectacled eider, and on March 13, 2000, the Service published a proposed rule (65 FR 13262) to designate critical habitat for the Steller's eider.

The comment period for the proposed rule designating critical habitat for spectacled eiders originally closed on May 8, 2000. The comment period for the proposed rule designating critical habitat for Steller's eiders originally closed on May 12, 2000. Following publication of the proposed rules several parties expressed concern that the original comment periods did not allow sufficient time for review and comment by individuals and communities that may be affected by the proposed designation of critical habitat. The parties specifically indicated that the original comment periods may be inadequate for communities in remote areas and communities that are populated predominantly by Alaska Natives, for many of whom English is a second language. Additionally, we anticipate that the comment periods for the economic analyses associated with these proposed critical habitat designations will be open during June 2000. We wish to solicit comments on the proposed rules and their respective economic analyses simultaneously. In order to accommodate these

considerations, the Service is extending the comment period for both proposed rules until June 30, 2000. Written comments may be submitted to the appropriate Service office as specified in the **ADDRESSES** section.

Author

The primary author of this notice is Susan Detwiler, U.S. Fish and Wildlife Service, Division of Endangered Species, 1011 E. Tudor Rd., Anchorage, AK 99503.

Authority

The authority of this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: April 12, 2000.

David B. Allen,

Regional Director, Region 7, Fish and Wildlife Service.

[FR Doc. 00–9812 Filed 4–18–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 041000E]

RIN 0648–AN39

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Amendment 12

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

ACTION: Notice of availability of Amendment 12 to the FMP for the snapper-grouper fishery off the southern Atlantic states; request for comments.

SUMMARY: NMFS announces that the South Atlantic Fishery Management Council (Council) has submitted Amendment 12 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) for review, approval, and implementation by NMFS. Amendment 12 would replace the current emergency rule that addresses overfishing of red porgy and is in accordance with section 305(c)(3)(B) of the Magnuson-Stevens Act. Amendment 12 would implement permanent measures to rebuild the red porgy resource, limit the harvest and possession of red porgy in or from the exclusive economic zone (EEZ) off the southern Atlantic states to specified incidental catch amounts, add to the factors that may be established or modified via the FMP's framework procedure for regulatory adjustments, and modify the snapper-grouper limited access system to allow trip-limited permit transfers among the same vessel owner, regardless of vessel size. Written comments are requested from the public.

DATES: Comments must be received no later than 5 p.m., eastern standard time, on June 19, 2000.

ADDRESSES: Written comments should be sent to Peter Eldridge, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments also may be sent via fax to 727–570–5583. Comments will not be accepted if submitted via e-mail or Internet.

Requests for copies of Amendment 12, which includes a final supplemental environmental impact statement, initial regulatory flexibility analysis, regulatory impact review, and a social impact assessment/fishery impact statement may be obtained from the South Atlantic Fishery Management Council, Southpark Building, One Southpark Circle, Suite 306, Charleston, SC 29407–4699; telephone: 843–571–4366; fax: 843–769–4520; e-mail: safmc@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Peter Eldridge, 727–570–5305; fax 727–570–5583; e-mail: peter.eldridge@noaa.gov.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended by the Sustainable Fisheries Act, requires each Regional Fishery Management Council to submit any FMP or amendment to NMFS for review, and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, immediately publish a document in the **Federal Register** stating that the amendment is available for public review and comment.

Under Amendment 12, the Council proposes management measures to limit the harvest and possession of red porgy to incidental catches. Specifically, a recreational fisherman would be restricted to one red porgy per day or per trip, whichever is more restrictive. A commercial fisherman would be limited to 50 lb (22.7 kg) per trip during the months of May through December and to one red porgy per day or per trip, whichever is more restrictive, during January through April. The current prohibition on sale of red porgy during March and April would be extended to the months of January through April.

The Council also proposes to clarify that actions taken under the framework procedure regarding essential fish habitat (EFH) and EFH Habitat Areas of Particular Concern may include restrictions on gear and fishing activities.

In addition, the Council proposes to allow a vessel owner who has been issued a trip-limited permit to transfer the permit to another vessel owned by the same entity, regardless of vessel size. This action would ease an administrative burden on vessel owners.

Under Amendment 12, the Council proposes to establish the following measures for red porgy through the FMP's framework procedure: maximum sustainable yield (MSY); optimum yield (OY); maximum fishing mortality threshold, the fishing mortality rate which, if exceeded, constitutes overfishing; minimum stock size threshold, the stock size below which red porgy are overfished; and a stock rebuilding schedule, the period during which the overfished red porgy resource should be rebuilt to a level that will support MSY.

Amendment 12's action which establishes an OY for red porgy does not quantify a specific annual yield or range of yields associated with the spawning biomass that would produce OY. NMFS is specifically inviting comment on a quantitative yield estimate of OY, realizing that this yield must be less than or equal to MSY.

In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to implement Amendment 12 to determine if it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

NMFS will consider comments received by June 19, 2000, in its decision to approve, disapprove, or partially disapprove the amendment. NMFS will not consider comments received after that date in its decision; NMFS will address all the comments received on Amendment 12 or on its proposed rule in the preamble of the final rule.

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

Dated: April 12, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–9697 Filed 4–18–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 041000G]

New England Fishery Management Council; Public Meeting

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

ACTION: Announcement of Public Meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a 2-day public meeting on May 3 and 4, 2000, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Wednesday, May 3, 2000, beginning at 9:30 a.m., and Thursday, May 4, at 8:30 a.m.

ADDRESSES: The meeting will be held at the Providence Biltmore Hotel, 11 Dorrance Street, Kennedy Plaza, Providence, RI 02903; telephone (401) 421–0700. Requests for special accommodations should be addressed to the New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone (978) 465–0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Wednesday, May 3, 2000

After introductions, the meeting will begin with reports on recent activities from the Council Chairman, Executive Director, the Administrator, Northeast Region, NMFS (Regional Administrator), Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, and representatives of the Coast Guard, NMFS Enforcement and the Atlantic States Marine Fisheries Commission. Following reports, the Council's Research Steering Committee Chairman will provide a briefing on progress to fund collaborative research projects submitted by fishermen and researchers in response to a Congressional appropriation for groundfish research in New England. The Council will approve procedures to determine final decisions on proposals submitted for funding. During the Groundfish Committee report the Council will discuss and possibly approve committee recommendations developed for Amendment 13 to the Northeast Multispecies Fishery Management Plan (FMP). These include committee recommendations on overfishing definitions for species managed through the FMP and for biological goals and rebuilding schedules. The day will conclude with a report from the Whiting Committee. The Council will consider final approval of Framework Adjustment 35 to the Northeast Multispecies FMP (whiting raised footrope trawl exempted fishery). The action would allow a seasonal whiting raised footrope trawl fishery to occur in Upper Cape Cod Bay. Issues to be addressed include: Season, area and gear requirements; possible modification of the current raised footrope trawl gear specifications for Small Mesh Areas 1 and 2; possible adjustment to the October/November closure of Blocks 124 and 125 or an exemption for participants in the raised footrope trawl fishery; whiting possession limits and bycatch restrictions; possible modification to the bycatch restrictions for Small Mesh Areas 1 and 2; monitoring recommendations; and possible requirement for vessels to use multispecies days-at-sea when participating in the raised footrope trawl fishery.

Thursday, May 4, 2000

The second day of the meeting will begin with a Herring Committee Report. This will include discussion and possible approval of an in-season adjustment to area specific Total Allowable Catches and consideration of measures to provide access to the herring resource for the fixed gear fishery. There also will be a report on the development of a controlled access or limited entry system in the Atlantic herring fishery in light of the Mid-Atlantic Fishery Management Council's limited entry proposals for the Atlantic mackerel fishery. During the Monkfish Committee discussion which will follow, the Council will provide guidance on issues raised at the most recent committee meeting. These include: Revision of the limited access permit qualification period to allow vessels to fish south of the North Carolina/Virginia border; delay in implementation of the Southern Fishery Management Area trip limit, pending review of data for the fishery following the November 8, 1999, implementation of year 1 measures; establishment of procedures and options for addressing monkfish bycatch in fisheries managed under other fishery management plans; and discussion of methods to address a proposal for an inshore/offshore line in the Mid-Atlantic region. The Sea Scallop Committee will present proposed Atlantic Sea Scallop FMP Amendment 10 management alternatives. Alternatives selected for further development will be analyzed in terms of their scallop, habitat, bycatch, gear conflict, enforcement, and social and economic impacts in a Draft Supplemental Environmental Impact Statement (DSEIS). Under consideration are proposals for: Rotational area management (which would also require a re-estimation of the overfishing definition reference points, consistent with the expected change in size selection and other factors); a requirement for scallop nets to be modified to achieve the same selectivity and/or equivalent fishing mortality as dredges; a change in the fishing year and the annual review process and possibly adjusting the present crew size limits. Prior to addressing any other outstanding business, the Capacity Committee will update the Council on the recent activities.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this announcement that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

The Council will consider public comments at a minimum of two Council meetings before making recommendations to the Regional Administrator on any framework adjustment to a fishery management plan. If she concurs with the adjustment proposed by the Council, the Regional Administrator has the discretion to publish the action either as proposed or final regulations in the **Federal Register**. Documents pertaining to framework adjustments are available for public review 7 days prior to a final vote by the Council (see **ADDRESSES**).

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: April 12, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–9698 Filed 4–18–00; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 65, No. 76
Wednesday, April 19, 2000

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 00–025–1]

Commodity Pest Risk Analysis Process; Public Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: This is to notify importers and exporters of fruits and vegetables, as well as other interested persons, that the Plant Protection and Quarantine program of the Animal and Plant Health Inspection Service will be hosting a symposium to discuss issues related to its commodity pest risk analysis process. The symposium will include presentations to exchange information with the public on the current "state of the art" in risk assessment methodology, the Agency's obligations under international trade agreements, and the status of our ongoing process improvement efforts, and will provide opportunities for interested persons to offer comments and suggestions for improving our current commodity pest risk analysis process.

DATES: The symposium will be held on Thursday, May 18, 2000, from 8:30 a.m. to 4:30 p.m., and Friday, May 19, 2000, from 8:30 a.m. to 2 p.m.

ADDRESSES: The symposium will be held in the USDA Center at Riverside, 4700 River Road, Riverdale, MD. Travel directions to the USDA Center at Riverside are available on the Internet at http://www.aphis.usda.gov/mb/mrphr/aphismap.html. Picture identification is required to gain access to the building. Parking is available next to the building for a $2 fee (please have quarters or $1 bills available). The nearest Metro station is the College Park station on the Green Line, which is within walking distance.

FOR FURTHER INFORMATION CONTACT: Ms. Meredith C. Jones, Regulatory Coordination Specialist, PPQ, APHIS, 4700 River Road Unit 141, Riverdale, MD 20737–1236; telephone (301) 734–7467, fax (301) 734–8693, or e-mail Meredith C. Jones@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

On October 8, 1999, we published a notice in the **Federal Register** (64 FR 54859–54860, Docket No. 99–079–1) in which we solicited comments from the public regarding several recommendations made in a report on the Animal and Plant Health Inspection Service's (APHIS') Plant Protection and Quarantine safeguarding system. Specifically, we sought comments on several issues related to the commodity pest risk analysis process used by the Plant Protection and Quarantine programs and stated that we would use the information provided in the comments as we considered options to improve public involvement in the process and public access to information about new and pending pest risk analyses. In our October 1999 notice, we also stated that we were considering convening a symposium to review and discuss the existing international standards for pest risk analysis and the current "state of the art" relative to conducting pest risk analyses. We are publishing this notice to inform the public as to the dates and location, as well as a draft agenda, for the symposium.

The symposium will be held on May 18 and 19, 2000, at the USDA Center at Riverside in Riverdale, MD (see the **DATES** and **ADDRESSES** sections at the beginning of this notice for more specific information regarding the location of the symposium and each day's start and finish times). While we are still working to finalize the agenda for the symposium, we have identified the following areas that we expect to cover during the two days:

Day One—May 18, 2000

- Introductory remarks; purpose and objectives of the symposium.
- Overview of risk analysis within APHIS.
- Legal issues; risk analysis under the Sanitary and Phytosanitary Agreements (obligations, challenges, international standards, risk analysis in other countries).
- Present use of qualitative and quantitative methods (probabilistic risk assessments, qualitative risk assessments, uncertainty).
- External perspectives (industry views, transparency, stakeholder input).
- Breakout sessions to allow for open dialog between APHIS and the public.

Day Two—May 19, 2000

- Safeguard report recommendations.
- Report from APHIS Process Improvement Team (pest risk assessment process update and addressing the backlog of assessments, including electronic access initiatives).
- Three discussion groups (stakeholder input, levels and types of risk assessments, and public access), each led by an APHIS facilitator.
- Reports from discussion groups and open discussion period.
- Conclusion (summary of information gathered and closing remarks).

We will use the information gathered during the presentations, breakout sessions, and group discussions as we consider options for increasing the level of public involvement in our commodity pest risk analysis process and providing the public with access to information on new and pending pest risk analyses.

Registration Information

There is no fee to register for the symposium. On-site registration will be available at the symposium, but we recommend that you register in advance, as attendance may be limited due to space considerations. An advance registration form is available on the Internet at http://www.aphis.usda.gov/ppq. You may also register in advance for the symposium by providing your name, address, telephone number, and organization to the person listed under **FOR FURTHER INFORMATION CONTACT**. If you are registering in advance, we ask that you submit your registration by May 12, 2000.

Done in Washington, DC, this 14th day of April 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–9792 Filed 4–18–00; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Forest Service

Lake Tahoe Basin Federal Advisory Committee; Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Lake Tahoe Basin Federal Advisory Committee will hold a meeting on May 3, 2000, at the North Tahoe Conference Center, 1318 N. Lake Blvd. Kings Beach CA 96143. This Committee, established by the Secretary of Agriculture on December 15, 1998, (64 FR 2876) is chartered to provide advice to the Secretary of Agriculture and the Federal Interagency Partnership on the protection of the environmental and economic health of the Lake Tahoe Region.

DATES: The meeting will be held May 3, 2000 beginning at 9:00 a.m. and ending at 4:30 p.m.

ADDRESSES: The meeting will be held at the North Tahoe Conference Center, 1318 N. Lake Blvd. Kings Beach, CA 96143.

FOR FURTHER INFORMATION CONTACT: Ed Gee or Jeannie Stafford, Lake Tahoe Basin Management Unit, Forest Service, 870 Emerald Bay Road Suite 1, South Lake Tahoe, CA 96150, (530) 573–2642.

SUPPLEMENTARY INFORMATION: The committee will meet jointly with the Lake Tahoe Basin Executive Committees. Items to be covered on the agenda include: [1] Update of the Chapter renewal and announcement of new member: [2] budget subcommittee report ;[3] status report on summer events; [4] usefulness of the Committee to the Federal Partnership: [5] TRPA proposal to expedite EIP implementation; [6] update on Washoe Tribe issues and projects; [7] US Postal Service response to the Committee letter; and [8] open public comment. All Lake Tahoe Basin Federal Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. Issues may be brought to the attention of the Committee during the open public comment period at the meeting or by filing written statements with the secretary for the Committee before or after the meeting. Please refer any written comments to the Lake Tahoe Basin Management Unit at the contact address stated above.

Dated: April 7, 2000.

Edmund Gee,

Acting Forest Supervisor.

[FR Doc. 00–9724 Filed 4–18–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Oregon Coast Provincial Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Oregon Coast Provincial Advisory Committee (PAC) will meet on May 25, 2000, at the Siuslaw National Forest, 4077 S.W. Research Way, Corvallis, Oregon. This is a change from the date of April 27, 2000, originally announced in the **Federal Register**, April 3, 2000 (Vol. 65, Number 64, page 17483). As stated in the original notice, the meeting time is 9:00 a.m. until 3:30 p.m. and all agenda items remain the same.

Interested citizens are encouraged to attend. The committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT: Joni Quarnstrom, Public Affairs Specialist, Siuslaw National Forest, 541–750–7075, or write to the Forest Supervisor, Siuslaw National Forest, P.O. Box 1148, Corvallis, Oregon 97339.

Dated: April 13, 2000.

Jose L. Linares,

Acting Forest Supervisor.

[FR Doc. 00–9736 Filed 4–18–00; 8:45 am]

BILLING CODE 3410–11–M

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 the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Telecommunications and Information Administration (NTIA).

Title: Public Telecommunications Facilities Program (PTFP).

Agency Form Number: None.

OMB Approval Number: 0660–0001.

Type of Request: Extension of a currently approved collection.

Burden Hours: 7,836 per year.

Number of Respondents: 1,966 per year.

Average Hours per Response: NTIA estimates that it takes an average of 39 hours a year to gather the information, complete the reports, and submit them to NTIA/PTFP.

Needs and Uses: Construction schedules/planning timetables are obtained to ensure the ability of NTIA/PTFP to monitor a project through quarterly performance reports, which alert NTIA/PTFP if the project is falling behind in its completion. Close-out reports enable the agency to be sure that Federal funds were expended in accordance with the grant award. Annual reports enable the agency to be sure that the Federal interest is maintained and protected for the statutorily specified 10-year period.

Affected Public: Not-for-profit institutions; state, local, or tribal governments.

Frequency: Varies—some on occasion, some quarterly, some annually.

Respondent's Obligation: Required to retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Departmental Forms Clearance Officer, (202) 482–3272, Office of the Chief Information Officer, Department of Commerce, Room 5027, 1401 Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at lengelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: April 13, 2000.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–9780 Filed 4–18–00; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF COMMERCE

Census Bureau

Current Population Survey (CPS)—Annual Demographic Survey (ADS) for March 2001

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, 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 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)).

DATES: Written comments must be submitted on or before June 19, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5033, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Tim Marshall, Census Bureau, FOB 3, Room 3340, Washington, DC 20233–8400, at (301) 457–3806.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau will conduct the ADS in conjunction with the March 2001 CPS. The Census Bureau has conducted this supplement annually for over 50 years. The Census Bureau, the Bureau of Labor Statistics, and the Department of Health and Human Services sponsor this supplement.

In the ADS, we collect information on work experience, personal income, noncash benefits, health insurance coverage, and migration.

The work experience items in the ADS provide a unique measure of the dynamic nature of the labor force as viewed over a one-year period. These items produce statistics that show movements in and out of the labor force by measuring the number of periods of unemployment experienced by persons, the number of different employers worked for during the year, the principal reasons for unemployment, and part-/full-time attachment to the labor force. We can make indirect measurements of discouraged workers and others with a casual attachment to the labor market.

The income data from the ADS are used by social planners, economists, government officials, and market researchers to gauge the economic well-being of the country as a whole and selected population groups of interest. Government planners and researchers use these data to monitor and evaluate the effectiveness of various assistance programs. Market researchers use these data to identify and isolate potential customers. Social planners use these data to forecast economic conditions and to identify special groups that seem to be especially sensitive to economic fluctuations. Economists use March data to determine the effects of various economic forces, such as inflation, recession, recovery, and so on, and their differential effects on various population groups.

A prime statistic of interest is the classification of persons in poverty and how this measurement has changed over time for various groups. Researchers evaluate March income data not only to determine poverty levels but also to determine whether government programs are reaching eligible households.

The March 2001 supplement instrument will consist of the same items that were included in the March 2000 instrument.

II. Method of Collection

The ADS is conducted at the same time as the Basic CPS by personal visits and telephone interviews, using computer-assisted personal interviewing and computer-assisted telephone interviewing.

III. Data

OMB Number: 0607–0354.

Form Number: None. We conduct all interviewing on computers.

Type of Review: Regular.

Affected Public: Individuals or households.

Estimated Number of Respondents: 80,000.

Estimated Time Per Response: 25 minutes.

Estimated Total Annual Burden Hours: 33,333.

Estimated Total Annual Cost: There are no costs to the respondents other than their time to answer the CPS questions.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Section 182; and Title 29, United States Code, Sections 1–9.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) 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 submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 13, 2000.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–9785 Filed 4–18–00; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Manufacturers' Shipments, Inventories, and Orders (M3) Survey

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, 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)).

DATES: Written comments must be submitted on or before June 19, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5033, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Lee Wentela, Bureau of the Census, FOB #4 Room 2232, Washington, DC 20233–6913 and (301) 457–4832.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to submit the Manufacturers' Shipments, Inventories, and Orders (M3) survey to the Office of Management and Budget for review. The M3 requests data from domestic manufacturers on form M–3(SD). The survey is mailed at the end of each month. Data requested are shipments, new orders, unfilled orders, total inventory, materials and supplies, work-in-process, and finished goods. It is currently the only survey that provides broad-based monthly statistical data on the economic conditions in the domestic manufacturing sector.

The M3 survey is designed to measure current industrial activity and to provide an indication of future production commitments. The value of

shipments measures the value of goods delivered during the month by domestic manufacturers. Estimates of new orders serve as an indicator of future production commitments and represent the current sales value of new orders received during the month, net of cancellations. Substantial accumulation or depletion of unfilled orders measures excess or deficient demand for manufactured products. The level of inventories, especially in relation to shipments, is frequently used to monitor the business cycle.

The estimated total annual burden hours are increased from 20,600 to 24,000 to reflect an increase in the survey panel. The conversion of the survey from the Standard Industrial Classification system to the North American Industry Classification System will result in new and reconfigured industry categories, which require a larger survey panel to ensure sufficient coverage in all industries.

II. Method of Collection

Respondents submit data on form M–3(SD) via mail, facsimile machine, Touchtone Data Entry (TDE), Voice Recognition Entry (VRE), or via the Internet. Analysts call respondents who usually report, to obtain data in time for preparing the monthly estimates.

III. Data

OMB Number: 0607–0008.
Form Number: M–3(SD).
Type of Review: Regular.
Affected Public: Businesses, large and small, or other for profit organizations.
Estimated Number of Respondents: 6,000 monthly.
Estimated Time Per Response: 20 minutes.
Estimated Total Annual Burden Hours: 24,000.
Estimated Total Annual Cost: $436,800.
Respondent's Obligation: Voluntary.
Legal Authority: Title 13 U.S.C., Sections 131 and 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) 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 submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 13, 2000.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–9786 Filed 4–18–00; 8:45 am]
BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Quarterly Survey of State and Local Tax Revenues

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, 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)).

DATES: Written comments must be submitted on or before June 19, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5033, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Russell Price, Chief, Public Finance Analysis Branch–B, Governments Division, U.S. Bureau of the Census, Washington DC 20233–6800 (301–457–1488).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to request an extension of the Quarterly Survey of State and Local Tax Revenue. The Bureau needs state and local tax data to publish benchmark statistics on public sector taxes; to provide data to the Bureau of Economic Analysis for GDP calculations and other economic indicators; and to provide data for economic research and comparative studies of governmental finances. Data are collected on a quarterly basis from state and local tax collecting agencies.

Tax collection data are used to measure economic activity for the Nation as a whole, as well as for comparison among the various states. These data also are useful in comparing the mix of taxes employed by individual states, and in determining the revenue raising capacity of different types of taxes.

The Quarterly Survey of Property Tax Collections (Form F–71) is sent to 5,800 local government tax collecting agencies in 530 county areas. While some counties are served by a single county level tax collection agency, others have county, city, township, and even school district collectors. Each agency is asked to report the total property tax collections during the past quarter.

The Quarterly Survey of State Tax Collections (Form F–72) is sent to a state level revenue, finance, or budget agency in each state to report tax collection data for the preceding 3-month period.

The Quarterly Survey of Selected Local Taxes (Form F–73) is sent to 55 local tax collection agencies known to have substantial collections of local general sales and/or local individual income taxes.

The expected decrease in the respondent burden is due to a slight reduction in the universe of the survey. Due to the disincorporation and consolidation of certain tax collecting agencies, the number of respondents receiving Form F–71 has decreased by 100. There are no planned content changes to this form or the F–72 and F–73 forms.

II. Method of Collection

The F–71 and F–73 portions of the survey are conducted by mail canvass. Responses are screened manually and then entered on a microcomputer.

F–72 forms are sent to respondents by facsimile. Respondents are given the option of returning the forms through facsimile or by mail. Several respondents have requested to conduct the survey through electronic mail.

Telephone follow-up of large property tax collectors is the main method used to maximize response. In those instances when we are not able to obtain a response, estimates are made for non-respondents by using data of the same quarter from the last year it had been received.

III. Data

OMB Number: 0607–0112.
Form Number: F–71, F–72, and F–73.
Type of Review: Regular.

Affected Public: State and local governments.

Estimated Number of Respondents: 5906.

Estimated Time Per Response: 25 minutes.

Estimated Total Annual Burden Hours: 5957.

Estimated Total Annual Cost: The estimated cost to the respondents is $107,226.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Section 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) 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 submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 13, 2000.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–9787 Filed 4–18–00; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Submission for OMB Review; Comment Request

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 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Census 2000 Test Program Supplement.

Form Number(s): These computer based survey instruments will have no form number.

Agency Approval Number: 0607–0862.

Type of Request: Revision of a currently approved collection.

Burden: 1,680 hours (added to the current total of 8,013 hours).

Number of Respondents: 6,660 (added to the current total of 200,300).

Avg Hours Per Response: Residence Rules Survey-20 minutes; Internet Usage Survey-5 minutes.

Needs and Uses: The Census Bureau will test several methodologies, techniques, and strategies during Census 2000. We received Office of Management and Budget (OMB) approval to conduct four separate tests, which are collectively referred to as The Census 2000 Test Program. We now request approval for supplemental collections associated with two of the tests, which are the Alternative Questionnaire Experiment in 2000 (AQE2000) Residence Rules Survey, and the Response Mode and Incentive Experiment (RMIE) Internet Usage Survey. Results of these tests will help in the planning of the 2010 Census.

One component of the AQE2000 tests the effectiveness of alternative presentation formats of residence rules. A sub sample of the AQE2000 sample households that returned the experimental (alternate version of the presentation format) and control (current versions of the presentation format) short forms that also provided telephone contact information will be reinterviewed. The Residence Rules Survey will be conducted by telephone with the person in the household who signed the census form, or a knowledgeable other person. Topics addressed in the reinterview include obtaining an independent listing of all household members on April 1st (including potentially omitted persons), and determining whether these members are classified as residents according to the Census Bureau's residence rules. Other issues to be explored include respondents' ability to comprehend the residence rules, and possible sources of misconceptions stemming from experimental or control versions of the presentation format.

In the RMIE, sample households will receive an invitation in the census short-form mail package inviting them to respond by one of three experimental response modes rather than by mail—CATI, interactive voice response (IVR), and an Internet Questionnaire (IQ). An incentive of a calling card worth 30 minutes of free long distance calls will also be tested. The RMIE Internet Usage Survey (IUS) will determine why households that were given the option to respond by Internet instead responded by mail. The IUS also will enable analysis of households that received the incentive and those that did not. The IUS will consist of follow-up telephone interviews with a sub sample of RMIE households invited to respond by the Internet but who actually respond by mail. The purpose of these interviews is to assess the barriers to responding to the census by the Internet. Topics to be covered by the interview include whether or not the respondent has access to the Internet, why they did not use the Internet to respond (if they have access) and if the respondent was aware of the incentive offered (of those in the incentive group).

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 USC, Sections 141 and 193.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

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 5033, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: April 14, 2000.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–9826 Filed 4–18–00; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Exception to Reporting Requirement Under the Import Certificate/ Delivery Verification Procedures

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, 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)).

DATES: Written comments must be submitted on or before June 19, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Office of the Chief Information Officer, Room 5027, 14th and Constitution Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dawnielle Battle, BXA ICB Liaison, Department of Commerce, Office of Planning, Evaluation and Management, Room 6881, 14th & Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

The U.S. and participating countries have agreed to establish Import Certificate (IC) and Delivery Verification (DV) requirements to help control the disposition of strategically important commodities. To comply with the commitment, BXA requires exporters to obtain IC documentation from foreign importers prior to submitting an export license application. BXA may also require a DV Certification which is a confirmation from the government to which the export has been made that the commodity is accounted for by the importer. This reporting requirement allows exporters to request an exception to the import certificate (or its equivalent) and requests for exceptions to the delivery verification procedures.

II. Method of Collection

Written submission.

III. Data

OMB Number: 0694–0001.

Form Number: None.

Type of Review: Regular submission for extension of a currently approved collection.

Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Estimated Number of Respondents: 21.

Estimated Time Per Response: .5 hours per response.

Estimated Total Annual Burden Hours: 11.

Estimated Total Annual Cost to Public: No start-up capital expenditures.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) 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 submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: April 13, 2000.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Chief Information Officer.

[FR Doc. 00–9783 Filed 4–18–00; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Application for Duplicate License

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, 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)).

DATES: Written comments must be submitted on or before June 19, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Office of the Chief Information Officer, Room 5027, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dawnielle Battle, BXA ICB Liaison, Department of Commerce, Office of Planning, Evaluation and Management, Room 6881, 14th and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is necessary to identify original export licenses of respondents who request duplicate licenses for lost or destroyed licenses. The licensee must submit a letter certifying that the original license issued to a licensee has been lost or destroyed. They must provide the circumstances under which it was lost or destroyed, and if found, will return either the original or the duplicate to BXA. All other record keeping requirements pertaining to the original license remain in effect for duplicate licenses.

II. Method of Collection

Written submission.

III. Data

OMB Number: 0694–0031.

Form Number: None.

Type of Review: Regular Submission.

Affected Public: Businesses and other for-profit institutions, small businesses or organizations.

Estimated Number of Respondents: 26.

Estimated Time Per Response: 16 minutes.

Estimated Total Annual Burden Hours: 7 hours.

Estimated Total Annual Cost to Public: No start-up costs or capital expenditures.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) 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 submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 13, 2000.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–9784 Filed 4–18–00; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1081]

Grant of Authority; Establishment of a Foreign-Trade Zone, Fort Lauderdale, Florida Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for " * * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the City of Fort Lauderdale, Florida (the Grantee), has made application to the Board (FTZ Docket 12–99, filed 3/19/99), requesting the establishment of a foreign-trade zone in the Fort Lauderdale, Florida, area, adjacent to the Port Everglades Customs port of entry;

Whereas, notice inviting public comment has been given in the **Federal Register** (64 FR 14859, 3/29/99); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 241, at the sites described in the application, subject to the Act and the Board's regulations, including Section 400.28, and further subject to the grantee's implementation of the site management plan presented for the record in this case.

Signed at Washington, DC, this 6th day of April 2000.

Foreign-Trade Zones Board.

William M. Daley,

Secretary of Commerce, Chairman and Executive Officer.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 00–9825 Filed 4–18–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–848]

Freshwater Crawfish Tail Meat From the People's Republic of China: Final Results of Administrative Antidumping Duty and New Shipper Reviews, and Final Rescission of New Shipper Review

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of Final Results of Administrative and New Shipper Reviews, and Rescission of New Shipper Review: Freshwater Crawfish Tail Meat from the People's Republic of China.

SUMMARY: On October 12, 1999, the Department of Commerce (the Department) published the preliminary results of its administrative and new shipper reviews of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC). The administrative review covers the period March 26, 1997 through August 31, 1998 with the exception of the administrative review of Ningbo Nanlian Frozen Foods Co., Ltd. (Ningbo Nanlian) which covers the period April 1, 1998 through August 31, 1998.

Based on our analysis of the comments received, we have made changes to the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled "Final Results of Review."

EFFECTIVE DATE: April 19, 2000.

FOR FURTHER INFORMATION CONTACT: Thomas Gilgunn, Sarah Ellerman, Mike Strollo, or Maureen Flannery, Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482–0648, (202) 482–4106, (202) 482–5255 and (202) 482–3020, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the provisions codified at 19 CFR part 351 (1998).

Background

On October 12, 1999, the Department published the preliminary results of review of the antidumping duty order on freshwater crawfish tail meat from the PRC (64 FR 8543). On November 12, 1999, we received comments from respondents Nantong Delu Aquatic Food Co., Ltd. (Nantong Delu), Yancheng Foreign Trade Corporation (Yancheng FTC), and Ocean Harvest Wholesale Inc., an importer. On November 24, 1999, we received comments from respondents Qingdao Rirong and Lianyungang Haiwang, Baolong Biochemical, and Ningbo Nanlian, and from Maritime Trading Company, an importer. On November 24, 1999 we also received comments on behalf of the following interested parties: Worldwide Link, Inc., Captain Charlie Seafood Wholesale Co., U.S.A., Ocean Duke, Boston Seafood Processors, Maritime Trading, COB Development Corp., Atlantic Gem, Neptune Fisheries, Pacific Giant, and Intraco, all importers; and Huaiyin Foreign Trade Corporation (30) (HFTC30), an exporter. We also received comments from the petitioner, the Crawfish Processors Alliance (CPA). On December 8, 1999, we received rebuttal comments.

On February 3, 2000, we issued questionnaires to certain interested parties regarding possible relationships among certain producers and exporters of subject merchandise. On February 17, 2000, we received responses. From February 22 through March 3, 2000, we conducted verification of this information in China, and met with various Chinese government entities and U.S. embassy staff in China. Huaiyin Foreign Trade Corporation (5) (HFTC5) did not allow Department officials to meet with HFTC5 officials or conduct a verification of its response. We also conducted a telephone interview with Yancheng Yaou Seafood Co., Ltd. (Asia-Europe), formerly known as Yancheng Baolong Aquatic Foods Co., Ltd. On March 20, 2000, we received timely comments from several interested parties regarding the Department's memoranda detailing these verifications and meetings, and our attempts to conduct verification of HFTC5. On March 23, 2000, the Department conducted a public hearing on the issues presented by interested parties in their November 24, 1999 case briefs, their December 8, 1999 rebuttal briefs, and their March 20, 2000 comments regarding the Department's memoranda.

The Department has now completed these reviews in accordance with section 751 of the Act.

Scope of Review

The product covered by this review is freshwater crawfish tail meat, in all its forms (whether washed or with fat on, whether purged or unpurged), grades, and sizes; whether frozen, fresh, or chilled; and regardless of how it is packed, preserved, or prepared. Excluded from the scope of the order are live crawfish and other whole crawfish, whether boiled, frozen, fresh, or chilled. Also excluded are saltwater crawfish of any type, and parts thereof. Freshwater crawfish tail meat is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 0306.19.00.10 and 0306.29.00.00. The HTS subheadings are provided for convenience and Customs purposes only. The written description of the scope of this order is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the "Issues and Decision Memorandum" (Decision Memo) from Edward C. Yang, Director, Office 9, to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, dated April 7, 2000, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memo, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099 of the main Department building (B–099). In addition, a complete version of the Decision Memo can be accessed directly on the Web at *www.ita.doc.gov/import__admin/records/frn/*. The paper copy and electronic version of the Decision Memo are identical in content.

Rescission of New Shipper Review for Baolong Biochemical

In our preliminary results, we concluded that Baolong Biochemical did not have a *bona fide* sale to the United States during the review period, and thus was not entitled to a review under section 751(a)(2)(B) of the Act. For a further discussion of these issues, see the relevant sections of the Decision Memo. *See* also *Memorandum to Robert S. LaRussa from Barbara E. Tillman: Issues for the Preliminary Results of Review Concerning Bona Fide Sales and the Use of Facts Available (Facts Available Memorandum)*, dated September 30, 1999. We subsequently clarified for all parties that this rescission was a preliminary determination and that the Department would accept comments on this issue. After reviewing the comments received with respect to Baolong Biochemical, we have concluded that our preliminary determination was appropriate and, because Baolong Biochemical has no *bona fide* sales during the period of review, we are rescinding the new shipper review of Baolong Biochemical. We will instruct the Customs Service to require the posting of cash deposits, rather than bond, for imports of crawfish exported by Baolong Biochemical.

Use of Facts Available

For a discussion of our application of facts otherwise available, see the "Facts Available" section of the Decision Memo, which is on file in B–099 and available on the Web at *www.ita.doc.gov/import__admin/records/frn/*.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made certain changes in the margin calculations for Qingdao Rirong. Any alleged programming or clerical errors are discussed in the relevant sections of the "Decision Memorandum," accessible in B–099 and on the Web at *www.ita.doc.gov/import__admin/records/frn/*.

Ningbo Nanlian

Based on an analysis of the record, we have determined that Ningbo Nanlian does not merit a separate rate. For a discussion of this issue, see the section of the *Decision Memo* entitled "Facts Available for Ningbo Nanlian" and the proprietary version of the Memorandum from Edward C. Yang to Joseph A. Spetrini regarding "Relationship of HFTC5 and Ningbo Nanlian," dated April 7, 2000 (*Ningbo Nanlian/HFTC5 Decision Memo.*)

HFTC Entities

Based on our analysis of comments received, we have concluded the following. The HFTC entity now known as HFTC5, a.k.a. Huaiyin Cereals and Oils Import and Export Corporation, is the same HFTC entity that was assigned a separate rate in the LFTV investigation.

The Department has also determined that, since HFTC30 has not requested a separate rate, HFTC30 is not entitled to a separate rate in this review. However, all Chinese crawfish exporters not specifically named, including HFTC30, were subject to the review as part of the PRC entity of which they are considered part. Their rate is 201.63 percent.

Final Results of Review

We determine that the following weighted-average margins exist for the period March 26, 1997 through August 31, 1998:

Manufacturer/exporter	Time period	Margin (percent)
Qingdao Rirong Foodstuff Co., Ltd.	03/26/97–08/31/98	0.00
Lianyungang Haiwang Aquatic Products Co., Ltd.	03/26/97–08/31/98	201.63
PRC-wide rate [1]		201.63

[1] Binzhou Prefecture Foodstuffs Import & Export Corp., Huaiyin Foreign Trade Corp., Huaiyin Foreign Trade Corporation (5) (also known as Huaiyin Cereals, Oils & Foodstuffs), Huaiyin Foreign Trade Corporation (30), Huaiyin Ningtai Fisheries Co., Ltd., Nantong Delu Aquatic Food Co., Ltd., Ningbo Nanlian Frozen Foods Co., Ltd. (for the period 4/1/98–8/31/98), Yancheng Baolong Aquatic Foods Co., Ltd., and Yancheng Baolong Foreign Trade Corp. are subject to the PRC-wide rate of 201.63%.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of freshwater crawfish tail meat from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates shown above except that, for firms whose weighted-average margins are less than 0.5 percent and therefore de minimis, the Department shall require no deposit of estimated antidumping duties; (2) for previously-reviewed PRC and non-PRC exporters with separate rates, the cash deposit rate will be the company-

specific rate established for the most recent period; (3) for all other PRC exporters, the cash deposit rate will be the PRC-wide rate, 201.63 percent; and (4) for all other non-PRC exporters of the subject merchandise, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 351.305(a)(3) of the Department's regulations. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 751 and 777(i) of the Act.

Dated: April 7, 2000.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

Appendix I

1. Facts Available
   - A. Non-Respondents and Improperly Filed and Served Responses
   - B. Haiwang
   - C. Ningbo Nanlian
   - D. HFTC5
2. Recission of the New Shipper Review of Yancheng Baolong Biochemical Products (Baolong Biochemical)
3. Circumstance of Sale Adjustments: Imputed Credit Expense
4. Factor Valuation
5. Deposit and Assessment Rates for HFTC30 and other companies with Huaiyin Foreign Trade Corporation in their title.

[FR Doc. 00–9824 Filed 4–18–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Notice of Request for an Extraordinary Challenge Committee

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Request for an Extraordinary Challenge Committee to review issues raised by the June 18, 1999 and February 10, 2000 decisions of the binational NAFTA Panel that reviewed the final results of administrative review and the redetermination pursuant to remand by the United States Department of Commerce (the Department) in the above-captioned proceeding. This request was filed with the United States Section of the NAFTA Secretariat on March 23, 2000.

SUMMARY: On March 23, 2000, the Office of the United States Trade Representative filed a Request for an Extraordinary Challenge Committee to review decisions dated June 18, 1999 and February 10, 2000. On June 18, 1999, the panel convened in this proceeding issued it Opinion an Order. The Panel remanded to the International Trade Administration on the grounds that the Department erred in basing its normal-value calculations on Type I cement in both bulk and bagged form, and it remanded this issue to the Department for recalculation using only sales in bulk form. On February 10, 2000 the Panel affirmed the Final Results of Redetermination pursuant to Panel Remand, without commenting on the bulk/bagged issue. The NAFTA Secretariat has assigned Case Number ECC–2000–1904–01USA to this request.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904.13 of the Agreement, the Government of the United States, Canada and Mexico established *Rules of Procedure for Article 1904 Extraordinary Challenge Committees* ("ECC Rules"). These ECC Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8702). The ECC Rules give effect to the provisions of Chapter Nineteen of the Agreement with respect to Extraordinary Challenge Committee proceedings conducted pursuant to Article 1904 of the Agreement. The ECC Rules are intended to result in decisions typically within 90 days after the establishment of an Extraordinary Challenge Committee. The Extraordinary Challenge Committee proceeding in this matter will be conducted in accordance with these ECC Rules.

Background

On April 9, 1997, the Department published the final results of the fifth administrative review of the antidumping duty order on gray portland cement and clinker from Mexico. During the period of review, respondent CEMEX, S.A. de C.V., sold Type II cement in bulk form in the United States. Because the Department found CEMEX's home-market sales of Type II cement to be outside the ordinary course of trade, the Department compared CEMEX's U.S. sales of Type II cement to its home-market sales of a similar product—Type I cement. The Department determined that the foreign like product included all Type I cement, whether or not packed in bags. CEMEX objected to the Department's finding that the "similar" foreign like products included both bulk and bagged merchandise, and it requested binational panel review pursuant to Chapter 19 of the NAFTA.

On June 18, 1999, the Panel convened in this proceeding issued its Opinion and Order. The Panel held that the Department erred in basing its normal-value calculations on Type I cement in both bulk and bagged form, and it remanded this issue to the Department for recalculation using only sales in bulk form. In reaching its decision, the Panel held that *Koyo Seiko Co., Ltd.* v. *United States*, 66F. 3d 1204 (Fed. Cir. 1995), does not mandate deference to the Department's foreign-like-product analysis in this case, and it made findings of fact relying on evidence that was not part of the administrative record. One panelist dissented from the Panel's resolution of the bulk/bagged issue with respect to the standard of

review and the Panels reliance of evidence that was not part of the administrative record.

Commerce issued its determination on remand on November 15, 1999. The Department explained, "[w]e have implemented the Panel's ruling and revised our calculations to exclude home-market sales of bagged cement from the calculation of normal value." The Panel affirmed the Department's Remand Determination, without commenting on the bulk/bagged issue.

Request for an Extraordinary Challenge Committee:

On March 23, 2000, the United States Trade Representative filed a Request for an Extraordinary Challenge Committee on behalf of the United States Government in its capacity as a Party to the North American Free Trade Agreement, with the United States Secretary of the NAFTA Secretariat. The United States alleges that the Panel manifestly exceeded its powers, authority or jurisdiction by failing to apply the appropriate standard of review in three instances: (1) When the panel declined to defer to the Department's interpretation of the model-match provisions of the statute, as required by binding precedent of the U.S. Court of Appeals for the Federal Circuit as set forth in *Koyo Seiko Co., Ltd.* v. *United States,* 66 F.3d 1204 (Fed. Cir. 1995); (2) when it did not confine its review to the administrative record developed before the investigating authority; and (3) when, upon holding that the Department did not apply the foreign-like-product statute properly, it usurped the Department's authority as investigating authority and issued its own findings of fact.

Rule 40 of the ECC Rules requires that Notices of Appearance in this proceeding must be filed with the United States Secretary within 10 days after the Request is filed (By April 3, 2000). Rule 42 of the ECC Rules, briefs must be filed with the United States Secretary within 21 days of the filing of the Request (by April 13, 2000).

Dated: March 27, 2000.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. 00–9725 Filed 4–18–00; 8:45 am]

BILLING CODE 3510–GT–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041000B]

Availability of a Draft Environmental Assessment/Finding of No Significant Impact and Receipt of an Application for an Incidental Take Permit (1233)

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

ACTION: Notice of availability.

SUMMARY: NMFS has received an application for an incidental take permit (Permit) from the Idaho Department of Fish and Game (IDFG) according to the Endangered Species Act of 1973, as amended (ESA). As required by the ESA, IDFG has also prepared a conservation plan (Plan) designed to minimize and mitigate any such take of endangered or threatened species. The Permit application is for the incidental take of ESA-listed adult and juvenile salmonids associated with otherwise lawful recreational fisheries on non-listed species in the Snake River and its tributaries in the State of Idaho. The duration of the proposed Permit and Plan is five years. The Permit application includes the proposed Plan submitted by IDFG. NMFS also announces the availability of a draft Environmental Assessment (EA) for the Permit application. NMFS is furnishing this notice in order to allow other agencies and the public an opportunity to review and comment on these documents. All comments received will become part of the public record and will be available for review pursuant to the ESA.

DATES: Written comments from interested parties on the Permit application, Plan, and draft EA must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific daylight time on May 19, 2000.

ADDRESSES: Written comments on the application, Plan, or draft EA should be sent to Herbert Pollard, Sustainable Fisheries Division, NWR2, 525 NE Oregon Street, Suite 510, Portland, OR 97232–2737. Comments may also be sent via fax to (208) 378–5699. Comments will not be accepted if submitted via e-mail or the internet. Requests for copies of the Permit application, Plan, and draft EA should be directed to the Sustainable Fisheries Division (H/IF Br.), NWR2, 525 NE Oregon Street, Suite 510, Portland, OR 97232–2737. Comments received will also be available for public inspection, by appointment, during normal business hours by calling (208) 378–5614.

FOR FURTHER INFORMATION CONTACT: Herbert Pollard, Portland, OR (ph.: (208) 378–5614, fax: (208) 378–5699, e-mail: Herbert.Pollard@noaa.gov)

SUPPLEMENTARY INFORMATION: Section 9 of the ESA and Federal regulations prohibit the "taking" of a species listed as endangered or threatened. The term "take" is defined under the ESA to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may issue permits, under limited circumstances, to take listed species incidental to, and not the purpose of, otherwise lawful activities. NMFS regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

Species Covered in This Notice

The following species, evolutionarily significant units (ESU's), and runs are included in the Plan and Permit application:

Chinook salmon (*Oncorhynchus tshawytscha*): threatened naturally produced and artificially propagated Snake River (SnR) spring/summer, threatened SnR fall.

Sockeye salmon (*O. nerka*): endangered SnR.

Steelhead (*O. mykiss*): threatened SnR.

To date, final protective regulations for threatened SnR steelhead under section 4(d) of the ESA have not been promulgated by NMFS. Protective regulations are currently proposed for threatened SnR Steelhead (64 FR 73479, December 30, 1999. This notice of receipt of an application requesting take of this species is issued as a precaution in the event that NMFS issues final protective regulations that prohibit take of threatened SnR steelhead. The initiation of a 30-day public comment period on the application, including its proposed takes of threatened SnR steelhead does not presuppose the contents of the eventual final protective regulations.

Background

From 1993 through 1998 recreational fisheries managed by IDFG were conducted under the terms of a section 10 (a)(1)(B) permit (844) issued by NMFS on May 20, 1993. On May 26, 1999, permit 844 was replaced with permit 1150 for continued conduct of the same activities. Permit 1150 was issued for only 7 months and expired on December 31, 1999. IDFG has applied

for a 5-year ESA section 10(a)(1)(B) permit (1233) for incidental takes of ESA-listed adult and juvenile salmonids associated with recreational fisheries during 2000 through 2004 on non-listed species in the Snake River and its tributaries in the State of Idaho.

Conservation Plan

The Conservation Plan prepared by IDFG describes measures designed to monitor, minimize, and mitigate the incidental takes of ESA-listed anadromous salmonids associated with some or all of the following fisheries which are expected to occur during 2000 through 2004:

Resident Fish Species Sport Fishing - General Fishing Regulations

The general statewide stream season in Idaho runs from Saturday of the Memorial Day weekend through November 30. Exceptions to the general stream season include certain river sections that are open year-round and rivers or stream sections that are closed to all fishing for all or part of the general stream season. Most lakes, ponds and reservoirs are open to fishing the entire year, with exceptions to protect particular resources.

Anadromous Salmon Sport Fishing - Anadromous Salmon Fishing Regulations

Fisheries for spring/summer chinook salmon, when returns allow, typically occur from mid-May up to August 4. Closing salmon fishing on or before August 4 is designed to protect listed fall chinook. Chinook fisheries are based on quotas of non-listed components and take limits of ESA-listed components of the run. Chinook fisheries may be closed on short notice when in-season monitoring indicates that criteria are met.

Spring and Fall Steelhead Sport Fishing - Steelhead Fishing Regulations

The steelhead harvest season lasts from September 1 through April 30, except steelhead may not be harvested until October 15 on the Clearwater River and the mainstem Salmon River fishery closes on March 31. The Little Salmon River is the only Salmon River tributary open to harvest of steelhead. Only non-listed, hatchery-produced steelhead that have been marked by a clipped adipose fin may legally be harvested by anglers.

Incidental mortalities of ESA-listed fish associated with the IDFG recreational fishery programs are requested at levels specified in the Permit application. IDFG is proposing to limit state recreational fisheries such that the incidental impacts on ESA-listed salmonids will be minimized. Three alternatives for the IDFG fisheries were provided in the Plan, including: (1) the no action alternative; (2) the proposed conservation plan alternative (based on continuing fisheries at levels similar to those permitted since 1995); and (3) historic fishing levels.

Environmental Assessment/Finding of No Significant Impact

The EA package includes a draft EA and a draft Finding of No Significant Impact (FONSI) which concludes that issuing the incidental take permit is not a major Federal action significantly affecting the quality of the human environment, within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended. Three Federal action alternatives have been analyzed in the EA, including: (1) the no action alternative; (2) issue a permit without conditions; and (3) issue a permit with conditions.

This notice is provided pursuant to section 10(c) of the ESA and the NEPA regulations (40 CFR 1506.6). NMFS will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of the NEPA regulations and section 10(a) of the ESA. If it is determined that the requirements are met, a permit will be issued for incidental takes of ESA-listed anadromous salmonids under the jurisdiction of NMFS. The final NEPA and permit determinations will not be completed until after the end of the 30-day comment period and will fully consider all public comments received during the comment period. NMFS will publish a record of its final action in the **Federal Register**.

Dated: April 13, 2000.

Craig Johnson,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–9841 Filed 4–18–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041000C]

Availability of a Draft Environmental Assessment/Finding of No Significant Impact and Receipt of an Application for an Incidental Take Permit (1248)

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

ACTION: Notice of availability.

SUMMARY: NMFS has received an application for an incidental take permit (Permit) from the Washington Department of Fish and Wildlife (WDFW) according to the Endangered Species Act of 1973, as amended (ESA). As required by the ESA, WDFW has also prepared a conservation plan (Plan) designed to minimize and mitigate any such take of endangered or threatened species. The Permit application is for the incidental take of ESA-listed adult and juvenile salmonids associated with otherwise lawful recreational fisheries on non-listed species in the upper Columbia River and its tributaries in the state of Washington. The duration of the proposed Permit and Plan is five years. The Permit application includes the proposed Plan submitted by WDFW. NMFS also announces the availability of a draft Environmental Assessment (EA) for the Permit application. NMFS is furnishing this notice in order to allow other agencies and the public an opportunity to review and comment on these documents. All comments received will become part of the public record and will be available for review pursuant to the ESA.

DATES: Written comments from interested parties on the Permit application, Plan, and draft EA must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5:00 pm Pacific daylight time on May 19, 2000.

ADDRESSES: Written comments on the application, Plan, or draft EA should be sent to Lance Kruzic, Sustainable Fisheries Division, F/NWR3, 525 NE Oregon Street, Suite 510, Portland, OR 97232–2737. Comments may also be sent via fax to 503–872–2737. Comments will not be accepted if submitted via e-mail or the internet. Requests for copies of the Permit application, Plan, and draft EA should be directed to the Sustainable Fisheries Division, F/NWO3, 525 NE Oregon Street, Suite 510, Portland, OR 97232–2737. Comments received will also be available for public inspection, by appointment, during normal business hours by calling 503–230–5407.

FOR FURTHER INFORMATION CONTACT: Lance Kruzic, Portland, OR (ph: 503–231–2178, fax: 503–872–2737, e-mail: Lance.Kruzic@noaa.gov).

SUPPLEMENTARY INFORMATION: Section 9 of the ESA and Federal regulations prohibit the "taking" of a species listed as endangered or threatened. The term "take" is defined under the ESA to

mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may issue permits, under limited circumstances, to take listed species incidental to, and not the purpose of, otherwise lawful activities. NMFS regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

Species Covered in This Notice

The following species, evolutionarily significant units (ESU's), and runs are included in the Plan and Permit application:

Chinook salmon (*Oncorhynchus tshawytscha*): endangered naturally produced and artificially propagated upper Columbia River (UCR) spring.

Steelhead (*O. mykiss*): endangered naturally produced and artificially propagated UCR.

Background

On March 13, 2000, WDFW submitted an application to NMFS for an ESA section 10(a)(1)(B) permit for an incidental take of ESA-listed anadromous fish species associated with seven recreational fishery programs to be conducted above Priest Rapids Dam on the Columbia River and its tributaries from 2000 to 2004. Currently, this includes endangered spring chinook salmon and steelhead in the UCR Evolutionarily Significant Units (ESUs). The proposed fisheries solely target resident trout, smallmouth bass, walleye, sturgeon, whitefish, and non-listed chinook salmon. The proposed implementation of these fisheries will allow fishing for recreational purposes and will provide economic opportunity for local communities through the sale of licences, equipment, and the conduct of other financial transactions related to the recreational fisheries.

Conservation Plan

The Conservation Plan prepared by WDFW describes measures designed to monitor, minimize, and mitigate the incidental takes of ESA-listed anadromous salmonids associated with some or all of the following fisheries that are expected to occur during 2000 through 2004:

Rainbow, Cutthroat, and Brook Trout Sport Fishery

This fishery is scheduled to occur June 1 through September 30 in the mainstem Methow River, and two of its tributaries, the Chewuch and Twisp rivers. However, due to stream runoff, angling typically occurs after the first part of July. The regulations for this fishery are catch and release of trout only using unscented, artificial flies and lures with single, barbless hooks. Bait is prohibited.

Summer/Fall Chinook Salmon Sport Fishery

Summer/fall chinook salmon in the UCR region are not listed under the ESA. Angling for summer/fall chinook salmon above Priest Rapids Dam is allowed from September 16 to December 31. However, most of the angling only occurs until the middle of October.

Leavenworth Hatchery Spring Chinook Salmon Sport Fishery

Spring chinook salmon returning to Leavenworth Hatchery are not indigenous to the ESU and were not included as part of the ESU. Inseason run abundance of hatchery and wild spring chinook salmon returning to the UCR determines if and when the harvest of hatchery chinook salmon will be allowed. This fishery typically occurs in May and June. Angling is allowed only from the mouth of Icicle Creek upstream to 400 feet below the Leavenworth Hatchery adult collection facility.

Smallmouth Bass Sport Fisheries

This fishery is open year round under permanent state regulations in the mainstem Columbia River and Okanogan River below Malott Bridge. However, most angling occurs after spring runoff (July through September) when streamflows and warmer water permit successful angling. Anglers typically use buoyant plugs and soft bodied jigs.

Walleye Sport Fisheries

The walleye fishery is open year round under permanent state regulations in the mainstem Columbia River, with most angling occurring between January and April, when the fish aggregate prior to spawning. Most of the fishing occurs below the tailraces of the mainstem Columbia River dams. Fishing tackle typically includes soft body grubs, buoyant plugs, and spinner baits.

Sturgeon Sport Fishery

A year round, catch and release only, sturgeon fishery occurs under permanent state regulations in the mainstem Columbia River. Limited angling occurs in the mainstem river above Priest Rapids Dam using very large hooks (>4/0) with bait. Fishing occurs primarily in the deep water areas.

Whitefish Sport Fishery

This fishery is proposed to occur from December 1 through March 3 of each year. Use of bait is allowed if hooks are size #14 (3/16 hook gap size) or smaller. Fishing is limited to the following specific locations: Chewuch River from the mouth to the Pasayten Wilderness boundary, Methow River from the mouth to the falls above Brush Creek, Similkameen River from the mouth to the Canadian border, Entiat River from the mouth to Entiat Falls, and the Wenatchee River from the mouth to Highway 2 bridge at Leavenworth.

Other Gamefish and Non-gamefish Sport Fisheries

In addition to the fish species listed above, over 20 other species may be incidentally taken by anglers while fishing in the specific areas above.

Incidental mortalities of ESA-listed fish associated with the WDFW recreational fishery programs are requested at levels specified in the Permit application. WDFW is proposing to limit state recreational fisheries such that the incidental impacts on ESA-listed salmonids will be minimized. Two alternatives for the WDFW fisheries were provided in the Plan, including: (1) the no action alternative; (2) and the proposed conservation plan alternative (based on implementation of the fisheries with a comprehensive monitoring program).

Environmental Assessment/Finding of No Significant Impact

The EA package includes a draft EA and a draft Finding of No Significant Impact (FONSI) which concludes that issuing the incidental take permit is not a major Federal action significantly affecting the quality of the human environment, within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended. Three Federal action alternatives have been analyzed in the EA, including: (1) the no action alternative; (2) issue a permit without conditions; and (3) issue a permit with conditions.

This notice is provided pursuant to section 10(c) of the ESA and the NEPA regulations (40 CFR 1506.6). NMFS will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of the NEPA regulations and section 10(a) of the ESA. If it is determined that the requirements are met, a permit will be issued for incidental takes of ESA-listed anadromous salmonids under the jurisdiction of NMFS. The final NEPA and permit determinations will not be completed until after the end of the 30-day comment period and will fully consider all public comments received

during the comment period. NMFS will publish a record of its final action in the **Federal Register**.

Dated: April 13, 2000.

Craig Johnson,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–9843 Filed 4–18–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041400B]

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene public meetings of the Standing and Special Red Drum Scientific and Statistical Committee (SSC) and the Red Drum Advisory Panel (AP).

DATES: The Standing and Special Red Drum SSC will meet on Wednesday, May 3, 2000 beginning at 1 p.m. and will conclude by 12 noon on Thursday, May 4, 2000; the Red Drum AP will meet on Friday, May 5, 2000 from 8 a.m. until 3 p.m.

ADDRESSES: The SSC meeting will be held at the Tampa Airport Hilton Hotel, 2225 Lois Avenue, Tampa, FL 33607; telephone 813–877–6688. The AP meeting will be held at the New Orleans Airport Hilton, 901 Airline Drive, Kenner, LA 70062; telephone: 504–469–5000.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Peter Hood, Fishery Biologist, Gulf of Mexico Fishery Management Council; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The SEC will convene to review the 1999/2000 red drum stock assessment. A Red Dum Stock Assessment Panel (SAP) member will present the assessment to the SSC related to setting an allowable biological catch (ABC) range in the Gulf of Mexico. The SSC may also review estimates of stock size (biomass at maximum sustainable yield [Bmsy]), minimum stock size thresholds (MSST), escapement rates of juveniles to offshore waters, and adult red drum bycatch in shrimp trawls. Based on this review, the SSC may recommend to the Council levels for total allowable catch (TAC), bag limits, size limits, commercial quotas, and other measures for the red drum fishery.

The AP will meet to review the 1999/2000 red drum stock assessment. A Red Drum SAP member will also present the assessment to the AP. The AP will also provide recommendations to the Council.

Based on recommendations from the above meetings, the Council, at its May meeting in New Orleans, LA will decide if changes are needed to current red drum management measures. Currently, it is illegal to harvest or possess red drum in Federal waters.

A copy of the agenda can be obtained by contacting the Gulf Council (see **ADDRESSES**).

Although other non-emergency issues not on the agenda may come before the Standing and Special Red Drum SSC and the Red Drum AP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Actions of the Standing and Special Reef Fish SSC and the Red Drum AP will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency. Special Accommodations.

These meetings are 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 April 27, 2000.

Dated: April 7, 2000.

Gary C. Matlock,

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

[FR Doc. 00–9846 Filed 4–18–00; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041300B]

Endangered Species; Permits

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

ACTION: Receipt of an application for a scientific research permit (1249); receipt of applications to modify permits (1115, 1156, 1193); and issuance of modifications to an existing permit (1048).

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement:

NMFS has received a permit application from Mr. E.P. Taft, of Alden Research Laboratory (ALR) (1249); NMFS has received applications for permit modifications from: Chelan County Public Utility District No. 1 at Wenatchee, WA (CCPUD)(1115), the U.S. Environmental Protection Agency at Corvallis, OR (EPA)(1156), and the Fish Passage Center at Portland, OR (FPC)(1193); and NMFS has issued modifications to a scientific research permit to the Sonoma County Water Agency (SCWA) (1048).

DATES: Comments or requests for a public hearing on any of the new applications or modification requests must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. eastern daylight time on May 19, 2000.

ADDRESSES: Written comments on the new application or any of the new modification requests should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the application or modification request. Comments will not be accepted if submitted via e-mail or the internet. The applications and related documents are available for review in the indicated office, by appointment:

For permits 1115, 1156, 1193: Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–2737 (ph: 503–230–5400, fax: 503–230–5435).

For permit 1048: Protected Species Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404–6528 (ph: 707–575–6066, fax: 707–578–3435).

For permit 1249: Office of Protected Resources, Endangered Species Division, F/PR3, 1315 East-West Highway, Silver Spring, MD 20910 (ph: 301–713–1401, fax: 301–713–0376).

Documents may also be reviewed by appointment in the Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401).

FOR FURTHER INFORMATION CONTACT:

For permit 1249: Terri Jordan, Silver Spring, MD (ph: 301–713–1401, fax: 301–713–0376, e-mail: Terri.Jordan@noaa.gov).

For permit 1048: Dan Logan, Protected Resources Division, Santa Rosa, CA (ph: 707–575–6053, fax: 707–578–3435, e-mail: Dan.Logan@noaa.gov).

For permits 1156, 1193: Leslie Schaeffer, Portland, OR (ph: 503–230–5433, fax: 503–230–5435, e-mail: Leslie.Schaeffer@noaa.gov).

For permit 1115: Robert Koch, Portland, OR (ph: 503–230–5424, fax: 503–230–5435, e-mail: Robert.Koch@noaa.gov).

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) Are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in This Notice

The following species, evolutionarily significant units (ESU's), and runs are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): threatened Snake River (SnR) spring/summer, threatened SnR fall, endangered upper Columbia River (UCR) spring, threatened Puget Sound (PS), threatened Upper Willamette River (UWR), threatened Lower Columbia River (LCR).

Coho salmon (*O. kisutch*): threatened Southern Oregon/Northern California Coast (SONCC), threatened Central California Coast (CCC).

Sockeye salmon (*O. nerka*): endangered SnR.

Steelhead (*O. mykiss*): endangered UCR, threatened middle Columbia River (MCR), threatened SnR, threatened LCR.

Shortnose sturgeon (*Acipenser brevirostrum*).

To date, final protective regulations for threatened PS, UWR, and LCR chinook salmon and SnR, MCR, and LCR steelhead under section 4(d) of the ESA have not been promulgated by NMFS. Protective regulations are currently proposed for PS, UWR, and LCR chinook salmon (65 FR 169, January 3, 2000) and SnR, MCR, and LCR steelhead (64 FR 73479, December 30, 1999). This notice of receipt of applications requesting takes of these species is issued as a precaution in the event that NMFS issues final protective regulations. The initiation of a 30-day public comment period on the applications, including their proposed takes of PS, UWR, and LCR chinook salmon and SnR, MCR, and LCR steelhead does not presuppose the contents of the eventual final protective regulations.

New Application Received

ARL (1249) requested a 2-year permit to take a maximum of 200 1+ yr captively bred shortnose sturgeon from the Conte Anadromous Fish Research Center to conduct applied fish passage facility research and development, with the intent of identifying what fish passage design and operating conditions are necessary to maximize biological effectiveness of shortnose sturgeon diversion around dams in the Connecticut and Santee-Cooper River systems.

Modification Requests Received

CCPUD requests a modification to permit 1115, which authorizes annual takes of adult and juvenile naturally produced and artificially propagated UCR spring chinook salmon and adult and juvenile naturally produced and artificially propagated UCR steelhead associated with six fish passage studies at Rocky Reach Dam, Rock Island Dam, and the Lake Chelan hydroelectric project on the Columbia River. The goals of the research are: (1) to evaluate the juvenile fish bypass systems at the mainstem river dams, (2) to monitor juvenile fish gas bubble trauma at the dams, (3) to develop operational measures that will enhance adult steelhead passage survival at the dams, (4) to evaluate new acoustic tagging technology used to monitor the behavior of juvenile salmonids as they migrate through passage facilities at Rocky Reach Dam, (5) to use passive integrated transponder (PIT) and radio tagging technology to assess the survival of juvenile salmonids at the dams, and (6) to determine the types and numbers of adult salmonids that may be present in the Lake Chelan bypass reach after spill at the Lake Chelan hydroelectric project is curtailed. Results from the research will be used to improve the operation of fish passage facilities at the dams, determine how fish are affected by gas bubbles and what can be done to minimize gas bubble trauma, evaluate the relative benefits of PIT and radio tagging technologies, and identify a mitigation strategy to protect anadromous fish that may become stranded in the Lake Chelan bypass reach after spill is curtailed. For the modification, CCPUD requests an increase in the annual takes of juvenile naturally produced and artificially propagated UCR spring chinook salmon and juvenile naturally produced UCR steelhead associated with Studies 1, 2, 4, and 5. Associated increases in ESA-listed juvenile fish indirect mortalities are also requested. The modification is requested to be valid for the duration of permit 1115, which expires on December 31, 2002.

On April 7, 2000, NMFS published a notice in the **Federal Register** (65 FR 18310) that an application had been received from EPA for a modification request to permit 1156. For the modification EPA had requested an annual take of juvenile naturally produced and artificially propagated UCR spring chinook salmon, juvenile naturally produced and artificially propagated PS chinook salmon, juvenile UWR chinook salmon, juvenile SnR steelhead, juvenile naturally produced and artificially propagated UCR steelhead, juvenile MCR steelhead, and juvenile LCR steelhead associated with research designed to collect data to enforce the Clean Water Act in the Pacific Northwest. NMFS has received an amendment of EPA's application for a modification to permit 1156. In the application amendment, EPA requests an annual take of LCR chinook salmon associated with the research. The additional species is requested because an additional sampling location has been added to the research to accommodate and coordinate with the Regional Environmental Monitoring and Assessment Program in the Cascades Ecoregion. The ESA-listed fish are proposed to be captured using electrofishing, examined, and released. The modification as amended is requested to be valid for the duration of the permit, which expires on December 31, 2002.

FPC requests a modification to permit 1193, which authorizes annual takes of juvenile SnR sockeye salmon, juvenile SnR fall chinook salmon, juvenile naturally produced and artificially propagated SnR spring chinook salmon,

juvenile naturally produced and artificially propagated UCR spring chinook salmon, and juvenile naturally produced and artificially propagated UCR steelhead associated with FPC's Smolt Monitoring Program at the hydropower dams on the Snake and Columbia Rivers in the Pacific Northwest. For the modification, FPC requests annual takes of juvenile MCR steelhead and juvenile LCR chinook salmon and an increase in the annual takes of juvenile SnR fall chinook salmon and juvenile naturally produced and artificially propagated SnR spring/summer chinook salmon associated with the research. The increased take is requested because a larger than anticipated outmigration run of these ESA-listed species is estimated in 2000 and to provide a sufficient number of tagged fish to develop statistically significant survival estimates. Tagged fish are proposed to be used to provide information relative to fish migration timing through the Columbia Basin hydrosystem. ESA-listed juvenile fish are proposed to be captured, handled (examined and/or PIT tagged), and released. Associated increases in ESA-listed juvenile fish indirect mortalities are also requested. The modification is requested to be valid for the duration of permit 1193, which expires on December 31, 2003.

Permit Modification Issued

Notice was published on March 25, 1999 (64 FR 14432), that SCWA had applied for a modification to permit 1048 to take threatened Central California Coast coho salmon. Modification 1 to Permit 1048 was issued on April 5, 2000, and authorizes an increase in annual intentional take of adult, juvenile, and carcasses of threatened CCC coho salmon associated with fish population and habitat studies within the Russian River basin of the CCC coho salmon ESU. The scientific research consists of five assessment tasks for which ESA-listed fish will be taken: (1) Population trend estimates, (2) carcass counts, (3) redd surveys, (4) acquisition of tissue and scale samples for genetic analysis; and (5) habitat quality evaluation. A corresponding increase in unintentional mortalities is in ESA-listed adult and juvenile salmon is authorized. Modification 1 is valid for the duration of permit 1048, which expires June 30, 2002.

Dated: April 13, 2000.

Craig Johnson,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–9845 Filed 4–18–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF EDUCATION

National Commission on Mathematics and Science Teaching for the 21st Century; Meeting

AGENCY: National Commission on Mathematics and Science Teaching for the 21st Century, Department of Education

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Commission on Mathematics and Science Teaching for the 21st Century (Commission). This notice also describes the functions of the Commission. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the general public of their opportunity to attend.

DATE AND TIME: Monday, May 8, 2000 from 3:30 to approximately 6:30 p.m. and Tuesday, May 9 from 8:30 a.m. to adjournment at approximately 4:30 p.m.

ADDRESSES: Washington Plaza, Franklin Room, 10 Thomas Circle, NW at Massachusetts Avenue and 14th Street, Washington, DC 20005, telephone: (202) 842–1300, (800) 424–1140, fax: (202) 371–9602.

FOR FURTHER INFORMATION CONTACT: Dr. Linda P. Rosen, Executive Director, The National Commission on Mathematics and Science Teaching for the 21st Century, U.S. Department of Education, Room 6W252, 400 Maryland Avenue, SW, Washington, DC 20202, telephone: (202) 260–8229, fax: (202) 260–7216.

SUPPLEMENTARY INFORMATION: The National Commission on Mathematics and Science Teaching for the 21st Century was established by the Secretary of Education and is governed by the provisions of the Federal Advisory Committee Act (FACA) (Pub. L. 92–463, as amended; 5 U.S.C.A. Appendix 2). The Commission was established to address the pressing need to significantly raise student achievement in mathematics and science by focusing on the quality of mathematics and science instruction in K–12 classrooms nationwide. The Commission will develop a set of recommendations with a corresponding, multifaceted action strategy to improve the quality of teaching in mathematics and science.

The meeting of the Commission is open to the public. The proposed agenda will focus on the Commission's draft report and potential recommendations. Other topics that may be addressed at the meeting include: (1) Financial incentives for mathematics and science teachers, (2) alternative routes into the profession, and (3) preparation of teachers of mathematics and science. The proposed agenda will include both plenary sessions and presentations.

Space may be limited and you are encouraged to register in advance if you plan to attend. You may register through the Internet at America__Counts@ed.gov or Jamila__Rattler@ed.gov. Please include your name, title, affiliation, complete address (including e-mail, if available), telephone and fax numbers. If you are unable to register through the Internet, you may fax your registration information to The National Commission on Mathematics and Science Teaching for the 21st Century at (202) 260–7216 or mail to The National Commission on Mathematics and Science Teaching for the 21st Century, U.S. Department of Education, Room 6W252, 400 Maryland Avenue, SW, Washington, DC 20202. Any individual who will need accommodations for a disability in order to attend the meeting (i.e., interpreting services, assistive listening devices, materials in alternative format) should notify Jamila Rattler at (202) 260–8229 by no later than April 27, 2000. We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The meeting site is accessible to individuals with disabilities.

Records will be kept of all Commission proceedings, and will be available for public inspection at The National Commission on Mathematics and Science Teaching for the 21st Century, 400 Maryland Avenue, SW, Room 6W252 from the hours of 8:30 a.m. to 5:00 p.m. weekdays, except Federal holidays.

Frank S. Holleman, III,

Deputy Secretary.

[FR Doc. 00–9701 Filed 4–18–00; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Rocky Flats

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, May 4, 2000, 6 p.m.–9:30 p.m.

ADDRESSES: College Hill Library, Front Range Community College, 3705 West 122th Avenue, Westminster, CO.

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021; telephone (303) 420–7855; fax (303) 420–7579.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1. Regular update—Colorado Department of Public Health and Environment
2. Panel discussion on worker health and safety issues
3. Follow-on soil action level review by regulators
4. Update on results of test burn and/or controlled burn at Rocky Flats
5. Committee updates
6. Other Board business may be conducted as necessary

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021; telephone (303) 420–7855. Hours of operation for the Public Reading Room are 9:00 a.m. to 4:00 p.m. Monday through Friday. Minutes will also be made available by writing or calling Deb Thompson at the address or telephone number listed above.

Issued at Washington, DC, on April 13, 2000.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 00–9772 Filed 4–18–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-specific Advisory Board (EM SSAB) Oak Ridge. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, May 3, 2000: 6–9:30 p.m.

ADDRESSES: Garden Plaza, 215 S. Illinois Avenue, Oak Ridge, TN.

FOR FURTHER INFORMATION CONTACT: Theresa Perry, Federal Coordinator, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831, (865) 576–8956.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1. A representative from the Oak Ridge Health Agreement Steering Panel will discuss their final report, "Releases of Contaminants from Oak Ridge Facilities and Risks to Public Health," dated December 1999

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Carol Davis at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the end of the meeting.

Minutes: Minutes of this meeting will be available for public review and copying at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 7:30 a.m. and 5:30 p.m. Monday through Friday, or by writing to Teresa Perry, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831, or by calling her at (423) 576–8956.

Issued at Washington, DC, on April 13, 2000.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 00–9773 Filed 4–18–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Request for Emergency Review by the Office of Management and Budget

AGENCY: Energy Information Administration, Department of Energy.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection listed at the end of this notice to the Office of Management and Budget (OMB) for emergency processing under provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (44 U.S.C. 3501 *et seq.*) by Friday, April 21, 2000. The reason for this emergency clearance request is to obtain data needed for responding to requests from the Secretary of Energy and Congress on the impact of interruptible natural gas contracts, which affected home heating oil supplies in the Northeastern United States during January and February 2000.

The Supplementary Information contains the following: (1) The collection number and title; (2) a summary of the collection of information, which includes the sponsor (*i.e.*, the DOE component), current OMB document number (where applicable), type of request (new,

revision, extension, or reinstatement), response obligation (mandatory, voluntary, or required to obtain or retain benefits); (3) a description of the need and proposed use of the information; (4) a description of the likely respondents; and (5) an estimate of the total annual reporting burden (*i.e.*, the estimated number of likely respondents times the proposed frequency of response per year times the average hours per response).

DATES: Comments must be filed by April 20, 2000.

ADDRESSES: Address comments to Mr. Erik Godwin, Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW, Washington, DC 20503. (Mr. Godwin may be reached by telephone at (202) 395–3084. Comments should also be addressed to the Statistics and Methods Group at the address immediately below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Herbert Miller, Statistics and Methods Group, (EI–70), Forrestal Building, U.S. Department of Energy, Washington, DC 20585–0670. Mr. Miller may be contacted by telephone at (202) 426–1103, FAX at (202) 426–1081, or e-mail at Herbert.Miller@eia.doe.gov.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. EIA–903, "Natural Gas Service Interruptions in the Northeast during January and February 2000."

2. The Energy Information Administration plans to collect information from 25 companies which deliver natural gas (*i.e.*, have natural gas service arrangements) to consumers in the Northeast.

The form consists of six parts. Part I contains identification data; Part II, information on selected characteristics of interruptible service arrangements provided to end-use customers; Part III, names and contact information for customers with interruptible service agreements who were interrupted; Part IV, baseline monthly and weekly information for those categories of service which were interrupted during December 1999, and January and February 2000; Part V, names and contact information for customers with firm service agreements who were interrupted; and Part VI, names and contact information for customers that declined natural gas service when interruptions were ended and natural gas service was offered/available in the report State. This is a new survey and a new OMB number is being requested. The response obligation will be mandatory.

3. The data are needed to respond to a request from the Secretary of Energy and Congress to jointly conduct a study on the impact of interruptible contracts on home heating oil supplies in the Northeast, during January and February 2000.

4. Respondents will be 25 natural gas companies who deliver natural gas to consumers.

5. The reporting burden is expected to be 500 hours. (25 respondents × 1 response × 20 hours).

Statutory Authority: Section 3507(j)(1) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, DC, April 17, 2000.

Nancy J. Kirkendall,

Acting Director, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 00–9906 Filed 4–18–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–1828–000]

ANP Marketing Company; Notice of Issuance of Order

April 13, 2000.

ANP Marketing Company (ANP Marketing) submitted for filing a rate schedule under which ANP Marketing will engage in wholesale electric power and energy transactions as a marketer. ANP Marketing also requested waiver of various Commission regulations. In particular, ANP Marketing requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by ANP Marketing.

On April 10, 2000, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by ANP Marketing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, ANP Marketing is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; Provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of ANP Marketing's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 10, 2000.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE, Washington, DC 20426. The Order may also be viewed on the Internet at *http;//www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–9759 Filed 4–18–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL99–75–003]

California Electricity Oversight Board; Notice of Filing

April 13, 2000.

Take notice that on March 20, 2000, the California Independent System Operator Corporation (ISO) tendered for filing an amendment to its Amended and Restated Bylaws, as revised December 1999. The Amended and Revised Bylaws are intended to comply with the Commission's Order in the above-captioned docket. The instant amendment requests that the Commission accept the amendment effective March 20, 2000.

The ISO states that this filing has been served upon all persons on the official service list in the above-identified docket.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and

385.214). All such motions and protests should be filed on or before April 24, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–9770 Filed 4–18–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–320–030]

Koch Gateway Pipeline Company; Notice of Negotiated Rate Filing

April 13, 2000.

Take notice that on April 11, 2000, Koch Gateway Pipeline Company (Koch) tendered for filing the following contracts reflecting negotiated rate transactions:

Special Negotiated Rate Between Koch and KET Energy Trading, Contracts Nos. 27619 and 27621

Koch states that it requests a waiver of Section 154.207 of the Commission's regulations to allow the filing to be effective on October 1, 1999.

Koch states that it has served copies of this filing upon each of all parties on the official service list created by the Secretary in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance.

David P. Boergers,

Secretary.

[FR Doc. 00–9766 Filed 4–18–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM00–1–25–002]

Mississippi River Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

April 13, 2000.

Take notice that on April 7, 2000, Mississippi River Transmission Corporation (MRT) tendered for filing as apart of its Gas Tariff, Third Revised Volume No. 1, the sheets listed below to become effective June 1, 2000:

Substitute Thirty Fourth Revised Sheet No. 5
Substitute Thirty Fourth Revised Sheet No. 6
Substitute Thirty First Revised Sheet No. 7
Substitute Eleventh Revised Sheet No. 8

MRT states that the purpose of this filing is to adjust the Fuel Use and Loss Percentages under its Rate Schedules FTS, SCT, ITS, FSS and ISS pursuant to Section 22 of the General Terms and Conditions of its FERC Gas Tariff and the Commission's order in Docket No. TM00–1–25–000. MRT further states, subject to the Commission's authorization, the filing will replace and supersede the tariff filing made by MRT on October 1, 1999 in Docket No. TM00–1–25–000.

MRT states that a copy of this filing is being mailed to each of the parties to this proceeding, its customers and to the state commissions of Arkansas, Illinois, and Missouri.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before April 28, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–9769 Filed 4–18–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL00–68–000]

Missouri Joint Municipal Electric Utility Commission and the City of Harrisonville, Missouri v. UtiliCorp United Inc.; Notice of Complaint

April 13, 2000.

Take notice that on April 11, 2000, the City of Harrisonville, Missouri and the Missouri Joint Municipal Electric Utility Commission on behalf of its member cities El Dorado Springs, Odessa, and Rich Hill, Missouri, filed a complaint against UtiliCorp United Inc. d/b/a Missouri Public Service (MPS). The complaint asserts that MPS has recovered certain impermissible purchased power expenses through MPS's fuel adjustment clause (FAC), in violation of the filed rate and the Commission's fuel clause regulations, 18 CFR 35.14. The complaint requests that the Commission: (1) Initiate an audit and investigation of MPS's application of the fuel adjustment clause, (2) by issuing a notice of rate examination and/or order to show cause under 18 CFR 385.209, require MPS to bear the burden of demonstrating in that audit and investigation that it has not included any improper energy purchase costs in its FAC billings from at least 1997 to date, and (3) require MPS to provide refunds (with interest) as appropriate to reflect correct application of the FAC, *i.e.*, elimination of all improper purchased energy costs, with respect to all relevant periods. The complainants also request consolidation of this proceeding with the complaint in Docket No. EL00–43–000.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before May 1, 2000. 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 in the Public Reference Room. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Answers to the complaint shall also be due on or before May 1, 2000.

David P. Boergers,

Secretary.

[FR Doc. 00–9765 Filed 4–18–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER00–1675–000 and ER00–1676–000 (Not Consolidated)]

Reliant Energy Desert Basin, LLC, Fulton Cogeneration Associates, L.P.; Notice of Issuance of Order

April 13, 2000.

Reliant Energy Desert Basin, LLC and Fulton Cogeneration Associates, L.P. (hereafter, "the Applicants") filed with the Commission rate schedules in the above-captioned proceedings, respectively, under which the Applicants will engage in wholesale electric power and energy transactions at market-based rates, and for certain waivers and authorizations. In particular, certain of the Applicants may also have requested in their respective applications that the Commission grant blanket approval under 18 CFR part 34 of all future issuances for securities and assumptions of liabilities by the Applicants. On April 12, 2000, the Commission issued an order that accepted the rate schedules for sales of capacity and energy at market-based rates (Order), in the above-docketed proceedings.

The Commission's April 12, 2000 Order granted, for those Applicants that sought such approval, their request for blanket approval under Part 34, subject to the conditions found in Appendix B in Ordering Paragraphs (2), (3), and (5):

(2) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by the Applicants should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

Absent a request to be heard within the period set forth in Ordering Paragraph (2) above, if the Applicants have requested such authorization, the Applicants are hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of the Applicants, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(5) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of the Applicants' issuances of securities or assumptions of liabilities * * *.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 12, 2000.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE, Washington, DC 20426. This issuance may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–9760 Filed 4–18–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–244–000]

Sumas International Pipeline Inc.; Notice of Proposed Changes in FERC Gas Tariff

April 13, 2000.

Take notice that on April 10, 2000, Sumas International Pipeline Inc. (SIPI), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, the following tariff sheets to become effective May 1, 2000:

Second Revised Sheet Number 10
Second Revised Sheet Number 11
Original Sheet Number 11A
Second Revised Sheet Number 12
First Revised Sheet Number 12A
Third Revised Sheet Number 13
First Revised Sheet Number 13A
First Revised Sheet Number 13B
First Revised Sheet Number 13C
Original Sheet Number 13D
Original Sheet Number 13E
Original Sheet Number 13F
First Revised Sheet Number 16A
First Revised Sheet Number 21A

SIPI asserts that the purpose of this filing is to comply with Order No. 587 issued on July 17, 1996 in general, and in particular Order Nos. 587–G, 587–H and 487–K, and the Notice Clarifying Procedures for Filing Tariff Sheets issued on September 12, 1996, in Docket No. RM96–1–000. These pro-forma sheets reflect the requirement that interstate natural gas pipelines follow standardized procedures for critical business practices (nominations; allocations, balancing and measurement; involving; and capacity release) and standardized protocols and file formats for electronic communication except where waivers have been granted.

SIPI states that copies of this filing were mailed to all customers of SIPI and Interested Parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–9768 Filed 4–18–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–166–000]

Williams Gas Pipelines Central, Inc.; Notice of Petition to Amend

April 13, 2000.

Take notice that on April 3, 2000, Williams Gas Pipelines Central, Inc. (Williams), 3800 Frederica Street, Owensboro, Kentucky 42301, filed an

application pursuant to Section 7(c) of the Natural Gas Act (NGA), as amended, for further amendment to the certificate of public convenience and necessity issued in this proceeding on December 30, 1963, authorizing the Webb storage field in Grant County, Oklahoma.

Specifically, Williams seeks authority to increase the effective storage area by: (1) Acquiring the gas storage rights under an additional 480 acres for a buffer zone, adjacent to the west boundary of the storage leasehold interests previously authorized; (2) constructing three 4-inch gathering laterals of approximately 1500 feet, 250 feet and 125 feet to connect 14 existing production wells, converted to pressure relief well operation, to the storage system; and, (3) installing and operating measurement and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm (Call (202) 208–2222 for assistance).

Any questions regarding the application may be directed to David N. Roberts, Manager of Tariffs and Regulatory Analysis, P.O. Box 20008, Owensboro, Kentucky 42304, (270) 688–6712.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 4, 2000, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and the regulations under the Natural Gas Act 18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervener status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents issued by the Commission, filed by the applicant, or filed by all other interveners. An intervener can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervener must serve copies of comments or any other filing it makes with the Commission to every other intervener in the proceeding, as well as filing an original and 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of such comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents,and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, Commenters will not receive copies of all documents filed by other parties or issued by the Commission, and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court. The Commission will consider all comments and concerns equally, whether filed by comments or those requesting intervener status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon, the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act, as amended, and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this Application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the requested authorization is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for unless otherwise advised, it will be unnecessary for Williams to appear or to be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 00–9761 Filed 4–18–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–1801–000, *et al.*]

Sierra Pacific Power Company, *et al.*; Electric Rate and Corporate Regulation Filings

April 12, 2000.

Take notice that the following filings have been made with the Commission:

1. Sierra Pacific Power Company, et al.

[Docket No. ER00–1801–000]

Take notice that on March 30, 2000 Nevada Power Company (Nevada Power) and Sierra Pacific Power Company (Sierra Pacific) tendered for filing an amendment to the joint open-access transmission tariff filed on March 3, 2000, in Docket No. ER00–1801–000, in anticipation of the pending merger among Nevada Power, Sierra Pacific, and Portland General Electric Company. The amendment incorporates two transmission loss studies also filed on March 30, 2000, by Nevada Power and Sierra Pacific, in Docket Nos. ER00–2004–000 and ER00–2003–000 respectively, that indicate a change in the factor used to calculate transmission service losses under their joint open-access transmission tariff, FERC Original Volume No. 1, filed in Docket No. ER99–34–000.

Copies of this filing have been served upon those persons on the Commission's official service list compiled in Docket No. ER00–1801–000.

Nevada Power and Sierra Pacific request that the filing be made effective in Docket No. ER00–1801–000 as of the effective date of that joint tariff.

Comment date: May 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. El Paso Energy Corporation and the Coastal Corporation

[Docket No. EC00–73–000]

Take notice that on April 3, 2000, pursuant to Federal Power Act (FPA) Section 203, 16 U.S.C. 824b, and Part 33 of the Commission's regulations, 18 CFR part 33, El Paso Energy Corporation (El Paso Energy) and The Coastal Corporation (Coastal) on behalf of their respective FPA-jurisdictional subsidiaries (collectively, Applicants) applied for all Commission approvals necessary to consummate their proposed merger. Applicants state that the FPA-jurisdictional subsidiaries of El Paso Energy and Coastal are power marketers and merchant plants with market-based rate authority.

El Paso Energy is an energy holding company whose subsidiary operations include interstate and intrastate transportation and storage of natural gas; gathering, exploration, production, processing and marketing of natural gas; independent power generation; power marketing; and the development of energy infrastructure facilities worldwide. Coastal is a diversified energy holding company with subsidiary operations in natural gas transportation, storage, gathering and processing; petroleum refining, marketing and distribution; gas and oil exploration and production; coal mining; and power generation and marketing.

Comment date: June 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. PG&E Dispersed Generating Company, LLC

[Docket No. EG00–124–000]

Take notice that on April 6, 2000, PG&E Dispersed Generating Company, LLC (PG&E Dispersed Gen), a Delaware limited liability company with its principal place of business at 7500 Old Georgetown Road, Bethesda, MD 20814, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

PG&E Dispersed Gen proposes to construct, own or lease and operate three additional generating facilities in Ohio. The proposed power plants are expected to commence commercial operation on or about July 1, 2000. All output from the plants will be sold by PG&E Dispersed Gen exclusively at wholesale.

Comment date: May 3, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Orion Power Midwest, L.P.

[Docket No. ER00–2129–000]

Take notice that on April 4, 2000, Orion Power MidWest, LLC filed a letter of name change to Orion Power MidWest, L.P.

Comment date: April 25, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. RS Cogen, L.L.C.

[Docket No. QF00–32–000]

Take notice that on April 11, 2000, RS Cogen, L.L.C. (RS Cogen) located at 1300 PPG Drive, Westlake, Louisiana 70669, filed a supplement to its application pursuant to Section 292.207(b) of the Commission's regulations for a determination by the Commission that RS Cogen's cogeneration facility is a qualifying facility under the Public Utility Regulatory Policies Act of 1978 and the Commission's regulations thereunder.

Comment date: May 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. LS Power Marketing, LLC

[Docket No. ER96–1947–015]

Take notice that on April 7, 2000, LS Power Marketing, LLC (LSPM), tendered for filing a Notification of Change in Status and Updated Market Power Analysis, notifying the Commission of certain changes in its affiliation with various generating companies, as a result of indirect acquisitions and dispositions by its affiliates. LSPM also noted that it has changed its principal place of business and that none of its affiliates currently holds any interests in electric generating capacity for which construction commenced on or before July 9, 1996.

Comment date: April 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. PJM Interconnection, L.L.C.

[Docket No. ER00–1745–001]

Take notice that on April 6, 2000, PJM Interconnection, L.L.C. (PJM), tendered for filing a supplement to its March 1, 2000, filing of an executed umbrella service agreement for network integration transmission service under state required retail access programs with Total Gas & Electric, Inc., including the specification sheets. The specification sheets inadvertently were not included in the March 1, 2000 filing when the agreement was originally filed.

PJM reiterated its request for a waiver of the Commission's 60-day notice requirement to allow an effective date for the agreement of February 1, 2000.

Copies of this supplemental filing were served upon Total Gas & Electric, Inc. and the state commissions within the PJM control area.

Comment date: April 27, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. Texas Electric Marketing, LLC

[Docket No. ER00–1780–001]

Take notice that on April 7, 2000, Texas Electric Marketing, LLC (TEM), tendered for filing supplemental to its March 2, 2000, application for blanket authorizations and certain waivers filed with the Commission in the above-referenced docket.

Comment date: April 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. PJM Interconnection, L.L.C.

[Docket No. ER00–2079–001]

Take notice that on April 7, 2000, PJM Interconnection, L.L.C. (PJM), on behalf of the PJM Reliability Committee, tendered for filing amendments to its April 3, 2000 filing in this docket that, among other things, amended Schedules 5.2, and 7 of the Reliability Agreement Among Load Serving Entities in the PJM Control Area (RAA) to implement Active Load Management procedures. The amended filing clarifies certain terms in Schedules 5.2 and 7 of the RAA.

Copies of this filing were served upon all parties to the RAA and each state electric utility regulatory commission in the PJM control area.

PJM, on behalf of the PJM Reliability Committee, requests an effective date of June 7, 2000 for the amendments filed in this docket as revised in the April 7, 2000 filing.

Comment date: April 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. Wisconsin Electric Power Company

[Docket No. ER00–2137–000]

Take notice that on April 6, 2000, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a revision to Appendix O to the Interconnection Agreement between itself and Wisconsin Public Service Corporation (WPS). The revision replaces the Thunder Point of Interconnection with the new Crivitz Point of Interconnection.

Wisconsin Electric requests an effective date of May 25, 1999 and waiver of the Commission's notice requirements in recognition that the extensive negotiations leading to the executed revision have only recently been concluded.

Copies of the filing have been served on WPS, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: April 27, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Allegheny Energy Service Corporation, on behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER00–2141–000]

Take notice that on April 6, 2000, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply), tendered for filing Amendment

No. 3 to Supplement No. 8 to the Market Rate Tariff to incorporate a Settlement Procedures Agreement with PECO Energy Company into the tariff provisions.

Allegheny Energy Supply requests a waiver of notice requirements to make the Amendment effective as of March 30, 2000 or such other date as ordered by the Commission.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: April 27, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. Allegheny Energy Service Corporation, on behalf of Monongahela Power Company, et al.

[Docket No. ER00–2142–000]

Take notice that on April 6, 2000, Allegheny Energy Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing Supplement No. 75 to add MIECO Inc., to Allegheny Power's Open Access Transmission Service Tariff which has been accepted for filing by the Federal Energy Regulatory Commission in Docket No. ER96–58–000.

The proposed effective date under the Service Agreements is April 5, 2000 or a date ordered by the Commission.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: April 27, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Virginia Electric and Power Company

[Docket No. ER00–2143–000]

Take notice that on April 6, 2000, Virginia Electric and Power Company (Virginia Power), tendered for filing Service Agreements for Firm and Non-Firm Point-to-Point Transmission Service by Virginia Electric and Power Company to Statoil Energy Services, Inc.

The foregoing Service Agreements are filed under the Open Access Transmission Tariff to Eligible Purchasers dated July 14, 1997. Under the tendered Service Agreements, Virginia Power will provide point-to-point service to the Transmission Customer under the rates, terms and conditions of the Open Access Transmission Tariff.

Virginia Power requests an effective date of April 6, 2000, the date of filing of the Service Agreements.

Copies of the filing were served upon Statoil Energy Services, Inc., the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment date: April 27, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. Virginia Electric and Power Company

[Docket No. ER00–2144–000]

Take notice that on April 6, 2000, Virginia Electric and Power Company (Virginia Power) tendered for filing Service Agreements for Firm and Non-Firm Point-to-Point Transmission Service by Virginia Electric and Power Company to The Legacy Energy Group, LLC.

The foregoing Service Agreements are tendered for filing under the Open Access Transmission Tariff to Eligible Purchasers dated July 14, 1997. Under the tendered Service Agreements, Virginia Power will provide point-to-point service to the Transmission Customer under the rates, terms and conditions of the Open Access Transmission Tariff.

Virginia Power requests an effective date of April 6, 2000, the date of filing of the Service Agreements.

Copies of the filing were served upon The Legacy Energy Group, LLC, the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment date: April 27, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. Virginia Electric and Power Company

[Docket No. ER00–2145–000]

Take notice that on April 6, 2000, Virginia Electric and Power Company (Virginia Power), tendered for filing the Service Agreement between Virginia Electric and Power Company and Statoil Energy Services, Inc. Under the Service Agreement, Virginia Power will provide services to Statoil Energy Services, Inc., under the terms of the Company's Revised Market-Based Rate Tariff designated as FERC Electric Tariff (Second Revised Volume No. 4), which was accepted by order of the Commission dated August 13, 1998 in Docket No. ER98–3771–000.

Virginia Power requests an effective date of April 6, 2000, the date of filing of the Service Agreement.

Copies of the filing were served upon Statoil Energy Services, Inc., the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: April 27, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. Virginia Electric and Power Company

[Docket No. ER00–2146–000]

Take notice that on April 6, 2000, Virginia Electric and Power Company (Virginia Power), tendered for filing Service Agreements for Firm and Non-Firm Point-to-Point Transmission Service by Virginia Electric and Power Company to El Paso Merchant Energy, L.P.

The foregoing Service Agreements are tendered for filing under the Open Access Transmission Tariff to Eligible Purchasers dated July 14, 1997. Under the tendered Service Agreements, Virginia Power will provide point-to-point service to the Transmission Customer under the rates, terms and conditions of the Open Access Transmission Tariff.

Virginia Power requests an effective date of April 6, 2000, the date of filing of the Service Agreements.

Copies of the filing were served upon El Paso Merchant Energy, L.P., the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment date: April 27, 2000, in accordance with Standard Paragraph E at the end of this notice.

17. New England Power Pool

[Docket No. ER00–2148–000]

Take notice that on April 7, 2000, the New England Power Pool (NEPOOL) Participants Committee and Transmission Owners submitted as a supplement to the NEPOOL Open Access Transmission Tariff (the NEPOOL Tariff) a rule for implementing Ancillary Service Schedule 2 (Reactive Supply and Voltage Control from Generation Sources Service) of the NEPOOL Tariff (the Schedule 2 Implementation Rule). The NEPOOL Participants Committee and Transmission Owners state that the Schedule 2 Implementation Rule documents the details for implementing the procedure and method for calculating the costs identified in Schedule 2 of the NEPOOL Tariff.

The NEPOOL Participants Committee and Transmission Owners state that copies of these materials were sent to the NEPOOL Participants and the six New England State governors and regulatory commissions.

Comment date: April 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

18. TXU Electric Company

[Docket No. ER00–2149–000]

Take notice that, on April 7, 2000, TXU Electric Company (TXU Electric), tendered for filing an executed transmission service agreement (TSA) with FPL Energy Power Marketing, Inc., for certain Planned Service and Unplanned Service transactions under TXU Electric's Tariff for Transmission Service To, From and Over Certain HVDC Interconnections.

TXU Electric requests an effective date for the TSA that will permit it to become effective as of March 9, 2000. Accordingly, TXU Electric seeks waiver of the Commission's notice requirements.

Copies of the filing were served on FPL Energy Power Marketing, Inc., as well as the Public Utility Commission of Texas.

Comment date: April 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

19. Indianapolis Power & Light Company

[Docket No. ER00–2150–000]

Take notice that on April 7, 2000, Indianapolis Power & Light Company (IPL), tendered for filing a market-based power sales tariff.

IPL requests that the tariff supersede the market-based power sales tariff filed in Docket No. ER00–1026–001.

Copies of this filing were served on the Indiana Utility Regulatory Commission.

Comment date: April 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

20. Southern Indiana Gas and Electric Company

[Docket No. ER00–2151–000]

Take notice that on April 7, 2000, Southern Indiana Gas and Electric Company (SIGECO), tendered for filing a Wholesale Energy Service Agreement dated March 21, 2000, with Tractebel Energy Marketing, Inc., concerning the provision of electric service to Tractebel Energy Marketing, Inc., as a umbrella service agreement under its market-based Wholesale Power Sales Tariff:

Comment date: April 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

21. Southwest Power Pool, Inc.

[Docket No. ER00–2153–000]

Take notice that on April 7, 2000, Southwest Power Pool, Inc. (SPP), on behalf of its members, tendered for filing changes to its open access transmission tariff (Tariff) in order to revise its tariff provisions to allow SPP to allow SPP to waive its deposit requirements on a non-discriminatory basis for customers that have been determined by SPP to be creditworthy.

SPP requests an effective date of April 8, 2000, for these changes.

Copies of this filing were served upon all members and customers of SPP, and on all affected state commissions.

Comment date: April 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–9771 Filed 4–18–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

April 13, 2000.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Minor License.

b. *Project No.:* 11566–000.

c. *Date Filed:* December 12, 1995.

d. *Applicant:* Ridgewood Maine Hydro Partners, L.P.

e. *Name of Project:* Damariscotta Mills Project.

f. *Location:* On the Damariscotta River in Lincoln County, near Newcastle, Nobleboro, and Jefferson, Maine.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Kevin M. Webb, CHI Energy, Inc., Andover Business Park, 200 Bulfinch Drive, Andover, MA 01810, (978) 681–7727.

i. *FERC Contact:* Any questions on this notice should be addressed to Michael Spencer, E-mail address, michael.spencer@ferc.fed.us, or telephone (202) 219–2846.

j. Deadline for comments, recommendations, terms and conditions, and prescriptions: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Status of environmental analysis:* This application has been accepted for filing and is ready for environmental analysis at this time.

l. *Description of the Project:* The existing project consists of: (1) a 5-foot-high, 124-foot-long concrete dam with three stoplog bays referred to as the "Fishway Dam"; (2) a 5-foot-high, 40-foot-long dike; (3) a 9.5-foot-high, 57-foot-long concrete dam with two waste gates and a stoplog bay referred to as the "Waste Gate Dam"; (4) a 15-foot-high intake structure, referred to as the "Intake Dam" consisting of: (a) two stone masonry wing walls, extending 125 feet along the east bank and 50 feet along the west bank of the impoundment; (b) steel trashracks and (c) a wooden gatehouse containing a manually operated wooden headgate; (5) a 4,625-acre reservoir with 6,875 acre-feet storage volume at the normal surface elevation of 54.35 feet, National Geodetic Vertical Datum (NGVD); (6) a 5.6-foot-diameter, 350-foot-long steel penstock; (7) a surge tank at the end of

the penstock; (8) a 30×35 foot masonry powerhouse containing a single generating unit having an installed capacity of 460 kW and an average annual generation of 1,830 MWh; (9) a 100-foot-long, 12.47–kV underground transmission line; and (10) appurtenant facilities.

m. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (Call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address shown in item h.

Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause of extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Environmental Engineering Review, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

David P. Boergers,

Secretary.

[FR Doc. 00–9758 Filed 4–18–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent to File Application for a New License

April 13, 2000.

Take notice that the following notice of intent has been filed with the Commission and is available for public inspection:

a. *Type of filing:* Notice of Intent to File an Application for New License.

b. *Project No.:* 2067.

c. *Date filed:* July 30, 1999.

d. *Submitted By:* Oakdale Irrigation District and Sam Joaquin Irrigation District, current licensees.

e. *Name of Project:* Tulloch.

f. *Location:* On the Stanislaus River in Tuolumne and Calaveras Counties, California.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act, 18 CFR 16.6.

h. Pursuant to Section 16.19 of the Commission's regulations, the licensee is required to make available the information described in Section 16.7 of the regulations. Such information is available from the licensee at Tri-Dam Project, 31885 Old Strawberry Road, Strawberry, California 95375. Interested parties can contact Steve Felte on (209) 965–3996.

i. *FERC Contact:* Héctor M. Pérez, (202) 219–2843, *hector.perez@ferc.fed.us.*

j. *Expiration Date of Current License:* December 31, 2004.

k. The project consists of a dam and reservoir, a penstock, a powerhouse with an installed capacity of 8,550 kilowatts, and a switchyard.

l. The licensee states its unequivocal intent to submit an application for a new license for Project No. 2067. Pursuant to 18 CFR 16.9(b)(1) each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 2002.

m. A copy of the notice of intent is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The notice may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

David P. Boergers,

Secretary.

[FR Doc. 00–9762 Filed 4–18–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Lease of Project Lands for Non-Project Use and Soliciting Comments, Motions To Intervene, and Protests

April 13, 2000.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Lease of Project Lands for Non-Project Use.

b. *Project No.:* 2503–057.

c. *Date Filed:* March 24, 2000.

d. *Applicant:* Duke Energy Corporation.

e. *Name of Project:* Keowee-Toxaway Project.

f. *Location:* The project is located on Lake Keowee in Oconee County, South Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Joe Hall, Lake Management Representative, Duke Power Company, P.O. Box 1006, Charlotte, NC 28201–1006, (704) 382–8576.

i. *FERC Contact:* Any questions about this notice should be addressed to Amy K. Chang, E-mail address, *amy.chang@ferc.fed.us,* or telephone number, (202) 208–1199.

j. *Deadline for filing comments and/or motions:* May 17, 2000.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

Please include the Project Number, P–2503–057, on any comments or motions filed.

k. *Description of Filing:* Duke Energy Corporation (Licensee) requests Commission approval to grant a lease to Keowee Key Property Owner's Association (KKPOA) for five commercial/residential marine areas which would utilize 12 parcels of land containing a total of 11.34 acres. This proposal involves the use of the following existing facilities: 1 boat ramp, 2 commercial gasoline sales docks, and 12 cluster dock facilities with a total of 185 boat slips. Some of these existing facilities were previously approved by the Commission (see 28 FERC ¶62,440 and 35 FERC ¶162,025). In addition, KKPOA has proposed to construct an additional 5 cluster dock facilities with a total of 90 boat slips.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at *www.ferc.fed.us/online/rims.htm.* Call (202) 208–2222 for assistance.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 00–9763 Filed 4–18–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2000–010]

Power Authority of the State of New York; Notice of Meetings To Discuss Settlement for Relicensing of the St. Lawrence-FDR Power Project

April 13, 2000.

The establishment of the Cooperative Consultation Process (CCP) Team and the Scoping Process for relicensing of the St. Lawrence-FDR Power Project was identified in the NOTICE OF MEMORANDUM OF UNDERSTANDING, FORMATION OF COOPERATIVE CONSULTATION PROCESS TEAM, AND INITIATION OF SCOPING PROCESS ASSOCIATED WITH RELICENSING THE ST. LAWRENCE-FDR POWER PROJECT issued May 2, 1996, and found in the **Federal Register** dated May 8, 1996, Volume 61, No. 90, on page 20813.

The following is a list of the tentative meetings for the CCP Team to continue settlement negotiations on ecological and local issues. The meetings will be conducted at the New York Power Authority's (NYPA) Robert Moses Powerhouse, at 10:00 a.m., located in Massena, New York.

The CCP Team will meet:

April 25, 2000
May 31, 2000
June 28, 2000
August 8, 2000

If you would like more information about the CCP Team and the relicensing process, please contact any one of the following individuals:

Mr. Thomas R. Tatham, New York Power Authority, (212) 468–6747, (212) 468–6141 (fax), EMAIL: *Tatham.T@NYPA.Gov*

Mr. Bill Little, Esq, New York State Dept. of Environmental Conservation, (518) 457–0986, (518) 457–3978 (fax), EMAIL: *WGLittle@GW.DEC.State.NY.US*

Dr. Jennifer Hill, Federal Energy Regulatory Commission, (202) 219–2797, (202) 219–2732 (fax), EMAIL: *Jennifer.Hill@FERC.FED.US*

Further information about NYPA and the St. Lawrence-FDR Power Project can be obtained through the Internet at *http://www.stl.nypa.gov/index.html.* Information about the Federal Energy Regulatory Commission can be obtained at *http://www.ferc.fed.us*

David P. Boergers,

Secretary.

[FR Doc. 00–9764 Filed 4–18–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–199–000]

Reliant Energy Gas Transmission Company; Notice of Technical Conference

April 13, 2000.

In the Commission's order issued on March 31, 2000,[1] the Commission directed that a technical conference be held to address issues raised by the filing.

Take notice that the technical conference will be held on Tuesday, May 2, 2000, at 9:30 am, in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

All interested parties and Staff are permitted to attend.

David P. Boergers,

Secretary.

[FR Doc. 00–9767 Filed 4–18–00; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–64043A; FRL–6550–8]

Azinphos-Methyl; Cancellation Order

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

[1] 90 FERC ¶ 61,341.

SUMMARY: This order announces the use deletions and cancellations as requested by the companies that hold the registrations of pesticide products containing the active ingredient azinphos methyl and accepted by EPA, pursuant to section 6(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This order follows up a December 3, 1999, notice of receipt of requests for amendments to delete uses and receipt of a request for registration cancellations. In that notice, EPA indicated that it would issue an order confirming the voluntary use deletions and registration cancellations. As of April 19, 2000 any distribution, sale, or use of azinphos methyl products is only permitted in accordance with the terms of the existing stocks provisions of this cancellation order.

DATES: The cancellations are effective April 19, 2000.

FOR FURTHER INFORMATION CONTACT: Barry O'Keefe, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–308–8035; fax number: 703–308–8041; e-mail address: okeefe.barry@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. However, you may be potentially affected by this action if you manufacture, sell, distribute, or use azinphos methyl products. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in Unit I of this document. The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

1. *Electronically.* You may obtain copies of this document and certain other available support documents from the EPA Internet Home Page at http://www.epa.gov/. You may access this document by selecting "Laws and Regulations" on EPA's Home Page and then looking up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the "**Federal Register**" listings at http://www.epa.gov/fedrgstr/. To access information about the risk assessment for azinphos methyl, go to the Home Page for the Office of Pesticide Programs or go directly to http://www/epa.gov/oppsrrd1/op/azm.htm.

2. *In person.* The Agency has established an official record for this action under docket control number [OPP–64043A]. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is 703–305–5805.

II. Background

A. What Action is the Agency Taking?

In a memorandum of agreement ("Agreement") effective August 2, 1999, EPA and a number of registrants of products containing azinphos methyl agreed to several voluntary measures to reduce the dietary, agricultural worker, and ecosystem risks associated with azinphos methyl exposure. As part of the Agreement, the signatory and non-signatory registrants, among other things, agreed to delete the use of azinphos methyl products on cotton in Louisiana and east of the Mississippi River, and on sugarcane, ornamentals (except for nursery stocks), Christmas trees, shade trees, and forest trees.

On December 3, 1999 (64 FR 67899) (FRL–6394–8), EPA published in the **Federal Register** a notice of the Agency's receipt of requests from the signatory registrants and one non-signatory registrant of pesticide products containing azinphos methyl to amend their registrations to delete the use of azinphos methyl products on cotton in Louisiana and east of the Mississippi River, and on sugarcane, ornamentals (except for nursery stocks), Christmas trees, shade trees, and forest trees pursuant to section 6(f)(1)(A) of FIFRA. The registrations for which amendments were requested are identified in Table 1 below. EPA also announced the request of one of the signatory registrants to cancel some of its registrations of pesticide products containing azinphos methyl. The registrations for which cancellation was requested are identified in Table 2.

TABLE 1.—REGISTRATIONS WITH REQUESTED AMENDMENTS

Company	Reg. No.	Product	SLNs
Bayer Corporation	3125–108	85% Technical	
	3125–102	22.2% Emulsifiable Concentrate	
	3125–301	50% Wettable Powder	NJ9400300
Makhteshim Chemical Works, Ltd	11678–4	85% Technical	
	11678–53	85% Formulation Intermediate	
Makhteshim-Agan of North America, Inc	66222–11	50% Wettable Powder	
	66222–12	22.1% Emulsifiable Concentrate	
	66222–16	22.1% Emulsifiable Concentrate	
Gowan Company	10163–78	50% Wettable Powder	AZ94000800
	10163–80	22.2% Emulsifiable Concentrate	

TABLE 1.—REGISTRATIONS WITH REQUESTED AMENDMENTS—Continued

Company	Reg. No.	Product	SLNs
	10163–95	85% Technical	.....
	10163–138	35% Wettable Powder	
	10163–139	35% Wettable Powder	.....
	10163–180	50% PVA (Water Soluble Bags)	.....
Micro-Flo Corporation	51036–76	22.2% Emulsifiable Concentrate	.....
	51036–130	35% Wettable Powder	.....
	51036–164	50% Water Dispensable Granules	AZ99000500
Platte Chemical Company	34704–691	22.2% Emulsifiable Concentrate	.....

TABLE 2.—REGISTRATIONS WITH CANCELLATION REQUESTS

Company	Reg. No.	Product	SLNs
Micro-Flo Corporation	[a]51036–76	22.2% Emulsifiable Concentrate	TX89001100
	51036–205	50% Wettable Powder	.....
	51036–207	22.2% Emulsifiable Concentrate	.....

[a] Note that EPA Reg. No. 51036–76 is not being canceled; rather SLN TX89001100 is being canceled.

B. What is the Agency's Authority for Taking this Action?

In the December 3, 1999, FR Notice, EPA requested public comment on the voluntary cancellation and use deletion requests, and provided a 30-day comment period. The registrants requested that the Administrator waive the 180-day period provided under FIFRA section 6(f)(1)(C). No public comments were submitted to the docket in response to EPA's request for comments.

III. Cancellation Order

Pursuant to section 6(f) of FIFRA, EPA is approving the requested use deletions and the requested registration cancellations. Accordingly, the Agency orders that the registrations identified in Table 1 above are hereby amended to delete use on cotton in Louisiana and east of the Mississippi River, and on sugarcane, ornamentals (except for nursery stocks), Christmas trees, shade trees, and forest trees. The Agency also orders that the registrations identified in Table 2 are hereby canceled. Any distribution, sale, or use of existing stocks of the products identified in Tables 1 and 2 above in a manner inconsistent with the terms of this Order or the Existing Stock Provisions in Unit IV of this **Federal Register** Notice will be considered a violation of section 12(a)(2)(K) of FIFRA and/or section 12(a)(1)(A) of FIFRA.

IV. Existing Stocks Provisions

For purposes of this Order, the term "existing stocks" is defined, pursuant to EPA's existing stocks policy (56 FR 29362, June 26, 1991), as those stocks of a registered pesticide product which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the amendment or cancellation.

A. Distribution or Sale by Registrants

Unless existing stocks of products identified in Table 1 above have been relabeled in a manner consistent with the Agreement, the distribution or sale of such stocks by registrants is not lawful under FIFRA after April 19, 2000, except for the purposes of returns and relabeling, shipping such stocks for export consistent with the requirements of section 17 of FIFRA, or for proper disposal. The distribution or sale of existing stocks of products identified in Table 2 above by registrants is not lawful under FIFRA after April 19, 2000, except for the purposes of shipping such stocks for export consistent with the requirements of section 17 of FIFRA or for proper disposal.

B. Distribution or Sale by Other Persons

Unless existing stocks of products identified in Table 1 above have been relabeled in a manner consistent with the Agreement, the distribution or sale of such stocks by persons other than registrants is not lawful under FIFRA after April 19, 2000, except for the purposes of returns and relabeling, shipping such stocks for export consistent with the requirements of section 17 of FIFRA, or for proper disposal. The distribution or sale of existing stocks of products identified in Table 2 by persons other than registrants is not lawful under FIFRA after April 19, 2000, except for the purposes of shipping such stocks for export consistent with the requirements of section 17 of FIFRA or for proper disposal.

C. Use of Existing Stocks

The use of existing stocks of products identified in Tables 1 and 2 above on cotton in Louisiana and east of the Mississippi River, and on sugarcane, ornamentals (except nursery stock), Christmas trees, shade trees, and forest trees will be lawful under FIFRA until such stocks are depleted provided that the use is in accordance with either the directions for use contained in the Agreement or the existing labeling of that product.

List of Subjects

Environmental protection, pesticides and pests.

Dated: April 10, 2000.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 00–9798 Filed 4–18–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–923; FRL–6495–7]

Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain

pesticide chemicals in or on various food commodities.

DATES: Comments, identified by docket control number PF–923, must be received on or before May 19, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–923 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Marshall Swindell, PM 33 Regulatory Management Branch I, Antimicrobials Division (7510C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–6341; e-mail address: swindell.marshall@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production. Animal production. Food manufacturing. Pesticide manufacturing.

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

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

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number PF–923. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–923 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: *"opp-docket@epa.gov,"* or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–923. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your

response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 11, 2000.

Frank Sanders,

Director, Antimicrobials Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioners. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Milliken Chemical

8F5007

EPA has received a supplement to a pesticide petition (8F5007) from Milliken Chemical, P.O. Box 1927, Spartanburg, SC 29304–1927, proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for silver sodium hydrogen zirconium phosphate, when used as an antimicrobial agent at levels up to 2% by weight, in or on polymers used for food-contact surfaces, for the following applications: containers, tubing, utensils, hardware, filters, appliances, food preparation, or processing surfaces, food storage devices, coverings, film, packaging (other than food packaging regulated exclusively by the Food, and Drug Administration (FDA)), fabrics, equipment, conveyance, and transport items, and tools. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time, or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* Silver sodium hydrogen zirconium phosphate will not be used on growing plants. Plant metabolism studies are therefore not necessary.

2. *Analytical method.* Silver sodium hydrogen zirconium phosphate and its potential migration products, silver and zirconium, have been determined to be at such low levels that there is no need for an established method for quantitating levels of such residues in or on food.

3. *Magnitude of residues.* The proposed use of silver sodium hydrogen zirconium phosphate is at levels up to 2% by weight in or on substances such as polymers. Migration studies estimate the maximum amounts of silver and zirconium that might migrate from a polymer impregnated with silver sodium hydrogen zirconium phosphate are less than the limits of detection (i.e., 10 parts per billion (ppb) for silver, and 20 ppb for zirconium). The levels of anticipated residues of silver and zirconium that might migrate from contact substances into or onto food are expected to be negligible.

B. Toxicological Profile

1. *Acute toxicity.* The acute toxicity data for silver sodium hydrogen zirconium phosphate are the following: (i) The acute median lethal oral dose in rats is greater than 5 g/kg body weight (Toxicity Category IV); (ii) the acute median lethal dermal dose in rats is greater than 2 g/kg body weight (Toxicity Category III); (3) the acute inhalation median lethal concentration is greater than 5.18 milligram liter (mg/L) in rats with nose only exposure (Toxicity Category IV); (iv) eye irritation and opacity is reversible within 72 hours in rabbits (Toxicity Category III); (v) no dermal irritation is induced when applied at 0.5 g under occlusion to rabbits (Toxicity Category IV); and (vi) no evidence of dermal sensitization is produced in guinea pigs.

2. *Genotoxicity.* Mutagenicity tests for silver sodium hydrogen zirconium phosphate are negative in the *Ames Salmonella typhimurium*, and *Escherichia coli* (wp2 uvrA) assays with and without activation, and are negative in the forward mutation mouse lymphoma assay with and without activation. Silver sodium hydrogen zirconium phosphate shows no evidence for chromosome-damaging activity in the mouse micronucleus test.

3. *Reproductive and developmental toxicity.* Doses up to 1,000 milligrams/kilograms/day (mg/kg/day) of silver sodium hydrogen zirconium phosphate showed no evidence for maternal toxicity and no statistically significant test material-related effects on the growth and development of offspring. Visceral and skeletal anomalies were proportional in fetuses from control and treated rats. The maternal (systemic) no observed adverse effect level (NOAEL) was 1,000 mg/kg/day, and the developmental (fetal) NOAEL was 1,000 mg/kg/day.

4. *Subchronic toxicity*—i. *Palatability study.* Doses up to 1,000 mg/kg/day of silver sodium hydrogen zirconium phosphate in the diet of male and female rats for 14 days caused no deaths, no abnormal clinical signs, no effects on body weights, and no palatability problems.

ii. *Ninety-day oral toxicity.* Male and female rats were administered silver sodium hydrogen zirconium phosphate in the diet for 13 weeks at concentrations up to 1,000 mg/kg/day. Increases in cholesterol in males and in alkaline phosphatase in females were observed but were not biologically significant. The NOAEL was 1,000 mg/kg/day, and the NOAEL was 30 mg/kg/day.

5. *Chronic toxicity.* No chronic exposure to silver sodium hydrogen zirconium phosphate is expected, therefore, no chronic toxicity studies are needed. Five chronic toxicity studies failed to show effects when silver was administered in the drinking water of rats.

6. *Carcinogenicity.* No chemical carcinogenicity is expected from silver sodium hydrogen zirconium phosphate. This is based on the absence of significant adverse toxicological effects in the subchronic study, and negative genotoxicity data. Negligible exposure to migrant silver is expected from the proposed uses of silver sodium hydrogen zirconium, based on migration studies. The levels of silver found in the normal human diet are greater than could potentially arise from migration. EPA classifies silver as a Group D carcinogen.

7. *Metabolite toxicology.* The principal migration products from silver sodium hydrogen zirconium phosphate are silver and zirconium. Silver has an EPA reference dose (RfD) of 0.005 mg/kg/day and does not occur normally in animal or human tissues. The major effect of excessive absorption of silver is local or generalized impregnation of the tissue with silver, a condition called argyria. Argyria is not associated with any adverse health effects. Silver is absorbed from the lungs and in small amounts from the gastrointestinal (GI) tract, and form complexes with albumin. The GI tract is the major route of excretion of silver (90 to 99% in 2 days).

Zirconium is extensive in the human diet with the daily uptake up to 125 mg. The toxicity level for this ubiquitous element is negligible. Zirconium is present and retained in high quantities in biological systems, but has not been associated with any specific metabolic function. The average body burden is 250 mg.

8. *Endocrine disruption.* Silver sodium hydrogen zirconium phosphate, silver, and zirconium are not chemically or structurally similar to natural hormones, and are not expected to disrupt, block, enhance, mimic, or otherwise interfere with normal endocrine system functions.

C. Aggregate Exposure

1. *Dietary exposure.* Based on the toxicity data, an aggregate risk, or likelihood of the occurrence of an adverse health effect resulting from all routes of exposure to silver sodium hydrogen zirconium phosphate is not anticipated. Used in polymeric food contact substances, dietary exposures to migrant silver and zirconium are estimated in migration studies to be below 10 ppb for silver, and 20 ppb for zirconium. These levels are much less than in a normal human diet. For the migration studies, silver sodium hydrogen zirconium phosphate was embedded in a polymer, and migrant silver and zirconium were extracted into ethanol for quantitation by atomic absorption (silver) and UV/VIS absorption (zirconium). The Estimated Dietary Intakes (EDIs) that might be expected to enter the diet as a result of the proposed use of the silver sodium hydrogen zirconium phosphate were 12 µg/day (silver), and 24 µg/day (zirconium). These levels are not expected to induce toxicity.

i. *Food.* Silver sodium hydrogen zirconium phosphate will be incorporated into polymeric food contact substances, will not be introduced intentionally into food, and is not expected to induce acute or chronic toxicological concerns. The calculated RfD for silver sodium hydrogen zirconium phosphate is 0.003 mg/kg/day and is based on the subchronic toxicity (NOAEL=30 mg/kg/day) and accepted uncertainty factors that account for extrapolation from the subchronic NOAEL, extrapolation from animals to humans, variation among the human population, and a worst case modifying factor. EPA RfD for silver is 0.005 mg/kg/day.

ii. *Drinking water.* Silver sodium hydrogen zirconium phosphate will be incorporated into polymeric food contact substances and will not be introduced intentionally into the environment or the drinking water. If a drinking water exposure of 1 mg were assumed, the lifetime daily exposure level would be 1.0×10^{-6} mg/kg/day and would not cause toxic responses.

2. *Non-dietary exposure.* The proposed uses of silver sodium hydrogen zirconium phosphate are not expected to result in any significant non-dietary exposure for the general population.

D. Cumulative Effects

The cumulative exposure assessment provides an estimate of the extent to which a defined population is exposed to two or more chemicals which share a common mechanism of toxicity by all relevant routes and from all relevant sources. There are no data to suggest that silver or zirconium are synergistic or antagonistic of each other, or of silver sodium hydrogen zirconium phosphate.

E. Safety Determination

1. *U.S. population.* The toxicology data provided to establish an exemption from the requirement of a tolerance for silver sodium hydrogen zirconium phosphate demonstrate that this substance is of a very low order of toxicity. The EDIs for the silver and zirconium migrants from the pesticide chemical are 12 µg/day (4 ppb) for silver, and 24 µg/day (8 ppb) for zirconium. These exposure levels are not significant health or safety concerns. The RfD for silver sodium hydrogen zirconium phosphate is 0.003 mg/kg/day and is comparable to the RfD of 0.005 mg/kg/day for silver. For zirconium, neither an RfD nor an ADI have been established due to the absence of toxicological concern for this ubiquitous element. Zirconium is present at high levels in foods; the average daily intake is estimated to be 4.2 mg/kg/day. This level far exceeds the maximum contribution of zirconium anticipated from silver sodium hydrogen zirconium phosphate in polymeric food-contact materials.

For drinking water, EPA has established a Secondary Maximum Contaminant Level (SMCL) for silver of 0.1 mg/L, and the FDA bottled drinking water standard is 50 µg/L. These standards far exceed the anticipated drinking water exposure levels of 0.039 µg/kg calculated for silver sodium hydrogen zirconium phosphate.

2. *Infants and children.* The potential for additional sensitivity of infants and children was assessed from a developmental toxicity study in rats. Doses up to 1,000 mg/kg/day elicited no maternal toxicity and no significant effects on the growth and development of offspring (fetal NOAEL = 1,000 mg/kg/day).

Based on migration data with silver sodium hydrogen zirconium phosphate, consumption patterns of infants and children (i.e., a 10 kg child consumes 1 kg of food), and the assumption that 80% of the diet comes into contac with polymeric packaging material containing the pesticide chemical, the expected dietary exposure to silver and zirconium are calculated as:

Silver: 0.80×5 ppb = 4 ppb (4 ppb of 1,000 g daily diet = 4 µg/person/day).

Zirconium: 0.80×10 ppb = 8 ppb (8 ppb of 1,000 g daily diet = 8 µg/person/day).

These exposure levels are not expected to cause toxicological responses.

There is no evidence that infants and children would: (1) consume disproportionately high levels of food containing residues of sodium hydrogen zirconium phosphate, silver or zirconium; (2) be more susceptible to silver sodium hydrogen zirconium phosphate, silver or zirconium; (3) be susceptible to growth and development defects or neurological effects induced by silver sodium hydrogen zirconium phosphate; or (4) experience harm from cumulative or aggregate exposures to silver sodium hydrogen zirconium phosphate or to silver and zirconium.

F. International Tolerances

There are no international tolerances for silver sodium hydrogen zirconium phosphate. There are no U.S. EPA, CODEX (international), Canadian or Mexican tolerances for silver.

[FR Doc. 00–9665 Filed 4–18–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–936; FRL–6554–3]

Notice of Filing a Pesticide Petition to Establish a Tolerance for Certain Pesticide Chemicals in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the amendment of a pesticide petition (PP7E4920), proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–936, must be received on or before May 19, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–936 in the subject line on the first page of your response.

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

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

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

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number PF–936. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–936 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: "*opp-docket@epa.gov,*" or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–936. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 10, 2000.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioner. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Novartis Crop Protection, Inc.

7E4920

Amended Pesticide Petition

On April 15, 1998, EPA published a notice that it had received a pesticide petition (7E4920) from Novartis Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419, proposing tolerances for the herbicide safener cloquintocet-mexyl acetic acid, (5-chloro-8-quinolinyl)oxy-,1-methylhexylester; CGA-185072) in or on raw agricultural commodities (RACs) of wheat. EPA has received an amendment to PP 7E4920 from Novartis Crop Protection, Inc., proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 to increase, as requested by EPA, the original proposed tolerances; thereby establishing tolerances for the combined residues of cloquintocet-mexyl and its acid metabolite, CGA-153433 (5-chloro-8-quinolinyl)oxy-acetic acid), in or on the RACs wheat, grain at 0.1 part per million (ppm); wheat, forage at 0.1 ppm; wheat, hay at 0.1 ppm; and wheat, straw at 0.1 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* The metabolism of cloquintocet-mexyl in wheat has been investigated. Total residues in all crop samples are low. Metabolism involves primarily rapid hydrolysis of the parent to the resulting acid followed by conjugation.

2. *Analytical method.* Novartis has submitted practical analytical methods for the determination of cloquintocet-mexyl and its major plant metabolite CGA-153433 in wheat RACs. Cloquintocet-mexyl is extracted from crops with acetonitrile, cleaned up by solvent partition and solid phase extraction and determined by column switching high performance liquid chromotography (HPLC) with ultra violet (UV) detection. CGA-153433 is extracted from crops with an acetone-buffer (pH=3) solution, cleaned up by solvent partition and solid phase extraction, and determined by HPLC with UV detection. The limits of quantification (LOQ) for the methods are 0.02 ppm for cloquintocet-mexyl in forage and grain, 0.05 ppm for cloquintocet-mexyl in straw, and 0.05 ppm for CGA-153433 in forage, straw and grain.

3. *Magnitude of residues.* Both Canadian and United States spring wheat residue trials were conducted. Twelve residue trials were conducted from 1989–1992 in the major spring wheat growing areas of Manitoba, Alberta, and Saskatchewan, which share compatible crop zones with the major spring wheat growing areas of the United States (MT, ND, SD, MN). Nine trials were conducted in 1989–91 with a tank mix of clodinafop-propargyl active ingredient (a.i.) and the cloquintocet-mexyl safener as separate EC formulations and three trials in 1992 were conducted with clodinafop-propargyl and the cloquintocet-mexyl safener as a pre-pack EC formulation. All trials had a single post-emergence application of CGA-185072 at a rate of 20 gram active ingredient/hectacre (g a.i./ha). In 1998, an additional six spring wheat trials were conducted in the major growing areas of the United States. In these trials, cloquintocet-mexyl was applied as a safener in conjunction with clodinafop-propargyl as a 240EC formulation. The rate of cloquintocet-mexyl applied was 17 g a.i./ha as a single application. Samples of 30-day forage and hay, and mature straw and grain treated 60 days prior to harvest were taken for analysis. Grain treated at an exaggerated rate in one trial was processed under simulated commercial processing conditions. At pre-harvest intervals (PHIs) of 55–97 days, no detectable residues of cloquintocet-mexyl or its metabolite CGA-153433 were found in mature grain or straw from these trials. Separate decline studies three on green forage showed no detectable residues of cloquintocet-mexyl or CGA-153433 at 3 days after application. Freezer storage stability studies indicated reasonable stability of both analytes for a period of 1 year, with cloquintocet-mexyl declining to 83% in grain and 67% in straw after 2 years, while CGA-153433 was stable for at least 2 years.

B. Toxicological Profile

1. *Acute toxicity.* The acute oral and dermal LD_{50} values for cloquintocet-mexyl are greater than 2,000 milligrams/kilograms (mg/kg) for rats of both sexes, respectively. Its acute inhalation LC_{50} in the rat is greater than 0.935 milligram/liter (mg/L), the highest attainable concentration. Cloquintocet-mexyl is slightly irritating to the eyes, minimally irritating to the skin of rabbits, but was found to be sensitizing to the skin of the guinea pig. This technical will carry the EPA signal word "Caution."

2. *Genotoxicity.* The mutagenic potential of cloquintocet-mexyl was investigated in six independent studies covering different end points in eukaryotes and prokaryotes *in vivo* and *in vitro*. These tests included: Ames reverse mutation with *Salmonella typhimurium* and Chinese hamster V79 cells *in vitro*; chromosomal aberrations using human lymphocytes *in vitro* and the mouse micronucleus test *in vivo*; and DNA repair using rat hepatocytes and human fibroblasts *in vitro*. Cloquintocet-mexyl was found to be negative in all these tests and, therefore, is considered devoid of any genotoxic potential at the levels of specific genes, chromosomes or DNA primary structure.

3. *Reproductive and developmental toxicity.* Dietary administration of cloquintocet-mexyl over 2 generations at levels as high as 10,000 part per million (ppm) did not affect mating performance, fertility, or litter sizes, but a slightly reduced body weight development of adults and pups was noted at this level. The target organ was the kidney in adults and pups. The treatment had no effect on reproductive organs. The no observed adverse effect level (NOAEL) for toxicity to the offspring and parental toxicity was 5,000 ppm, corresponding to a mean daily intake of 370 to 422 mg/kg/day of cloquintocet-mexyl. The reproductive NOAEL was > 10,000 ppm (722 mg/kg/day).

In a developmental toxicity study in rats, the highest dose level of 400 mg/kg bwt day resulted in reduced body weight gain of the dams and signs of retarded fetal development. No teratogenic activity of the test article was detected. The NOAEL for dams and fetuses was 100 mg/kg bwt day.

In a developmental toxicity study in rabbits, mortality was observed in dams at dose levels of 300 mg/kg. No teratogenic effects were noted. Fetuses showed signs of slightly retarded development. The NOAEL for both dams and fetuses was 60 mg/kg bwt day. EPA's Hazard Identification Assessment Review Committee (HIARC) suggested the maternal NOAEL was 60 mg/kg, but the developmental toxicity NOAEL is > 300 mg/kg/day.

4. *Subchronic toxicity.* In a 90-day study, rats fed 6,000 ppm exhibited reduced body weight gain and one male died with acute nephritis and inflamed urinary bladder. Reduced liver and kidney weights were observed in males fed 1,000 and 6,000 and in females fed 6,000 ppm. Target organs were identified to be kidney and urinary bladder. The NOAEL was 150 ppm (9.66 mg/kg in males and 10.2 mg/kg in females). EPA's HIARC concluded that the NOAEL in females was 6,000 ppm (407 mg/kg/day).

In a 90-day study in beagle dogs, a level of 40,000 ppm resulted in deterioration of general condition so that the feeding level was reduced in a stepwise fashion to 15,000 ppm. Anemia was noted at 15,000 and 1,000 ppm. The NOAEL of 100 ppm was equivalent to a mean daily intake of 2.9 mg/kg in males and females.

5. *Chronic toxicity.* In a 12-month feeding study in dogs, 15,000 ppm resulted in inappetence and body weight loss. As a result, this feeding level was adjusted to 10,000 ppm after 2 weeks. Animals fed this level exhibited anemia and an elevation in blood urea levels. The kidney was considered the target organ. The NOAEL of 1,500 ppm was equivalent to a mean daily intake of 43.2 mg/kg in males and 44.8 mg/kg in females.

Lifetime dietary administration of cloquintocet-mexyl to mice resulted in reduced body weights in both sexes at 5,000 ppm. Overall body weight gain was reduced by 17% to 22% in males and females, respectively, indicating the MTD was achieved or exceeded. Histopathological examination revealed chronic inflammation of the urinary bladder. There was no indication of any tumorigenic response due to treatment. The NOAEL of 1,000 ppm was equivalent to a mean daily dose of 111 mg/kg in males and 102 mg/kg in females.

Rats were fed a top feeding level of 2,000 ppm, based on the 90-day subchonic study, for a lifetime. This feeding level was well-tolerated, but produced hyperplasia of the thymus in males at the top dose and hyperplasia of the thyroid in females at 1,000 and 2,000 ppm. There was no increase in tumors of any type and the total number of tumor-bearing animals showed no dose-related trends. The NOAEL of 100 ppm was equivalent to a mean daily dose of 4.33 mg/kg in females. EPA's HIARC suggested that the NOAEL in male rats was 1,000 ppm (36.4 mg/kg/day).

6. *Carcinogenicity.* There is no evidence supporting any oncogenic potential associated with cloquincet-mexyl. EPA's HIARC classified cloquintocet-mexyl as a "not likely" human carcinogen according to the proposed guidelines for carcinogen risk assessment.

7. *Animal metabolism.* In rats, approximately 50% of an oral dose of cloquintocet-mexyl was rapidly absorbed through the gastrointestinal tract and excreted via urine and bile. The administered dose was excreted independent of sex and was essentially complete within 48 hours. Ninety-five percent of the excreted dose was associated with one metabolite, an acid residue of cloquintocet-mexyl, CGA-153433. Simultaneous administration of the cloquintocet-mexyl and clodinafop-propargyl did not alter the rate of excretion of cloquintocet-mexyl or its metabolite pattern.

8. *Metabolite toxicology.* At the present time there is no evidence which affords an association of the toxicity noted with the highest feeding levels of cloquintocet-mexyl with its primary metabolite, CGA-153433.

9. *Endocrine disruption.* A special study was conducted to investigate a histological finding of hyperplasia of thyroid gland epithelium noted in the female rat in the standard lifetime combined chronic toxicity and carcinogenicity study. This study was a 28-day oral gavage study with a 28-day recovery period at dose levels as high as 400 mg/kg/day or approximately 4,000 ppm. No effect was noted on the level of thyroid hormones at any of the treatment levels. Although a slight stimulation of the thyroid and an accompanying increase in pituitary basophilic cells were noted at the end of 28-days, these effects were reversible in the recovery period.

C. Aggregate Exposure

1. *Dietary exposure.* Cloquintocet-mexyl is intended as a safener for the postemergence herbicide, clodinafop-propargyl, used on wheat. The use rate for cloquintocet-mexyl is very low (formulated at a 1:4 ratio of safener to active ingredient and results from plant metabolism and residue studies show that residues are below the detection limit in wheat grain and other wheat fractions. The tolerance expression will include parent cloquintocet-methyl and the corresponding hydrolysis product, CGA-153433, and tolerances are being proposed at 0.1 ppm in wheat grain, forage, hay, and straw. No tolerances are proposed for secondary residues in animal commodities since residues would be far below the LOQ of existing analytical methodology.

i. *Food.* Chronic and acute dietary exposure analyses were conducted using the dietary exposure evaluation model (DEEM) from Novigen Sciences and the 1994–96 Continuing Survey of Food Intake by Individuals (CSFII). Chronic and acute tier one dietary assessments were made assuming tolerance-level residues and treatment of 100% of all planted wheat.

a. *Chronic.* Chronic exposure was compared to a reference dose (RfD) of 0.04 mg/kg/day which was derived from

a NOAEL of 4.3 mg/kg/day in a chronic toxicity/carcinogenicity study in female rats and a 100x uncertainty factor (UF). Exposure was calculated assuming that 100% of crop was treated and residues were at the proposed tolerance levels of 0.1 ppm for wheat grain and associated fractions. Exposure for the U.S. population was minimal with 0.4% of the RfD utilized and this result was the same for the U.S. population through all seasons and all ethnic groups. The most sensitive subpopulation was children (1–6 years old) with an exposure of 0.9% of the chronic RfD. These results are extremely conservative since tolerance values were used and are reflective of the maximum application rate and minimum PHI. In addition, it was assumed that all planted acres are treated. Therefore, there is more than a reasonable certainty of no harm resulting from exposure to residues of cloquintocet-mexyl.

b. *Acute.* Acute exposure was assessed for the female population (13+ years) only and was compared to an acute RfD of 1.0 mg/kg/day based on a NOAEL of 100 mg/kg/day from a developmental toxicity study in rats and a 100x UF. The resulting assessment revealed that exposures to all female subpopulations reported in the DEEM were between 0.03%–0.04% of the RfD at the 95th percentile of exposure. The 95th percentile is the appropriate percentile to consider since this assessment is based on tolerance-level residues and 100% of crop treated was assumed. Even at the 99.9th percentile of exposure, the results show that females (13–50 years old) utilize only 0.07% of the acute RfD. EPA's HIARC concluded that no acute dietary assessment was necessary for the general population because a suitable toxicological endpoint (resulting from a single dose exposure) was not identified in either the rat or rabbit developmental studies.

ii. *Drinking water.* Another potential route of exposure to residues of pesticides includes drinking water. Field and laboratory study results have demonstrated that cloquintocet-mexyl and its degradation products have minimal potential to reach surface or ground water. Thus, drinking water exposure to cloquintocet-mexyl and its degradation products was not included in the aggregate risk assessment. Also, since cloquintocet-mexyl is not intended for uses other than the agricultural use on wheat, there is no potential for non-occupational exposure.

The estimated exposures of cloquintocet-mexyl and its main environmental degradate were combined and the hazards for both compounds were based on the RfD values determined for cloquintocet-mexyl alone. The estimated water concentrations for cloquintocet-mexyl and the degradate were estimated, weighted and combined based on applications rates adjusted for the maximum concentration of the degradate present in the aerobic soil metabolism studies.

The GENEEC and SCI–GROW models respectively provided the estimated surface water and ground water concentrations. The estimated acute exposures from drinking surface and ground water were 0.04964 part per billion (ppb) and 0.006166 ppb, respectively. The females 13+ years sub-population was the only subgroup which was required for the acute exposure assessment. The acute exposures for females 13+ years were based on 1.0 mg/kg/day. Based on the 95th percentile acute dietary assessment, the females (13+/nursing) was the most exposed female sub-population at 3.71E-6 mg/kg/day. This resulted in an acute DWLOC of 30,000 ppb. Therefore, the estimated acute surface and ground water exposures for cloquintocet-mexyl and its degradate did not exceed the exposure allowed by the risk cup. The chronic dietary exposures for all sub-populations provided DWLOC values of 224 to 1,396 ppb. The estimated chronic exposures from drinking surface and ground water were 0.00316 ppb and 0.006166 ppb, respectively. Therefore, the estimated acute and chronic drinking water exposures of cloquintocet-mexyl and its degradate did not exceed the exposures allowed by the risk cup.

2. *Non-dietary exposure.* Exposure to cloquintocet-mexyl for the mixer/loader/ground-boom/aerial applicator and flagger was calculated using the pesticide handlers exposure data base. It was assumed that the product would be applied 6 days per year by ground-boom application to a maximum of 80 acres per day by the grower, 15 days per year by ground-boom application to a maximum of 80 acres per day by the commercial ground-boom applicator, and 15 days per year to a maximum of 350 acres per day by the aerial applicator, at a maximum use rate of 7.1 grams cloquintocet-mexyl per acre. For purposes of this assessment, it was assumed that an applicator would be wearing a long-sleeved shirt and long pants and the mixer/loader would, in addition, wear gloves. Daily doses were calculated for a 70 kg person assuming 100% dermal penetration. Short-term and intermediate-term dermal and inhalation risk assessments were performed. Doses and endpoints used for risk assessments were based on Agency determined toxicological endpoints recommended by the HIARC. The NOAEL of 200 mg/kg/day from the 28-day rat dermal toxicity study was used for short-term and intermediate-term dermal risk assessments. The NOAEL of 100 mg/kg/day from the developmental toxicity study in rats was used for short-term inhalation risk assessments. The NOAEL of 4.3 mg/kg/day from the 2-year chronic toxicity study in rats was used for intermediate-term risk assessments. Based on the use pattern, no long-term dermal or inhalation exposure is expected to occur and long-term risk assessments are not required.

Large margins of exposure (MOE) exist for all occupational exposure scenarios. Short-term dermal exposure MOEs ranged from 6.4E+04 for the commercial open mixer-loader to 2.8E+06 for the commercial or grower groundboom enclosed-cab applicator. Intermediate-term dermal exposure MOEs ranged from 1.6E+06 for the commercial open mixer-loader to 1.7E+08 for the grower ground-boom enclosed-cab applicator. Short-term inhalation exposure MOEs ranged from 2.8E+06 for the commercial open mixer-loader to 1.3E+08 for the commercial or grower ground-boom enclosed-cab applicator. Intermediate-term inhalation exposure MOEs ranged from 3.0E+06 for the commercial open mixer-loader to 3.4E+08 for the grower ground-boom enclosed-cab applicator.

Although there are no residential uses of cloquintocet-mexyl, there is potential for residential exposure to spray drift resulting from aerial application. No standard operating procedure exists for performing this risk assessment; however, a very conservative risk assessment was performed assuming dermal exposure equal to total deposition to outside clothing for a flagger as well as inhalation exposure equivalent to a pesticide flagger, as reflected in PHED. A dermal absorption factor of 100% and offsite drift of 15% were assumed. The area assumed to be adjacent to the sensitive area was one acre. Large MOEs exist for this potential exposure scenario. Dermal exposure MOEs were 2.4E+07 for a 15 kg child and 1.1E+08 for a 70 kg adult. Inhalation MOEs were 1.8E+09 for a 15 kg child and 8.6E+09 for a 70 kg adult.

D. Cumulative Effects

Novartis has considered the potential for a cumulative exposure assessment for effects of cloquintocet-mexyl and other substances with the same mechanism of toxicity. It is concluded that such a determination would be

inappropriate at this time because of the unique role of cloquintocet-mexyl as a product-specific safener.

E. Safety Determination

1. *U.S. population.* Acute and chronic dietary exposure is minimal for cloquintocet-mexyl and corresponding hydrolysis product, CGA-153433. Both chronic and acute exposure estimates at the 95th percentile showed that less than 1.0% of the reference dose is utilized in all populations. These exposure estimates are extremely conservative and are based on tolerance-level residues and assume all planted acres are treated.

Exposure through the consumption of drinking water is minimal from both surface water and ground water model estimates and in all cases less than 1% of the risk cup is utilized. The estimated water concentrations are very conservative since conservative model parameters were assumed.

There are no residential uses of cloquintocet-mexyl that would result in non-dietary exposure. However, there is a remote possibility that spray drift resulting from aerial application could lead to residential exposure. Since exposure from spray drift would be an unlikely event, it is not appropriate to include non-dietary exposure into the aggregate assessment. Therefore, it is concluded that there is a more than a reasonable certainty that no harm will result from aggregate exposure to residues of cloquintocet-mexyl.

2. *Infants and children.* In assessing the potential for additional sensitivity of infants and children to residues of cloquintocet-mexyl, data from developmental toxicity studies in the rat and rabbit and a 2-generation reproduction study in the rat have been considered. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from chemical exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to a chemical on the reproductive capability of mating animals and data on systemic toxicity.

The highest dose level of 400 mg/kg/day in a developmental toxicity study in rats resulted in reduced body weight gain of the dams and signs of retarded fetal development. No teratogenic activity due to the test article was detected. The NOAEL for dams and fetuses was 100 mg/kg/day. Although mortality was observed in rabbit dams at the dose level of 300 mg/kg/day, no teratogenic effects were noted. The maternal NOAEL was 60 mg/kg/day, but the developmental NOAEL was > 300 mg/kg/day.

Dietary administration of cloquintocet-mexyl over 2-generations at levels as high as 10,000 ppm did not affect mating performance, fertility, or litter sizes in rats, but a slightly reduced body weight development of adults and pups was noted at this level. The target organ was kidney in adults and pups. The treatment had no effect on reproductive organs. The parental and developmental NOAEL was 5,000 ppm, corresponding to a mean daily intake of 370 to 422 mg/kg/day of cloquintocet-mexyl. The reproductive NOAEL was > 10,000 ppm (722 mg/kg/day). FFDCA section 408 provides that EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base. Based on the current toxicological data requirements, the data base relative to prenatal and postnatal effects for children is complete. EPA's HIARC concluded that there was no concern for an increased susceptibility for cloquintocet-mexyl based on the reproduction study in rats and the developmental studies in rat and rabbit. Further, for cloquintocet-mexyl, the NOAEL of 4.3 mg/kg/day from the combined chronic/oncogenicity study in rats, which was used to calculate the RfD, is already lower than the developmental NOAEL of 100 mg/kg/day for the rat developmental toxicity study. Further, the developmental and parental NOAEL of 370 mg/kg/day from the cloquintocet-mexyl reproduction study is nearly 100 times greater than the NOAEL for the combined chronic/oncogenicity rat study. These data would indicate that there is no additional sensitivity of infants and children to cloquintocet-mexyl. Therefore, it is concluded that an additional UF is not warranted to protect the health of infants and children from the use of cloquintocet-mexyl.

Using conservative exposure assumptions, dietary exposure to the most sensitive subpopulation, children (1–6 years old), is 0.9% of the chronic reference dose (RfD). Chronic dietary exposure to infants (non-nursing, 1–6 years old) is 0.2% of the chronic RfD. EPA's HIARC concluded that no acute dietary assessment was necessary for the general population (infants and children) because a suitable toxicological endpoint (resulting from a single dose exposure) was not identified in either the rat or rabbit developmental studies.

Although not required, acute dietary exposure to infants and children was assessed. Acute exposures for all infants and children at the 95th percentile are less than 1.0% of the acute RfD (0.08% of the RfD for the most sensitive subpopulation, children 1–6 years). Exposures to drinking water for children (1–6 years old) and infants utilize less than 1% of the chronic and acute RfD values (worst-case surface water estimates). These results show that aggregate exposure to residues of cloquintocet-mexyl in the diet and drinking water is negligible. Based on the completeness and reliability of the toxicity data and the conservative nature of the exposure assumptions, it is concluded that there is a more than reasonable certainty that no harm will result to infants and children from exposure to residues of cloquintocet-mexyl.

F. International Tolerances

Cloquintocet-mexyl is used as a safener for the herbicide, clodinafop-propargyl. There are no Codex Alimentarius Commission (CODEX) maximum residue levels (MRLs) established for residues of cloquintocet-mexyl in or on RACs.

[FR Doc. 00–9796 Filed 4–18–00; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50868; FRL–6553–3]

Experimental Use Permit; Receipt of Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application 67986–EUP–E from AgriPhi, Inc. requesting an experimental use permit (EUP) for the microbial bacteriophages. The Agency has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting comments on this application.

DATES: Comments, identified by docket control number OPP–50868, must be received on or before May 19, 2000.

ADDRESSES: Comments and data may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number

OPP–50868 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Linda Hollis, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8733; and e-mail address: hollis.linda@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to tomato greenhouse operators and tomato farmers for beneficial use in the control of bacterial diseases of tomato such as: bacterial spot of tomato and pepper, in addition to bacterial canker, speck or wilt of tomato, bacterial brown spot, common or halo blight of beans, blackleg and soft rot of potato, black rot of crucifers, fireblight of apple and pear. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–50868. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–50868 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: "opp-docket@epa.gov," or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–50868. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Proposed Experimental Program

AgriPhi, Inc. seeks to continue their ongoing EUP program by requesting a 2 year experimental use permit to further evaluate the effectiveness of AGRIPHAGE (a bacteriophage) under normal production conditions for its control of bacterial speck of tomato (*Pseudomonas syringae pv. tomato*) and bacterial black spot of tomato/pepper (*Xanthomonas campestris pv. vesicatoria*). Testing will be conducted in the states of Arizona, Florida, Georgia, Kentucky, New Mexico, and South Carolina on a total of 2,810 acres. Approximately 200 pounds of the active ingredient or 10,000 pounds of the formulated product will be used for testing.

III. What Action is the Agency Taking?

Following the review of the AgriPhi, Inc. application and any comments and data received in response to this notice, EPA will decide whether to issue or deny the EUP request for this EUP program, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the **Federal Register**.

List of Subjects

Environmental protection, Experimental use permits.

Dated: April 5, 2000.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 00–9664 Filed 4–18–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00652; FRL–6552–2]

Pesticides; Guidance for Pesticide Registrants on First Aid Instructions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: EPA is announcing the availability of guidance which provides revised first aid instructions for all pesticide products. Pesticide Registration (PR) Notice 2000–3 is effective now, but comments will be accepted for 30 days, after which the Agency may revise the notice. The first aid instructions have been revised to reflect more medically correct information and to make them easier to find and be understood.

DATES: Comments, identified by docket control number OPP–00652, must be received on or before May 19, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00652 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Amy Breedlove, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9069; fax number: (703) 305–5884; e-mail address: breedlove.amy@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to those persons who register or regulate pesticides, as well as poison control centers, and the medical community, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

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

1. *Electronically.* You may obtain electronic copies of this document and the PR Notice from the Office of Pesticide Programs' Home Page at http://www.epa.gov/pesticides/. You can also go directly to the listings from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *Fax on Demand.* You may request a faxed copy of the PR Notice titled "First Aid Statements on Pesticide Product Labels," by using a faxphone to call (202) 401–0527 and selecting item 6126. You may also follow the automated menu.

3. *In person.* The Agency has established an official record for this action under docket control number OPP–00652. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00652 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: "opp-docket@epa.gov," or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6, Suite 8, or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00652. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of

the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Guidance Does this PR Notice Provide?

The PR Notice provides revised recommended first aid instructions for all pesticide products, unless they are determined to be medically inappropriate. Some of the major changes include revising the ingestion first aid statements so that inducing vomiting is only recommended by a doctor or poison control center, not the label; the first aid statements are now the same for all toxicity categories; the instructions have been revised to be easier to understand and, in some cases, more explicit. The heading "First Aid" is being recommended for use in place of "Statement of Practical Treatment." In addition, a format using non-narrative text and a box or table to highlight the information is being suggested. The PR Notice provides separate instructions for products containing petroleum distillates. The recommendation is now being made to avoid ingesting any water (or other liquids) for these products, unless data shows it is advantageous.

While the PR Notice is effective now, we will accept comments for 30 days. If the PR Notice is revised, EPA will issue an updated notice.

B. Why is a PR Notice Guidance and Not a Rule?

The PR Notice discussed in this notice is intended to provide guidance to EPA personnel and decision-makers, and to the public. As a guidance document and not a rule, this policy is not binding on either EPA or any outside parties. Although this guidance document provides a starting point for EPA decisions, EPA will depart from this policy where the facts or circumstances warrant. In such cases, EPA will explain why a different course was taken. Similarly, outside parties remain free to assert that this policy is not appropriate for a specific pesticide or that the specific circumstances demonstrate that this policy should be abandoned.

EPA has stated in this notice that it will make available revised guidance after consideration of public comment, if necessary. Public comment is not being solicited for the purpose of converting this guidance document into a binding rule. EPA will not be codifying this policy in the Code of Federal Regulations. EPA is allowing for comments so as to ensure the revised guidance is complete and medically accurate.

The "revised" guidance will not be an unalterable document. Once a "revised" guidance document is issued, EPA will continue to treat it as guidance, not a rule. Accordingly, on a case-by-case basis, EPA will decide whether it is appropriate to depart from the guidance or to modify the overall approach in the guidance. In the course of commenting on this guidance document, EPA would welcome comments that specifically address how the guidance document can be structured so that it provides meaningful guidance without imposing binding requirements.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, First aid.

Dated: April 14, 2000.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

[FR Doc. 00–9797 Filed 4–18–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6581–8]

Prospective Purchaser Agreement and Covenant Not To Sue Under the Comprehensive Environmental Response, Compensation, and Liability Act Regarding the Yurgin Motors Superfund Site, Mantua Township, NJ

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed prospective purchaser agreement and request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA"), 42 U.S.C. 9601 *et seq.*, the U.S. Environmental Protection Agency ("EPA") announces a proposed administrative settlement with the Matthew F. Guzzo (The "Settling Party"), a "prospective purchaser" of the Yurgin Motors Superfund Site ("Site") in Mantua Township, New Jersey. The proposed administrative settlement is memorialized in an Agreement And Covenant Not To Sue ("Agreement") between EPA and Matthew F. Guzzo. By this Notice, EPA is informing the public of the proposed settlement and of the opportunity to comment.

In 1996 EPA performed a CERCLA removal action at the Site, a wooded lot of some 26 acres in a residential area. The previous owner operated an automotive repair facility at the Site, leaving behind various waste materials containing hazardous substances. During the removal action EPA removed drums, compressed gas cylinders, small containers containing corrosive and ignitable wastes, PCBs, and halogenated solvents from the Site. Now abandoned, the Site is an eyesore with dilapidated buildings and has attracted trash dumpers. Mr. Guzzo has pledged to demolish the buildings, clean up the Site, and remove two empty underground storage tanks. EPA believes this settlement serves the public interest because the Site will be restored to a useful condition.

Under the agreement, Matthew Guzzo will pay $6,500 to EPA and in return will receive a covenant not to sue from the United States for civil liabilities pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a), with the respect to existing contamination present at the Site.

EPA will consider any comments received during the comment period

and may withdraw or withhold consent to the proposed settlement if any comments provide information which indicates the proposed settlement is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway, 17th Floor, New York, New York 10007–1866. Telephone: (212) 637–3142.

Pursuant to EPA guidance, the Agreement may not be issued without the concurrence of the Assistant Attorney General for Environment and natural resources of the U.S. Department of Justice. The Assistant Attorney general has approved the proposed Agreement in writing.

DATES: Comments must be provided within May 19, 2000.

ADDRESSES: Comments should be sent to the U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway, 17th Floor, New York, NY 10007–1866 and should refer to: the Yurgin Motors Superfund Site, U.S. EPA Docket No. II–CERCLA 99–0104.

FOR FURTHER INFORMATION CONTACT: U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway, 17th Floor, New York New York 10007–1866. Telephone: (212) 637–3142.

SUPPLEMENTARY INFORMATION: A copy of the proposed administrative settlement may be obtained in person or by mail from Neil Norrell, U.S. Environmental Protection Agency, 2890 Woodbridge Avenue Edison, New Jersey 08837–3679. Telephone: (732) 321–4357.

Dated: April 6, 2000.

William J. Muszynski,

Acting Regional Administrator, Region II.

[FR Doc. 00–9794 Filed 4–18–00; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

April 12, 2000.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 19, 2000. 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.

ADDRESS: Direct all comments to Les Smith, Federal Communications Commissions, Room 1 A–804, 445 Twelfth Street, S.W., Washington, DC 20554 or via the 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 the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Number: 3060–0342.

Title: Section 74.1284 Rebroadcasts.

Form Number: None.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 100.

Estimated time per response: 1 hour.

Total annual burden: 100 hours.

Total annual costs: $0.

Needs and Uses: Section 74.1284 requires that the licensee of an FM Translator station obtain prior consent from the primary FM broadcast station or other FM translator before rebroadcasting their programs. In addition, the licensee must notify the Commission of the call letters of each station rebroadcast and must certify that written consent has been received from the licensee of that station. The data are used by FCC staff to update records and to assure compliance with FCC rules and regulations.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–9703 Filed 4–18–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

April 10, 2000.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 19, 2000. 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 Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0589.
Title: Remittance Advice and Continuation Sheet.
Form No.: FCC Form 159 and 159–C.
Type of Review: Extension of currently approved collection.
Respondents: Individual or households, business or other for-profit, not-for-profit institutions, state, local or tribal governments.
Number of Respondents: 635,738.
Estimated Time Per Response: .50 hours (30 minutes).
Frequency of Response: On occasion reporting requirement.
Total Annual Burden: 317,869 hours.
Total Annual Cost: N/A.
Needs and Uses: The FCC Forms 159 and 159–C are required for payment of regulatory fees, and for use when paying for multiple filings by a single payment instrument, or when paying by credit card. The forms require specific information to track payment history, and to facilitate the efficient and expeditious processing of collections by a lockbox bank. The forms were revised to include the FCC Registration Number (FRN) which is used for anyone who requires services from the Commission. These forms were approved by the Office of Management and Budget (OMB) under their emergency processing provisions on March 3, 2000. This notice is to obtain comment prior to obtaining the full three-year OMB approval.

OMB Control No.: 3060–0728.
Title: Supplemental Information Requesting FCC Registration Number for Debt Collection.
Form No.: N/A.
Type of Review: Extension of currently approved collection.
Respondents: Individual or households, business or other for-profit, not-for-profit institutions, state, local or tribal governments.
Number of Respondents: 1,532,064.
Estimated Time Per Response: .017 hours (1 minute).
Frequency of Response: On occasion reporting requirement.
Total Annual Burden: 26,045 hours.
Total Annual Cost: N/A.
Needs and Uses: The FCC Registration Number (FRN) is used by the FCC for the purpose of collecting and reporting on any delinquent amounts arising out of such person's relationship with the Federal Communications Commission (FCC). It is also used by any person doing business with the Commission that does not require a regulatory fee. This collection was approved by the Office of Management and Budget (OMB) under their emergency processing provisions on March 3, 2000. This notice is to obtain comment prior to obtaining the full three-year OMB approval.

OMB Control No.: 3060–0917.
Title: CORES Registration Form.
Form No.: FCC Form 160.
Type of Review: Extension of currently approved collection.
Respondents: Individual or households, business or other for-profit, not-for-profit institutions, state, local or tribal governments.
Number of Respondents: 500,000.
Estimated Time Per Response: .166 hours (10 minutes).
Frequency of Response: One time reporting requirement.
Total Annual Burden: 83,000 hours.
Total Annual Cost: N/A.
Needs and Uses: This form is used for a standard data repository for entity name, address, Tax Identification Number (TIN), telephone number, e-mail, fax, contact representative, and contact representative information. The Commission Registration System (CORES) will assign each entity doing business with the Commission a FCC Registration Number (FRN). The purpose of the FRN is for collecting and reporting on any delinquent amounts arising out of such person's relationship with the FCC. This form was approved by the Office of Management and Budget (OMB) under their emergency processing provisions on March 3, 2000. This notice is to obtain comment prior to obtaining the full three-year OMB approval.

OMB Control No.: 3060–0918.
Title: CORES Update/Change Form.
Form No.: FCC Form 161.
Type of Review: Extension of currently approved collection.
Respondents: Individual or households, business or other for-profit, not-for-profit institutions, state, local or tribal governments.
Number of Respondents: 250,000.
Estimated Time Per Response: .166 hours (10 minutes).
Frequency of Response: On occasion reporting requirement.
Total Annual Burden: 41,500 hours.
Total Annual Cost: N/A.
Needs and Uses: This form will be used to update/change entity name, address, telephone number, e-mail, fax, contact representative, and contact representative information that is in the CORES system. The Commission Registration System (CORES) will assign each entity doing business with the Commission a FCC Registration Number (FRN). The purpose of the FRN is for collecting and reporting on any delinquent amounts arising out of such person's relationship with the FCC. This form was approved by the Office of Management and Budget (OMB) under their emergency processing provisions on March 3, 2000. This notice is to obtain comment prior to obtaining the full three-year OMB approval.

OMB Control No.: 3060–0919.
Title: CORES Certification Form.
Form No.: FCC Form 162.
Type of Review: Extension of currently approved collection.
Respondents: Individual or households, business or other for-profit, not-for-profit institutions, state, local or tribal governments.
Number of Respondents: 50,000.
Estimated Time Per Response: .084 hours (5 minutes).
Frequency of Response: On occasion reporting requirement.
Total Annual Burden: 4,200 hours.
Total Annual Cost: N/A.
Needs and Uses: This form will be used during the transition period of the FCC Registration Number (FRN) to allow all Bureaus and Offices of the FCC to update all FCC forms requiring a block for FRN. The FRN will be used to collect and report any delinquent amounts arising out of such person's relationship with the Commission. This form was approved by the Office of Management and Budget (OMB) under their emergency processing provisions on March 3, 2000. This notice is to obtain comment prior to obtaining the full three-year OMB approval.

Federal Communications Commission.
Magalie Roman Salas,
Secretary.
[FR Doc. 00–9704 Filed 4–18–00; 8:45 am]
BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

April 11, 2000.

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, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the

Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 19, 2000. 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 Commissions, 445 12th Street, SW., Room 1–A804, Washington, DC 20554 or via the 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 the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0868.

Title: Construction of Grand-Fathered Multilateration Location Monitoring Service (LMS) Sites.

Form Number: N/A.

Type of Review: Extension.

Respondents: Business or other for-profit.

Number of Respondents: 10.

Estimated Time Per Response: 10 hours.

Frequency of Response: On occasion.

Total Annual Burden: 10 hours.

Total Annual Cost: 1,075.

Needs and Uses: This collection will allow the Commission to determine which LMS licensees are operating in compliance with our rules. Prior to the December 15, 1998, multilateration LMS auction, the Commission must determine the current status of certain grand-fathered licenses. For due diligence and valuation purposes, the Commission needs to know whether these licensees have constructed and put their facilities into operation as required by our rules.

OMB Control Number: 3060–0441.

Title: 90.621(b)(4) Selection and assignment of frequency.

Form Number: N/A.

Type of Review: Extension

Respondents: Business or other for-profit, Not-for-profit institutions, and State, Local or Tribal Government.

Number of Respondents: 33.

Estimated Time Per Response: 1.5 hours.

Frequency of Response: On occasion.

Total Annual Burden: 25.

Total Annual Cost: 9,234.

Needs and Uses: Rule requires SMR applicants who wish to locate stations closer than required mileage separation from existing co-channel station to file additional information and in some instances, a waiver.

OMB Control Number: 3060–0461

Title: 90.173 Policies governing the assignment of frequencies.

Form Number: N/A.

Type of Review: Extension.

Respondents: Business or other for-profit and State, Local or Tribal Government

Number of Respondents: 200.

Estimated Time Per Response: 4.5 hours.

Frequency of Response: On occasion.

Total Annual Burden: 900 hours.

Total Annual Cost: N/A.

Needs and Uses: Information needed to determine that licensee is in violation of rules so identifier can be given licensing preference for channels recovered.

OMB Control Number: 3060–0691.

Title: Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside of the Designated Filing Areas in the 896–901 MHz Bands Allotted to the Specialized Mobile Radio Pool, 2nd Order on Reconsideration & 7th Report and Order for the 900 MHz Specialized Mobile Radio Service.

Form Number: N/A.

Type of Review: Extension.

Respondents: Business or other for-profit (P), and Individuals or households.

Number of Respondents: 1,020.

Estimated Time Per Response: 7 hours.

Frequency of Response: On occasion.

Total Annual Burden: 1,139.

Total Annual Cost: 284,251.

Needs and Uses: This collection will be used to ensure that applicants comply with Commission Rules. Respondents will be individuals or entities who will be acquiring licenses for use of spectrum in wireless communications.

OMB Control Number: 3060–0865.

Title: Wireless Telecommunications Bureau Universal Licensing System Record-keeping and Third Party Disclosure Requirements.

Form Number: N/A.

Type of Review: Extension.

Respondents: Business or other for-profit (P), Individuals or households, Not-for-profit institutions, and State, Local or Tribal Government.

Number of Respondents: 62,790.

Estimated Time Per Response: 393 hours.

Frequency of Response: On occasion.

Total Annual Burden: 77,164.

Total Annual Cost: N/A.

Needs and Uses: ULS establishes streamlined set of rules that minimize filing requirements, eliminates redundant, or unnecessary submission requirements; and assures ongoing collection of reliable licensing and ownership data. The record keeping and third party disclosure requirements contained in this collection are a result of the elimination of a number of filing requirements. The ULS forms contain a number of certifications, however, applicants must maintain records to document compliance with the requirements for which they provide certifications. In some instances third party co-ordinations are required.

OMB Control Number: 3060–0280.

Title: 90.633(f) & (g) Conventional systems loading requirements (wide area systems).

Form Number: N/A.

Type of Review: Extension.

Respondents: Business or other for-profit (P), Not-for-profit institutions, and State, Local or Tribal Government.

Number of Respondents: 15.

Estimated Time Per Response: 1 hour.

Frequency of Response: On occasion.

Total Annual Burden: 10.

Total Annual Cost: 2,964.

Needs and Uses: Rule provides for the authorization of wide area or ribbon systems upon an appropriate showing of need. The information is used to determine if such systems should be authorized.

OMB Control Number: 3060–0702.

Title: Amendment of Part 20 and 24 of the Commission's Rules—Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, Amendment of the Commission's Cellular PCS Cross-Ownership Rule, Notice of Proposed Rule Making.

Form Number: FCC Forms 175 and 600.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, individuals or households, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 6,000.

Estimated Time Per Response: 13 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 77,817.

Total Annual Cost: 17,087,948.00.

Needs and Uses: Applicants are required to file certain information so that the Commission can determine whether the applicants are legally, technically, and financially qualified to be licensed and to determine whether applicants claiming designated entity status are entitled to certain benefits. Affected parties include any member of the public who wishes to become a broadband PCS licensee.

OMB Control Number: 3060–0697.

Title: Revision of part 22 and part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems (Second Report and Order and Further Notice of Proposed Rulemaking Memorandum Opinion and Order on Reconsideration and Third Report and Order.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, individuals or households, not-for-profit institutions, state, local, or tribal government.

Number of Respondents: 600.

Estimated Time Per Response: 1 hour.

Frequency of Response: On occasion reporting requirement and recordkeeping requirement.

Total Annual Burden: 600 hours.

Total Annual Cost: N/A.

Needs and Uses: The information will be used by the Commission to facilitate the successful coexistence of incumbent and geographic area paging licensees; to lessen the administrative burden on licensees and to simplify the paging licensing database; to determine the partitioned service areas and the geographic area licensee's remaining service area of parties to a partitioning agreement; to determine whether a geographic area licensee and parties to partitioning and disaggregation agreements have met the applicable coverage requirements for their respective service areas; to determine whether an applicant is eligible to receive bidding credits as a small business; to determine the real parties in interest of any joint bidding agreements; and to determine the appropriate unjust enrichment compensation to be remitted to the government.

OMB Control Number: 3060–0066.

Title: Application for Renewal of Instructional Television Fixed Station and/or Response Station(s) and Low Power Relay Station(s) License.

Form Number: FCC 330–R.

Type of Review: Extension of currently approved collection.

Respondents: Not for-profit institutions, state, local or tribal government.

Number of Respondents: 75.

Estimated Time per Response: 3 hours.

Total Annual Burden: 225 hours.

Total Annual Costs: $0.

Needs and Uses: FCC 330–R is used by licensees of Instructional Television Fixed (ITFS), Response, and Low Power Relay Stations to file for renewal of their licenses. The data are used by FCC staff to ensure that ITFS licensees continue to meet basic Commission policies and rules, as well as statutory requirements to remain a licensee.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–9705 Filed 4–18–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

April 12, 2000.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before May 19, 2000. 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 Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0837.

Title: Application for DTV Broadcast Station License.

Form No.: FCC Form 302–DTV.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions.

Number of Respondents: 100.

Estimated Time Per Response: 1.5 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 150 hours.

Total Annual Cost: $22,000.

Needs and Uses: The FCC Form 302–DTV is used by licensees and permittees of DTV broadcast stations to obtain a new or modified station license, and/or to notify the Commission of certain changes in the licensed facilities. The data is used by FCC staff to confirm that the station has been built to terms specified in the outstanding construction permit and to ensure that any changes made to the station will not have any impact on other stations and the public. Data is extracted from the FCC Form 302–DTV for inclusion in the license to operate the station.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–9702 Filed 4–18–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW, Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 217–011657–002.

Title: Zim/Italia-D'Amico Space Charter Agreement.

Parties: Zim Israel Navigation Company Ltd., Italia D'Navigazione S.p.A., D'Amico Di Navigazione S.p.A.

Synopsis: The parties are amending their agreement by deleting Israel from the geographic scope, revising the amount of space available to Zim, and removing restrictions on allocated space for cargo moving eastbound from Haifa and cargo loaded/discharged at Piraeus.

Agreement No.: 232–011701.

Title: P&O Nedlloyd/FMC Agreement 232–011694, Cross Space Charter and Sailing Agreement.

Parties: CGA CGM, S.A., China Shipping Container Line, P&O Nedlloyd Limited, P&O Nedlloyd B.V.

Synopsis: The proposed agreement authorizes the parties to exchange container slots and agree upon the chartering, deployment, and utilization of vessels in the trade between U.S. East Coast ports and points, and ports and points in Panama, Jamaica, and the Far East (Japan/Hong Kong range). The parties have requested expedited review.

Agreement No.: 217–011702.

Title: Hapag-Lloyd/Lykes Space Charter Agreement.

Parties: Hapag-Lloyd Container Linie GmbH ("Hapag-Lloyd"), Lykes Lines Ltd., LLC ("Lykes").

Synopsis: The proposed Agreement would permit Lykes to charter space to Hapag-Lloyd in the trade between United States Atlantic and Gulf ports and ports in countries bordering on the Mediterranean Sea. The Agreement also provides for limited forms of cooperation in connection with the chartering of that space.

Agreement No.: 232–011703.

Title: NYKNOS/CSAV Space Charter and Sailing Agreement.

Parties: Compania Sud Americana de Vapores, S.A., NYKNOS Joint Service Agreement.

Synopsis: The proposed Agreement would permit the parties to charter space to one another and to coordinate their vessel services in the trade between the Atlantic and Gulf Coasts of the United States and ports in Panama, Colombia, Venezuela, and Pacific Coast ports in Central and South America. They would also be permitted to cooperate in matters related to equipment and various shoreside services. The parties have requested expedited review.

Dated: April 14, 2000.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 00–9828 Filed 4–18–00; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicant

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for licenses as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants

Nextrans International, Inc., 1225 W. 190th Street, Suite 310, Gardena, CA 90248, Officers: John A. Kamischke, President (Qualifying Individual), Roy W. Cheong, Secretary

Transcon Shipping Co., Inc., 2157 Center Ave., Unit #4, Fort Lee, NJ 07024, Officers: Terrence P. Lynch, President (Qualifying Individual), Wai Wong, Vice President

Galaxy Shipping Company, Inc., 314 Whites Landing, Long Beach, CA 90803, Officers: Eliane Tiharu Susaki, Secretary (Qualifying Individual), Les Atterbury III, President

MTL Worldwide Agency, Inc., 228 51st Street, Brooklyn, NY 11220, Officer: Aleksandr Solovyev, President (Qualifying Individual)

Trans Orient Express LLC, 2625 Athena Place, Fullerton, CA 92833, Officers: Edward Chang, Chief Operating Officer (Qualifying Individual), Jia He Bai, President

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Transunion America, Inc., 66–00 Long Island Expressway, Suite 200, Maspeth, NY 11378, Officers: Brigid Gatti, Secretary, Geri S. Alex, Import and Export Manager (Qualifying Individuals), Jose Viano, President

Ocean Freight Forwarders—Ocean Transportation Intermediary Applicants

Cardel International Shipping Corp., 405 North 61st Avenue, Hollywood, FL 33024, Officer: Carmen Delgado, President (Qualifying Individual)

Dated: April 14, 2000.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 00–9827 Filed 4–18–00; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Government in the Sunshine Meeting; Notice

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, April 24, 2000.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW, Washington, DC 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.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: April 14, 2000.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 00–9882 Filed 4–14–00; 5:00 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 00073]

Research Grants for Investigating the Cost, Onset, and Development of Community Measurements of Secondary Conditions in Persons With Disabilities; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2000 research grant funds. The purpose of this program is to support research projects in three Focus Areas related to: (1) Cost identification of secondary conditions; (2) determining patterns related to the onset and course of secondary conditions among persons with disabilities; and (3) the development of measures and instruments at the community level to assess those environmental factors that contribute to or mitigate the development of secondary conditions. CDC is committed to achieving the health promotion and disease prevention objectives of "Healthy People 2010," a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the focus area of Disability and Secondary Conditions. For the conference copy of "Healthy People 2010," visit the internet site *http://www.health.gov/healthypeople.*

B. Eligible Applicants

Applications may be submitted by public and private non-profit organizations, including universities; university-affiliated systems, including not-for-profit medical centers; research institutions and rehabilitation hospitals; State health departments and other related State government agencies; and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

Note: Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $3,500,000 will be available in FY 2000 to fund 10 to 12 research grants. It is expected that the average award for projects in Focus Areas 1 and 3 will be $280,000, ranging from $240,000 to $320,000. It is expected that awards in Focus Area 2 will not exceed $350,000.

It is anticipated that awards will begin on or before September 1, 2000, for a twelve month budget period within a project period of up to three years. Funding estimates are subject to change. Continuation awards within an approved project period will be based on satisfactory progress as evidenced by required reports, monitoring conducted by the funding agency, and the availability of funds.

Applicants cannot include activities related to more than one Focus Area in the same proposal. In the event that an applicant elects to address more than one Focus Area, complete and separate applications must be submitted.

Use of Funds

Grant funds may be used to support personnel services, supplies, equipment, travel, subcontracts, and other services directly related to project activities consistent with the approved scope of work. Project funds cannot be used to supplant other available applicant or collaborating agency funds, for construction, for lease or purchase of facilities or space, or for patient care. Project funds cannot be used for individualized preventive measures (direct patient support) such as for wheelchairs, medical appliances, or assistive technology unless specifically approved by the funding agency.

CDC will sponsor annual workshops for all grantees. By virtue of accepting an award, applicants will have agreed to use grant funds to travel to and participate in these workshops. Applicants should budget travel funds for two staff members to attend one workshop in Atlanta during the first year, and also for two staff members to participate in the Disability Forum of the American Public Health Association conference in Boston in November 2000.

Funding Preferences

The precise number of awards in each of the three Focus Areas is not yet known, but CDC anticipates that no fewer than three awards will be made in each Focus Area. Scores and rankings of applications reviewed will be distinguished by individual Focus Area. Award decisions will be made according to Focus Area. The CDC review and award decision process will take into account achieving a balance of projects based on targeted population groups of persons with disabilities selected for emphasis, methodological variation, and geographical distribution considerations, such as urban/rural distinctions. CDC has an expressed interest in considering applications that address multiple diagnostic categories of persons with disabilities within the research design.

D. Programmatic Interests

The programmatic interest is centered on the following:

Focus Area 1: This Focus Area includes research on selected secondary conditions using cost identification methods (*i.e.*, "cost analysis", "cost itemization," "cost inventory"), or, at the discretion of the applicant, expansion of cost identification research to incorporate methods of cost-effectiveness analysis. As a foundation, proposed research under this Focus Area must utilize cost identification methods. This research can also include fundamental cost identification augmented by cost-effectiveness analysis, or cost-utility analysis which is a specialized form of cost-effectiveness analysis.

This research can include identifying costs and outlays for: (i) The individual, care givers, or third party payers; costs for personal care assistance services; (ii) costs for adaptive equipment and technology; (iii) costs of interventions applied toward preventing or treating secondary conditions; and (iv) direct costs related to treatment of the underlying disability itself, as distinguished from direct costs associated with the identified secondary conditions.

Focus Area 2: This Focus Area is designed to measure patterns of onset and course of selected secondary conditions that undermine and adversely affect the quality of life and independence of persons with disabilities. Methods for measuring patterns of onset can rely on direct observation of a currently ongoing or newly established cohort of participants, or statistical modeling using observational data derived from a currently ongoing or newly established cohort of participants.

As an option within Focus Areas 1 and 2, applicants can target persons with disabilities as a population at large or can also select one or more demographic sub-populations (or combinations of sub-populations) such as women, men, members of ethnic minority groups, children, adolescents, older adults specified by age range, persons with limb loss, *etc.*, as discrete populations for inclusion in the research design.

Focus Area 3: This Focus Area includes research to develop measurements of the community environment as outlined in the ICIDH–

2 framework. The "ICIDH–2" refers to the revision of the "International Classification of Impairments, Disabilities, and Handicaps," now entitled the "International Classification of Functioning and Disability." This document states that "environmental factors make up the physical, social and attitudinal environment in which people live and conduct their lives. The factors are external to individuals and can have a positive or negative influence on a person's participation as a member of society, on performance of activities of a person, or on a person's body function or structure."

The primary goals for research proposed and conducted within Focus Area 3 should be to develop and subsequently disseminate reliable, valid, and realizable measurement instruments that assess or quantify the various kinds of environmental factors affecting persons with disabilities in their communities.

E. Program Requirements

The Focus Areas described in the Programmatic Interests section convey the investigative characteristics of proposed research that meet the intention of this announcement. The following are program requirements: (1) Develop a work plan; (2) describe the potential collaborators and organizational structures; (3) outline the research methods and management approach; and (4) disseminate the results of the research among persons with disabilities, disability service organizations, advocacy groups, governmental agencies, non-governmental organizations, and researchers.

F. Application Content

The PHS 398 grant application form requires the applicant to enter the project title on page 1 (Form AA, "face page") and the project description (abstract) on page 2 (Form BB). Applicants are requested to identify their selected Focus Area at the beginning of the text within the space provided for the project description (abstract) on Form BB.

The main body of the application narrative should not exceed 40 double-spaced pages. For purposes of this announcement, note that this maximum number of pages allowed exceeds the maximum number of pages (25 pages) indicated in the PHS 398 grant application form (Form CC, "Research Grant Table of Contents"). The budget justification and biographical sketch sections do not count toward the maximum page limit. Pages must be numbered and printed on only one side of the page. All material must be typewritten, with 10 characters per inch type (12 point) on 8½" by 11" white paper with at least 1" margins, headers and footers (except for applicant-produced forms such as organizational charts, graphs and tables, *etc.*). Applications must be held together only by rubber bands or metal clips, and not bound together in any other way. Attachments to the application should be held to a minimum in keeping to those items required or referenced by this announcement.

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated according to the criteria listed in those sections of this announcement, so it is important to follow them in laying out your program plan.

G. Submission and Deadline

Letter of Intent (LOI)

A Letter of Intent may be submitted by prospective applicants. It must identify this announcement number, name the proposed project director, and cite the applicant's selected Focus Area of emphasis. The letter will not be used to eliminate potential applicants, but it will enable CDC to determine the level of interest in the announcement and plan the review more efficiently. Facsimile or e-mail messages will not be accepted as a Letter of Intent response.

On or before May 18, 2000, submit the Letter of Intent to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Application

Submit the original and five copies of PHS–398 NIH Form (OMB Number 0925–0001) and adhere to the instructions on the Errata Instruction Sheet for PHS–398. Forms are available for download at *http://www.cdc.gov* or in the application kit.

On or before June 22, 2000, submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Deadline: Applications will be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing.)

Late Applications: Applications that do not meet the criteria in (a) or (b) above will be considered late. Late applications will not be considered in the current competition and will be returned to the applicant.

H. Evaluation Criteria (Total 100 Points)

Applications will be reviewed and evaluated individually against the following criteria by an independent review group appointed by CDC. A separate independent review group will be assigned to review applications in each of the three Focus Areas.

1. Evidence of Understanding and Protocol Planning: (10 Points)

Evaluation will be based on:

a. The applicant's description of the public health significance of secondary conditions and adherence to the purposes of this announcement, including current activities in place related to the study of secondary conditions, their prevention, and/or the disabling process.

b. The rationale for determining and addressing the selected Focus Area from among those outlined in the Programmatic Interests section.

c. As applicable, the applicant's approach to developing an inventory of necessary cost, economic, and other relevant disability data sources; the process by which study populations or community settings would be identified; and the feasibility of initiating all protocol/research development components on schedule at the outset of the project.

2. Research Resources and Organizational Capacity: (20 Points)

Evaluation will be based on:

a. The capability of the applicant to conduct the project, taking into account its institutional experience and current activities in the field proposed for this research.

b. The ability of the applicant to ensure timely and complete access to needed economic and demographic data, selected population(s), or community data related to the selected Focus Area over the entire course of the project.

c. The capacity to provide evidence of effective organizational collaborations, research linkages and formal agreements (including contractual), enabling the applicant to meet all project implementation and operational requirements.

d. Depending on the selected Focus Area, the applicant's competencies in:

(1) Concepts of cost identification;

(2) Methods for assessing the onset and course of secondary conditions;

(3) Understanding and use of the ICIDH–2; and

(4) working with the disability community and other partners to improve access and independence for persons with disabilities in the environmental aspects of the community settings chosen for investigation.

3. Research Approach: (40 Points)

Evaluation will be based on:

a. The appropriateness with which the proposed methods, sources of data, and project linkages convincingly and comprehensively meet the intention of this announcement.

b. The overall strength of the research design including:

(1) The rationale, feasibility, and appropriateness of the study protocol and methods to be employed in relation to the purpose and programmatic interests outlined in this announcement;

(2) Inclusion and discussion of case definitions, methods of enrolling and managing cohorts, and/or enlisting community input;

(3) The quality and scope of the data collection and data analysis plan, including a description of the strengths and weaknesses of each data set relative to the proposed project;

(4) Ready access to key background and foundational data sets and literature;

(5) The adequacy of the calculated statistical power and the potential capacity of the research design to generate observations of hypothesized or meaningful effects during the study period;

(6) The quality and scope of the plan to ensure that the confidentiality of all study participants would be preserved;

(7) The process by which the research will be tracked and evaluated; and

(8) the potential for effectively addressing start-up activities and specific and measurable research objectives during the first year of the proposed project.

c. The feasibility of the project related to:

(1) Prompt assembling of an effective research team with the experience and time commitments to promote full attention to implementing the study design;

(2) The potential degree of reliability and replicability of the study; and

(3) The overall plan for completing the analyses, and disseminating the findings and recommendations of the research in subsequent presentations and publications for benefit to other populations, including applications for national use.

4. Management Plan and Project Goals and Objectives: (30 Points)

Evaluation will be based on:

a. The presentation of the detailed management work plan and approach, the accounts of the project's location and functional capacity within the host organizational structure, and the process by which the applicant will meet all goals and objectives of the proposed project.

b. The degree to which approaches to meeting proposed goals and specific objectives are convincing, and the likelihood of achieving those objectives within the prescribed time frames. This includes the presentation of overarching goals for the entire three year project period with a detailed work plan denoting monthly or quarterly objectives covering the first two budget years.

c. The presentation of the specified tasks and responsibilities to be assigned for all positions proposed for financial assistance, and for other personnel contributing to the project.

d. The process for overall evaluation of the entire project including the assignment of responsibility for ongoing review of specified components.

e. The degree to which the applicant has met the CDC policy requirements regarding the inclusion of women, ethnic minorities, and racial groups in the proposed research. This includes: the proposed plan for the inclusion of racial ethnic minority populations and both sexes for appropriate representation; the proposed justification when representation is limited or absent; a statement as to whether the design of the study is adequate to measure differences when warranted; and a statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with communities and recognition of mutual benefits.

f. The applicant's approach to providing opportunities for persons with disabilities to participate in project operations, activities, and administrative or research staffing.

5. Project Budget: (Not Scored)

This includes the adequacy of the applicant's proposed budget in relation to program operations, collaborations, and services; the degree of cost-sharing; and the extent to which the budget is reasonable, clearly justified, accurate, and consistent with the purpose of this announcement.

6. Human Subjects: (Not Scored)

This includes the degree to which the applicant proposes to comply with Department of Health and Human Services regulations (45 CFR Part 46) regarding the protection of human subjects.

I. Other Requirements

Technical Reporting Requirements

Provide CDC with an original, plus two copies of:

1. Semi-annual progress reports, due 30 days after the close of each six-month period based on the starting date of the project;

2. Financial Status Reports, due no later than 90 days after the end of each budget period; and

3. Final Financial Status Reports and performance reports, due no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see the ATTACHMENT in the application kit.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–14 Accounting System Requirements
AR–15 Proof of Non-Profit Status

J. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized by section 301(a) (42 U.S.C. 241(a)) and section 317 (42 U.S.C. 247b) of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance number is 93.184.

K. Where To Obtain Additional Information

This and other CDC Program Announcements can be found on the CDC web site. The CDC home page address on the Internet is: *http://www.cdc.gov*.

To receive additional written information and to request an application kit, call 1–888-GRANTS4 (1–888–472–6874). You will be asked to

leave your name, address, and telephone number and instructed to identify the announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance can be obtained from: William Paradies, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, Georgia 30341–4146,Telephone (770) 488–2721, Internet address: wep2@cdc.gov

General program assistance can be obtained from: Joseph B. Smith, Disability and Health Branch, National Center for Environmental Health, CDC, 4770 Buford Highway, Building 101, Mailstop F–29, Atlanta, Georgia 30341, Telephone (770) 488–7082, Internet address: jos4@cdc.gov

Research-related technical assistance for Focus Areas 1 and 2 is available from: John F. Hough, Dr.P.H., National Center for Environmental Health, CDC, 4770 Buford Highway, Building 101, Mailstop F–29, Atlanta, Georgia 30341, Telephone (770) 488–7830, Internet Address: jph7@cdc.gov

Research-related technical assistance for Focus Area 3 is available from: Donald J. Lollar, Ed.D., National Center for Environmental Health, CDC, 4770 Buford Highway, Building 101, Mailstop F–29, Atlanta, Georgia 30341, Telephone (770) 488–7094, Internet address: dcl5@cdc.gov

Dated: April 11, 2000.

John L. Williams,

Director, Procurement and Grants Office.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. 93631–00–02]

Developmental Disabilities: Request for Public Comments on Proposed Developmental Disabilities Funding Priorities for Projects of National Significance for Fiscal Year 2000

AGENCY: Administration on Developmental Disabilities (ADD), ACF, DHHS.

ACTION: Notice of request for public comments on developmental disabilities tentative funding priorities for Projects of National Significance for Fiscal Year 2000.

SUMMARY: The Administration on Developmental Disabilities (ADD) announced that public comments are being requested on tentative funding priorities for Fiscal Year 2000 Projects of National Significance prior to being announced in its final form.

We welcome comments and suggestions on this proposed announcement and funding priorities that will assist in bringing about the increased independence, productivity, integration, and inclusion into the community of individuals with developmental disabilities.]

DATES: The closing date for submission of comments is June 19, 2000.

ADDRESSES: Comments should be sent to: Sue Swenson, Commissioner, Administration on Developmental Disabilities, Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade, SW, Room 300F, Washington, DC 20447.

FOR FURTHER INFORMATION CONTACT: Administration for Children and Families (ACF), Pat Laird, 370 L'Enfant Promenade, SW, Room 300F, Washington, DC, 20447, 202/690–7447.

SUPPLEMENTARY INFORMATION: This announcement consists of two parts:

Part I

Background

A. Goals of the Administration on Developmental Disabilities

The Administration on Developmental Disabilities is located within the Administration for Children and Families, Department of Health and Human Services (DHHS). Although different from the other ACF program administrators in the specific constituency it serves, ADD shares a common set of goals that promote the economic and social well being of families, children, individuals and communities. Through national leadership, we see:

- Families and individuals empowered to increase their own economic independence and productivity;
- Strong, health, supportive communities having a positive impact on the quality of life and the development of children;
- Partnerships with individuals, front-line service providers, communities, States and Congress that enable solutions which transcend traditional agency boundaries;
- Services planned and integrated to improve client access; and
- A strong commitment to work with Native Americans, individuals with developmental disabilities, refugees and migrants to address their needs, strengths and abilities.

Emphasis on these goals and progress toward them will help more individuals, including those with developmental disabilities, to live productive and independent lives integrated into their communities. The Projects of National Significance Program is one means through which ADD promotes the achievement to these goals.

Two issues are of particular concern with these projects. First, there is a pressing need for networking and cooperation among specialized and categorical programs, particularly at the service delivery level, to ensure continuation of coordinated services to people with development disabilities. Second, project findings and successful innovative models of projects need to be made available nationally to policy makers as well as to direct service providers.

B. Purpose of the Administration on Developmental Disabilities

The Administration on Developmental Disabilities is the lead agency within ACF and DHHS responsible for planning and administering programs that promote the self-sufficiency and protect the rights of individuals with developmental disabilities.

The 1996 Amendment (Public Law 104–183) to the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 *et seq.*) (the Act) supports and provides assistance to States and public and private nonprofit agencies and organizations to assure that individuals with developmental disabilities and their families participate in the design of and have access to culturally competent services, supports, and other assistance and opportunities that promote independence, productivity and integration and inclusion into the community.

The Act points out that:

- Disability is a natural part of the human experience that does not diminish the right of individuals with developmental disabilities to enjoy the opportunity for independence, productivity and inclusion into the community;
- Individuals whose disabilities occur during their development period frequently have severe disabilities that are likely to continue indefinitely;
- Individual with developmental disabilities often require lifelong specialized services and assistance, provided in a coordinated and culturally competent manner by many

agencies, professionals, advocates, community representatives, and others to eliminate barriers and to meet the needs of such individuals and their families;

The Act further finds that:

- Individual with developmental disabilities, including those with the most several developmental disabilities, are capable of achieving independence, productivity, and integration and inclusion into the community, and often require the provision of services, supports and other assistance to achieve such;
- Individual with developmental disabilities have competencies, capabilities and personal goals that should be recognized, supported, and encouraged, and any assistance to such individuals should be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of the individual;
- Individuals with developmental disabilities and their families are the primary decision makers regarding the services and supports such individuals and their families receive; and play decision making roles in policies and program that affect the lives of such individuals and their families; and
- It is the nation's interest for individuals with developmental disabilities to be employed, and to live conventional and independent lives as a part of families and communities.
- Toward these ends, ADD seeks to enhance the capabilities of families in assisting individuals with developmental disabilities to achieve their maximum potential, to support the increasing ability of individuals with developmental disabilities to exercise greater choice and self-determination, to engage in leadership activities in their communities, as well as to ensure the protection of their legal and human rights.
- Programs funded under the Act are:
- Federal assistance to State developmental disabilities councils;
- State system for the protection and advocacy of individual's rights;
- Grants to university affiliated programs for interdisciplinary training, exemplary services, technical assistance, and information dissemination; and
- Grants for Projects of National Significance.

C. Description of Projects of National Significance

Under Part E of the Act, demonstration grants and contracts are awarded for projects of national significance that support the development of national and State policy to enhance the independence, productivity, and integration and inclusion of individuals with developmental disabilities through:

- Data collection and analysis;
- Technical assistance to enhance the quality of State developmental disabilities councils, protection and advocacy systems, and university affiliated programs; and
- Other projects of sufficient size and scope that hold promise to expand or improve opportunities for individuals with developmental disabilities, including:

—technical assistance for the development of information and referral systems;
—educating policy makers;
—Federal interagency initiatives;
—the enhancement of participation of racial and ethnic minorities in public and private sector initiatives in developmental disabilities;
—transition of youth with developmental disabilities from school to adult life.

Section 162(d) of the Act requires that ADD publish in the **Federal Register** proposed priorities for grants and contracts to carry out Projects of National Significance. The Act also requires a period of 60 days for public comment concerning such proposed priorities. After analyzing and considering such comments, ADD must publish in the **Federal Register** final priorities for such grants and contracts, and solicit applications for funding based on the final priorities selected.

The following section presents the proposed priority areas for Fiscal Year 2000 Projects of National Significance. We welcome specific comments and suggestions. We would also like to receive suggestions on topics which are timely and relate to specific needs in the developmental disabilities field.

Please be aware that the development of the final funding priority is based on the public comment response to this notice, current agency and Departmental priorities, needs in the field of developmental disabilities and the developmental disabilities network, etc., as well as the availability of funds for this fiscal year.

Part II

Fiscal Year 2000 Proposed Priority Areas for Projects of National Significance

ADD is interested in all comments and recommendations which address areas of existing or evolving national significance related to the field of developmental disabilities.

ADD also solicits recommendations for project activities which will advocate for public policy change and community acceptance of all individuals with developmental disabilities and families so that such individuals receive the culturally competent services, supports, and other assistance and opportunities necessary to enable them to achieve their maximum potential through increased independence, productivity, and integration into the community.

ADD is also interested in activities which promote the inclusion of all individuals with development disabilities, including individuals with the most severe disabilities, in community life; which promote the interdependent activity of people with developmental disabilities and people without disabilities; and which recognize the contributions of these people (whether they have a disability or not), who share their talents at home, school, and work, and in recreation and leisure time.

No proposals, concept papers or other forms of applications should be submitted at this time. Any such submission will be discarded.

ADD will not respond to individual comment letters. However, all comments will be considered in preparing the final funding solicitation announcement and will be acknowledged and addressed in that announcement.

Please be reminded that, because of possible funding limitations, the proposed priority areas listed below may not be published in a final funding solicitation for this fiscal year.

Comments should be addressed to: Sue Swenson, Commissioner, Administration on Developmental Disabilities, Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade, SW, Room 300F, Washington, DC 20447.

Proposed Fiscal Year 2000 Priority Area 1: Mobilizing for Change/Rapid Deployment of Good Ideas

In March of 1993, President Clinton unveiled his new initiative to reinvent the federal government. He proposed a leaner, more efficient government that viewed the American people as its customers. The President discussed how all of us to some extent count on the government to do certain things such as, "protect the environment, to provide education and health care and other basic needs." However, he pointed out that a "democracy can become quickly an empty phrase, if those who are elected to serve cannot meet the needs

of the people except with Government that costs too much or is too slow or too arrogant or too unresponsive." Federal workers were empowered to reinvent their agencies in ways that would put customers first, cut red tape, get results, and get back to basics.

At ADD, our agency efforts resulted in a document called "The Roadmap to the Future," which was developed together with the programs it funds, establishes a course of action for ADD and for its programs. The Roadmap defines the mission and vision of ADD, of the State Developmental Disabilities Councils (DDCs), of the Protection and Advocacy Systems (P&As), of the Universities Affiliated Programs (UAPs), and of the Projects of National Significance (PNS), and it identifies goals created to increase the independence, productivity, and integration and inclusion of people with developmental disabilities and their families. Program activities will be directed toward achieving the Roadmap goals.

The Projects of National Significant (PNS) Program is one of the activities of ADD. Every year since 1975 there have been model demonstration projects funded to increase the independence, productivity, and integration and inclusion of people with developmental disabilities. These projects have generated inventive approaches, strategies, and methodologies in addressing pervasive problems or needs of individuals with developmental disabilities and their families. Over the years, PNS projects have contributed to the knowledge base of the developmental disabilities field and the larger disability field as well. In the past decade, the leadership capacity of individuals with developmental disabilities, especially self-advocates, has been nourished and strengthened by the funding of PNS projects.

Although dissemination of information from these projects has been a requirement of funding, it is a concern of ADD's that the rich volume of knowledge and information produced by these projects has not reached a broader of people who either could directly benefit form it or are in a position to replicate it. More important, depending on the target audience, we have not been successful in influencing permanent behavioral changes. The explosion of communications arts and technology offer new possibilities for reaching a broader audience. A major challenge lies in connecting with those segments of our population who do not have easy access to a computer or English is not their primary language or there are cultural differences. New design models of transferring knowledge and fostering utilization must be explored if we are to meet the needs of Americans with disabilities and their families. ADD is extremely interested in supporting this "reinvention " of new models under this priority area.

These models must surpass our standard methods of communication best practices and practical solutions to those we serve and those who serve them. Projects must be outcome driven—demonstrating effectiveness and behavioral changes of the targeted population. Content area is open to any proven, positive results-based practice, methodology or processing the field of developmental or other disabilities or directly related field such as universal design. It can be an expansive as systems change cr a new paradigm. These new models should consider creative partnering implementing the project. A few examples of this by the Federal government are the JedI project under the U.S. Geological Survey and The Knowledge Loom under the U.S. Department of Education/Office of Educational Research and Improvement. The former, which stands for joint education initiative, utilized CD–ROM technology containing different types of data and in conjunction with teachers developed educational materials that could be used in the classroom. The latter is a recent project funded to create an electronic interactive workspace for anyone interested in the education environment.

In the last century we were the beneficiaries of extraordinary human developments that would have been considered inconceivable by many; it has raised our level of expectation for this new century. This is no less true for people with developmental disabilities and their families who, in this age of the Internet, the PC, and satellite downlinks, expect there will be new models available to everyone who needs them. ADD views this priority area as an unprecedented opportunity to take what we have learned through federally funded projects and find enterprising, inventive, and imaginative ways of using the knowledge so that all will benefit—people with developmental disabilities and other disabilities, professionals who serve them, their families, and the communities in which they live.

Proposed Fiscal Year 2000 Priority Area 2: Bridging the Digital Divide: Building Content

In a White House speech on February 2, 2000, President Clinton stated: "Access to computers and the Internet and the ability to effectively use this technology are becoming increasingly important for full participation in America's economic, political and social life. People are using the Internet to find lower prices for goods and services, work from home or start their own business, acquire new skills using distance learning, and make better informed decisions about their healthcare needs."

The President expressed his concern over the widening gap of access: "Access to computers and the Internet has exploded during the Clinton-Gore Administration. Unfortunately, there is strong evidence of a 'digital divide'—a gap between those individuals and communities that have access to these Information Age tools and those who don't. In some instances, this divide is actually widening." The President has proposed three basic approaches to narrowing the digital divide: (1) Provide hardware and connections to people who do not yet have them; (2) provide training in the use of computers and the internet; and (3) build relevant content on the Internet, to attract new users. ADD continues to encourage its grantees and partners in all three of these strategies, but realizes that a national approach is necessary to the third strategy of building relevant content.

A person with a developmental disability is legislatively defined as someone whose disability occurred before age 22; is severe and lifelong; and is likely to result in an ongoing, long-term need for services and supports. In other words, people with developmental disabilities are likely to need to rely on multiple systems of supports in order simply to live their lives. And yet, information that could be used to improve decision-making is not easily accessible to people with developmental disabilities, their families, their advocates, their providers of services and supports, or even to the policymakers who design and fund systems. For people with developmental disabilities, Internet access to relevant information is limited.

For the majority of people with developmental disabilities and their families, Medicaid is the most relevant system; it is their lifeline. Yet it is a very complex system whose possibilities change almost constantly, and quite rapidly. As States submit new ideas to the Health Care Finance Administration (HCFA) in Home and Community-Based Services (HCBS) waiver plans, and as these state-generated plans are approved, possibilities for all other States and all other citizens shift. In addition, the Medicaid program is complex due to the "patchwork quilt of incremental statutory amendments and

administrative policy changes spread over several decades." (GAO, 1996)

Nevertheless, many (though not all) of the Medicaid questions to which people need answers are repetitive and sometimes simple. Clear, honest, user-friendly answers to frequently asked questions are often a feature of Web sites on any topic and may be one of the best uses of the Internet.

ADD is proposing to fund one project to build an Internet site that will provide relevant content and attractive information on what is possible under the Medicaid program. The site should be user-friendly and useful to a broad range of users, including people with developmental and other related disabilities, their families, their advocates, DD network members, state policymakers, regional HCFA staff, and other interested persons. The site should be responsive to the needs and wants of its users, and should collect and measure user satisfaction. It should post frequently asked questions (FAQs) about Medicaid with their answers, and should encourage frank and open "human" interchanges between users. The site must be accessible to people with a broad range of disabilities. Proposing organizations must show that they (1) are credible sources of information to people with developmental disabilities and (2) that they intend to comply with accessibility standards and go beyond compliance to improve access as much as possible. Special care should be taken to make the site useful and attractive to young persons with developmental and other disabilities.

Proposed Fiscal Year 2000 Priority Area 3: Managing Our Program Knowledge Through Web Improvement

The Developmental Disabilities Assistance and Bill of Rights Act (DD Act) provides authorization for three State Programs and a national program that seek to increase the independence, productivity, and inclusion of persons with developmental disabilities.

A Developmental Disabilities Council (DD Council) in each State promotes, through systemic change, capacity building, and advocacy activities, the development of a comprehensive consumer-centered system of coordinated and culturally competent services, supports, and other assistance. The priority areas addressed by DD Councils include employment, community living, child development, and system coordination and community education.

The Protection and Advocacy (P&A) System provides for the protection and advocacy of legal and human rights. The P&A System advocate on behalf of, and provide advocacy services to persons with developmental disabilities in issue areas related to their disabilities, including: education, abuse and neglect, institutional and habitation services, guardianship issues, and housing issues.

The University Affiliated Program (UAPs) are public and private non-profit agencies in the States and territories, each affiliated with a university. Each UAP receives annual discretionary funding for operational and administrative support, which provides a platform for interdisciplinary training, clinical and community-based service activities, technical assistance to community services personnel, and information/dissemination activities.

In addition to State-based programs, ADD funds research and demonstration grants in an effort to address and increase our understanding of issues of national scope. The Projects of National Significance (PNS) program focuses on the most pressing issues affecting people with developmental disabilities and their families. Project issues transcend the borders of States and territories, while project designs are oriented to permit local implementation of practical solutions.

Each of these programs has a uniqueness and breadth of knowledge that if managed through modern technology would result in a knowledge resource warehouse. The nation cannot afford a digital divide between these programs and between these programs and those they serve. With these programs in mind, ADD is interested in funding a project for the development or enhancement of a model website whose design features are easily employable by each program; its approach on the cutting edge. It should be seen as the beginning of a new form of cyber architecture with a focus on continuous improvement that will enable those programs to improve their use of the web and their ability to hyperlink to others.

This new model website would enhance the ability of ADD's programs to exchange information and build upon ongoing diverse enterprises throughout the developmental disabilities community. At the same time, the contributions and achievements of these programs towards the quality of life of persons with disabilities and their families should be easily disseminated and accessible. It should support the development of strategies, technologies, and media channels for the management of knowledge generated/produced by these programs. This site should operate as an information center as well as a networking tool for the programs and others. This website is not about outcomes exclusively but content and access to content that affects the lives of people with developmental disabilities and their families. ADD envisions that the first year would begin with the UAPs and the PNS projects with the understanding the model website be inclusive of the other programs over the duration of the project. It is expected that the site would be open to everyone; including the average citizen, people working in each program, and people working in related programs. Also, it should be accessible to people with a broad range of disabilities utilizing the most current accessibility standards. ADD would be supportive of applicants that represent a consortia of UAPSs and DD Councils.

(Federal Catalog of Domestic Assistance Number 93.631—Developmental Disabilities—Projects of National Significance)

Dated: April 7, 2000.

Sue Swenson,

Commissioner, Administration on Developmental Disabilities.

[FR Doc. 00–9748 Filed 4–18–00; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–4202]

Agency Information Collection Activities; Announcement of OMB Approval; Application to Market a New Drug, Biologic, or an Antibiotic Drug for Human Use

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Application to Market a New Drug, Biologic, or an Antibiotic Drug for Human Use" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 2, 2000 (65 FR 4979), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An

agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0338. The approval expires on March 31, 2003. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: April 12, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–9714 Filed 4–18–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0969]

Risk Assessment of the Public Health Impact of Streptogramin Resistance in Enterococcus faecium Attributable to the Use of Streptogramins in Animals; Request for Comments and for Scientific Data and Information

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments and for scientific data and information.

SUMMARY: The Food and Drug Administration (FDA), Center for Veterinary Medicine (CVM), is announcing plans to develop a prototypic risk assessment (RA) model that accounts for the transfer of resistance determinants from bacteria in food-producing animals to bacteria in humans. The agency requests comments on their approach to the RA model and requests that scientific data and information relevant to the conduct of the RA be submitted. This model will be applied to assess the association between the development of streptogramin (quinupristin/dalfopristin (QD)) resistant *Enterococcus faecium* in humans and the use of virginiamycin in food-producing animals. The center will attempt to use the RA model to quantify the human health impact attributable both to direct acquisition of resistant *E. faecium* from food-producing animals and to the transfer of resistance determinants from *E. faecium* in food-producing animals to *E. faecium* in humans.

DATES: Submit written comments, scientific data, and information by June 19, 2000.

ADDRESSES: Single copies of "A Proposed Framework for Evaluating and Assuring the Human Safety of the Microbial Effects of Antimicrobial New Animal Drugs Intended for Use in Food-Producing Animals" (hereinafter referred to as the Framework Document) is discussed in the **SUPPLEMENTARY INFORMATION** section of this document and may be obtained by writing to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist the office in processing your request. This document is also available through CVM's homepage on the Internet at http://www.fda.gov/cvm/fda/mappgs/antitoc.html. Submit written comments, scientific data, and information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Nicholas E. Weber, Center for Veterinary Medicine (HFV–150), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6986, FAX 301–594–2298, or e-mail nweber@cvm.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of January 6, 1999 (64 FR 887), FDA published a notice of availability of a discussion paper (the Framework Document). This Framework Document sets out a conceptual risk-based process for evaluating the microbial safety of antimicrobial drugs intended for use in food-producing animals. The proposed RA furthers the tenets of the Framework Document by developing a RA model to quantify the potential human health impact of resistant bacteria acquired from animals via food.

Thus, CVM proposes to conduct its second antimicrobial resistance RA. A draft of CVM's first antimicrobial resistance RA model and associated documents are available on CVM's homepage on the Internet at http://www.fda.gov/cvm/fda/mappgs/ra/risk.html. The first RA modeled the human health impact of fluoroquinolone resistant *Campylobacter* infections associated with the consumption of chicken. CVM proposes to develop a second RA that will account for both the acquisition of resistant bacteria and the transfer of resistance determinants from bacteria in food-producing animals to bacteria in humans. This model will be applied to assess the association between the presence of streptogramin (QD) resistant *Enterococci faecium* in humans and the use of streptogramins (virginiamycin) in food-producing animals as an example of risk attributed to transference of resistance determinants.

In September 1999, FDA's Center for Drug Evaluation and Research approved Synercid™, a streptogramin (QD), for use in human medicine for treatment of vancomycin resistant *E. faecium* (VREF) bacteremias as well as for treatment of *Staphylococcus aureus* and *Streptococcus pyogenes* skin and soft tissue infections. At the current time, QD is considered to be the last line of therapy for VREF. Another streptogramin, virginiamycin, has been used in food-producing animals for 26 years. The initial approval was for chickens, but virginiamycin was subsequently approved for use in turkeys, swine, and most recently in cattle. This RA will seek to quantify the public-health risk attributable to the use of virginiamycin in food-producing animals. *Enterococcus faecium* that develop resistance due to exposure to virginiamycin also demonstrate reduced susceptibility to QD. These resistant strains of *E. faecium* can contaminate meat products and thereby enter the human intestine. It is thought that these resistant strains contaminating meat products may cause problems for the human in two major ways: By becoming host-adapted or by transferring resistance determinants to endogenous human *E. faecium*.

It is generally believed that the indigenous intestinal microflora of healthy humans inhibit colonization by bacteria from exogenous sources. In the case of illness requiring antibiotic therapy however, associated perturbations due to drug treatment may result in colonization by organisms not included in the flora of healthy individuals. This scenario could result in the intestinal colonization and proliferation of antibiotic resistant bacteria from the external environment. Enterococcal infections comprise 20 to 30 percent of over 2 million hospital-acquired infections per year in the United States (Ref. 1). VREF infections are almost exclusively hospital infections and account for about 14 percent of all enterococcal infections, although this varies widely (5 to 70 percent) from hospital to hospital, according to hospital vancomycin use, teaching versus nonteaching hospital status, and hospital size (number of beds) (Refs. 1 and 2). This translates to about 70,000 VREF infections per year which will most likely be treated with QD . Among VREF bacteremic patients treated with QD, emerging resistance

has been documented in about 4 percent of cases (Ref. 3).

QD is a mixture of streptogramin A (S_A) and streptogramin B (S_B) compounds. Resistance to Type B streptogramins is widespread among enterococci and other organisms. S_B resistance is due to hydrolysis of the antibiotic mediated by the *vgb* gene (Ref. 4), or more commonly, by ribosomal methylation mediated by the *ermB* gene product (Ref. 5). Expression of *erm* confers collateral resistance to macrolides, lincosamides, and streptogramin B (MLS_B) antimicrobials. Expression of S_B resistance determinants is not sufficient to confer resistance either to S_A or to the combination of compounds (Ref. 6). S_A resistance has been linked to two genes in *E. species*, *satA* (Ref. 7) and *satG* (Ref. 8). These genes encode related enzymes that inactivate the drug by acetylation, and expression imparts resistance to the mixture of S_A and S_B. Both genes have been found on plasmids and shown to be transferable *in vitro* to susceptible strains. However, a number of S_A resistant enterococci carry neither locus (Ref. 9), indicating that the complete complement of streptogramin resistance determinants has not been identified in enterococci.

Data on the prevalence of QD resistance in hospitals, the environment, and the community is sparse. QD-resistant *E. faecium* has been detected in the stools of healthy adults in the community. Because these individuals had not received QD therapy, some have assumed that the resistant strain entered the human population from an agricultural food production environment where virginiamycin is used or, possibly, following exposure to other drugs that conferred cross-resistance to streptogramins.

The prevalence of streptogramin resistant enterococci in the animal production environment and on animal derived food is largely unknown. For the purpose of this RA, data on human exposure to enterococci through the food supply and the rate at which these organisms possess determinants conferring resistance to streptogramin antibiotics is critical. Preliminary data collected on isolates from the poultry production environment suggest that about 65 percent of *E. faecium* are resistant to streptogramins (MIC≥4µg mg/ml) (Ref. 10). Data on the prevalence of these organisms and their antibiotic resistance phenotypes associated with retail products are very limited but critical to the RA process.

II. Objectives of the Risk Assessment

FDA is planning to conduct a RA of the potential harm to hospitalized patients by *E. faecium* resistant to the streptogramin combination drug (QD) associated with the use of virginiamycin in food-producing animals. A RA is a systematic and comprehensive collection and analysis of information that promotes an understanding of the interactions of various factors in a complex situation and provides a basis for making decisions. One goal of this RA is to organize a broad array of information and to study the complex set of interactions necessary to review the current uses of virginiamycin and their impact on public health in an effort to make sound science-based decisions. An underlying goal of this RA is to provide experience and a method for modeling risk involving transfer of resistance determinants from strains of bacteria found in food-producing animals to those found in people. It is anticipated that the RA will reveal data gaps and help guide the industry, FDA, and related agencies in setting research priorities.

III. Risk Assessment Plan

FDA's RA plan will attempt to determine the relationship between the use of virginiamycin in food-producing animals, and the development and dissemination of QD-resistant *E. faecium* in contaminated meat products. Examination of this relationship will be used to describe health effects in humans resulting from exposure to meat contaminated with QD resistant *E. faecium*. To accurately assess human exposure to QD-resistant *E. faecium* from contaminated meat, the RA will seek and analyze the following four types of information concerning the epidemiology of foodborne QD-resistant *E. faecium*. Information concerning the molecular epidemiology and associated carriage of resistance determinants of *E. faecium* with respect to the on-farm environment, carcass/retail meat contamination, other foods, and to the human community (both within and outside of the hospital setting) will be collected and analyzed.

1. Concerning the on-farm component of the RA, CVM will analyze epidemiological evidence pertaining to the following areas in each animal species studied: The prevalence of *E. faecium* colonization, the proportion of animals exposed to virginiamycin, the rate of selection of QD resistance in *E. faecium*, the emergence and dissemination of QD resistance determinants in virginiamycin exposed live animals and in their environment (including the level of fecal shedding).

2. The RA will also seek to collect and analyze information on the frequency of occurrence of post-slaughter contamination with QD resistant *E. faecium* to include carcass and retail sampling, and, where data are available, the impact of other agricultural sources of QD resistant *E. faecium* on food products destined for human consumption. Modeling may be used when data are collected at slaughter and retail outlets to estimate actual human exposure.

3. Human exposure is a function of QD-resistant *E. faecium* prevalence in the food supply and the consumption patterns of the population. The level of QD-resistant *E. faecium* contamination of meat destined for human consumption is very critical exposure information. Thus, the RA will evaluate information on the level of QD-resistant *E. faecium* in retail meat classes where data are available and combine this information with food consumption patterns. The RA will then produce estimates of QD-resistant *E. faecium* gut flora colonization likely given the levels of meat consumption by different subpopulations.

4. The RA will include an examination of the number of people who may enter the hospital colonized with QD-resistant *E. faecium*, and the proportion of those who are likely to develop VREF infections and require QD treatment. In addition, the RA will seek to evaluate the rate of emergence of QD-resistant *E. faecium* in the hospital environment and its dissemination within the hospital setting.

The RA process will seek to quantify the risk associated with virginiamycin use in animals utilizing data and information in a number of areas including: Prevalence of QD-resistant *E. faecium* pre- and post-slaughter contamination; molecular epidemiology of *E. faecium* carriage of resistance determinants in animal, community, and human clinical isolates; epidemiology of community and hospital sources of QD-resistant *E. faecium*; and prevalence of QD-resistant VREF infections, and molecular fingerprinting and epidemiology of QD resistance transfer to VREF in humans. All uncertainties and assumptions will be identified and documented. The RA process will also include an evaluation of the adequacy of current scientific knowledge, data, and information. This will be used to suggest where future research could be directed to reduce the uncertainty in the risk estimate.

IV. Data and Information Requested

FDA requests comments on the RA approach outlined in the RA plan and the submission of any information relevant to the RA. The purpose of the request for comments and data is to gather relevant information from a broad base of stakeholders to help the agency develop a science-based RA model. While some preliminary data are available, as indicated in section I of this document, the agency specifically requests data that would help to quantify the steps outlined in section III of this document. A list of requested information is presented below; however, the list is not exhaustive, and the agency encourages submission of any additional data relevant to this RA. The requested information includes, but is not limited to the following:

1. The prevalence of *E. faecium* and the prevalence of QD resistant *E. faecium* among all *E. faecium* in food-producing animals;
2. Virginiamycin use information, including the proportion of food-producing animals in each class that receive virginiamycin;
3. The prevalence of carcasses contaminated with *E. faecium* and among those, the prevalence of carcasses contaminated with QD-resistant *E. faecium*;
4. Procedures during slaughtering and food processing which modify enterococcal contamination and load on the carcass or product;
5. The prevalence and load of QD-resistant *E. faecium* in humans in the community acquired from contaminated meat products of each class;
6. Consumption and food preparation patterns that would aid in apportioning potential *E. faecium* ingestion among chicken, turkey, pork, beef, and other sources;
7. The prevalence of colonization by *E. faecium* and infection rates due to *E. faecium* in humans, for: (a) All *E. faecium*, (b) vancomycin resistant *E. faecium*, (c) QD-resistant *E. faecium*, and (d) QD-resistant/vancomycin resistant *E. faecium*;
8. The rate at which QD resistance and vancomycin resistance will be transferred among *E. faecium* in humans;
9. The enterococcal disease infection rate among humans harboring vancomycin resistant *E. faecium*;
10. Genetic fingerprinting for molecular epidemiology of *E. faecium* strains and details of the mechanisms of associated resistance, including gene identification; and
11. Other pertinent data.

FDA's CVM requests that reports of data include a description of the population from which samples were taken and a description of sampling and culture procedures used. All prevalence information or rates need to be provided with numerators and denominators. Likewise, count data is most useful if it is provided with information about the distribution of counts, such as with a range or with the mean and standard deviation. For the RA to become a useful regulatory tool for protection of public health in the United States, it must be based on good quality, contemporaneous data gathered in the United States, or from populations demonstrated to be representative of the U.S.-population.

FDA believes that the credibility and validity of the RA requires that the process for the conduct of the RA be transparent, and all data and information evaluated in the context of the RA and utilized in the RA should be publicly available. Accordingly, any data or information submitted in response to this document should be in a form that permits public disclosure. Submitters of data and information should not mark any information as "Confidential" and should fully expect that any data or information submitted will be made available to the public. Questions regarding the public availability of data and information submitted in response to this document, including questions on maintaining confidentiality while maximizing the utility of the data, should be directed to the contact person above.

As noted, the purpose of this request for data is to gather relevant information to facilitate a valid RA of the human health impact attributable both to direct acquisition of resistant *E. faecium* from food-producing animals and to the transfer of resistance determinants from *E. faecium* in food-producing animals to *E. faecium* in humans. The larger goal is the development of a prototype quantitative RA model that incorporates a segment modeling the transfer of resistance determinants from animal bacteria to human bacteria. This model along with CVM's first quantitative antimicrobial RA model for acquisition of resistant food-borne bacteria will be used to help the agency make appropriate risk management decisions about the use of antimicrobials in food-producing animals. Accordingly, it is acceptable that data submitted in response to this document be "blinded" in the sense that the data need not identify the particular manufacturer, animal producer, or processor that was the source of the samples underlying the results. However, the agency must be assured of the validity of the study design and data.

The RA team plans to present a summary of responses to this document as part of the completed RA document.

Comments and scientific data and information should be addressed to the Dockets Management Branch (address above) and identified with the docket number found in brackets in the heading of this document. Received materials may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

V. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. The Centers for Disease Control and Prevention National Nosocomial Infections Surveillance (NNIS) System, NNIS Report, data summary from October 1986 to April 1996, issued May 1996, *American Journal of Infection Control*, 24(5), pp. 380–388, 1996.

2. Moellering, R. C., P. K. Linden, J. Reinhardt, E. A. Blumberg, et al., "The Efficacy and Safety of Quinupristin/dalfopristin for the Treatment of Infections Caused by Vancomycin-resistant *Enterococcus faecium*," Synercid Emergency Use Study Group, *Journal of Antimicrobial Chemotherapy*, 44(2), pp. 251–261, 1999.

3. Huycke, M., D. Sahm, and M. Gilmore, "Multiple-Drug Resistant Enterococci: The Nature of the Problem and an Agenda for the Future," *Emerging Infectious Diseases*, 4(2), pp. 239–249, 1998.

4. Jensen, L. B., A. M. Hammerum, F. M. Aerestrup, A. E. Van Den Gofaard, and E. E. Stobberingh, "Occurrence of *satA* and *vgb* Genes in Streptogramin-resistant *Enterococcus faecium* Isolates of Animal and Human Origins in The Netherlands," *Antimicrobial Agents and Chemotherapy*, vol. 42, pp. 3330–3331, 1998.

5. Leclercq, R., and P. Courvalin, "Bacterial Resistance to Macrolide, Lincosamide, and Streptogramin Antibiotics by Target Modification," *Antimicrobial Agents and Chemotherapy*, 35(7), pp. 1267–1272, 1991.

6. Bozdogan, B., and R. Leclercq, "Effects of Genes Encoding Resistance to Streptogramins A and B on the Activity of Quinupristin-Dalfopristin Against *Enterococcus faecium*," *Antimicrobial Agents and Chemotherapy*, 43(11), pp. 2720–2725, 1999.

7. Rende-Fournier, R., R. Leclercq, M. Galimand, J. Duval, and P. Courvalin, "Identification of the *satA* Gene Encoding a Streptogramin A Acetyltransferase in *Enterococcus faecium* BM4145," *Antimicrobial Agents and Chemotherapy*, 37(10), pp. 2119–2125, 1993.

8. Werner, G., and W. Witte, "Characterization of a New Enterococcal Gene, *satG*, Encoding a Putative Acetyltransferase Conferring Resistance to Streptogramin A Compounds," *Antimicribial Agents and Chemotherapy*, 43(7), pp. 1813–1814, 1999.

9. Soltani, M., D. Beighton, J. Philpott-Howard, N. Woodford, "Mechanisms of Resistance to Quinupristin-dalfopristin among Isolates of *Enterococcus Faecium* from Animals, Raw Meat, and Hospital Patients in Western Europe," *Antimicrobial Agents and Chemotherapy*, 44(2), pp. 433–436, 2000.

10. English, L. L., J. R. Hayes, D. G. White, S. W. Joseph, L. E. Carr, and D. D. Wagner, "Antibiotic Susceptibility Profiles of *Enterococcus* Isolates from the Poultry Production Environment," Abstract J17, *2000 FDA Science Forum FDA and the Science of Safety: New Perspectives*, p. 73, 2000.

Dated: April 11, 2000.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–9696 Filed 4–14–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 00D–1086, 00D–1087, 00D–1088, 00D–1089, 00D–1090, and 00D–1091]

Guidance Documents for Premarket Notification (510(k)) Submissions for Six Devices; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of six guidance documents. These six guidance documents are intended to serve as special controls for six devices that FDA has proposed previously to reclassify from class III (premarket approval) to class II (special controls). Elsewhere in this issue of the **Federal Register**, FDA is reopening the comment period on the proposed reclassification of the six devices and one other device. FDA is now inviting comment on these guidance documents because they were not available for comment at the time of the publication of the proposed reclassification (64 FR 12774, March 15, 1999).

DATES: Submit written comments by July 18, 2000.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number for the appropriate guidance document found in the **SUPPLEMENTARY INFORMATION** section. Submit written requests for single copies on a 3.5" diskette of one or more of these guidance documents to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance documents.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ–215), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–827–2974.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of March 15, 1999, FDA published a proposed rule to reclassify 38 preamendments class III devices into class II and to establish special controls for these devices. FDA invited interested persons to comment on the proposed rule by June 14, 1999.

FDA received one request to reopen the comment period for six devices. The request noted that FDA had not made the guidance documents that were proposed as special controls for these six devices available for comment through FDA's Good Guidance Practices (GGP's) (62 FR 8961, February 27, 1997). The request further noted that it was impossible to comment on the proposed reclassification without the guidance documents being available. Therefore, the requester asked that FDA extend the comment period until at least 90 days after the guidance documents are publicly available. FDA agreed with the request. FDA also identified three additional devices for which the agency had not issued the guidance documents proposed as special controls in accordance with the GGP policy.

The agency is announcing the availability of the following six guidance documents (each with a separate docket number) for six of these nine devices. In the near future, FDA will announce the availability of two guidance documents that will address the other three devices.

The six guidance documents, with their docket numbers, and Facts-on-Demand (FOD) numbers are as follows:

Guidance document	Docket No.	FOD No.	21 CFR Section	Device name
Guidance for the Submission of Research and Marketing Applications for Permanent Pacemaker Leads and for Pacemaker Lead Adaptor 510(k) Submissions.	00D–1086	372	870.3260	Pacemaker lead adaptor.
Guidance Document for Vascular Prostheses 510(k) Submissions.	00D–1087	1357	870.3450	Vascular graft prosthesis of less than 6 millimeter diameter.
Guidance for Annuloplasty Rings 510(k) Submissions.	00D–1088	1358	870.3800	Annuloplasty ring.
Guidance for Extracorporeal Blood Circuit Defoamer 510(k) Submissions.	00D–1089	1632	870.4230	Cardiopulmonary bypass defoamer.
Guidance for Cardiopulmonary Bypass Arterial Line Blood Filter 510(k) Submissions.	00D–1090	1622	870.4260	Cardiopulmonary bypass arterial line blood filter.
Guidance for Cardiopulmonary Bypass Oxygenators 510(k) Submissions.	00D–1091	1361	870.4360	Cardiopulmonary bypass oxygenators.

These guidance documents represent the agency's current thinking on premarket notifications for these devices. These guidance documents do not create or confer any rights for or on any person and do not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both. Under FDA's GGP policy, each of these guidance documents is a Level 2 guidance.

II. Electronic Access

In order to receive these guidance documents via your fax machine, call the CDRH FOD system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system and enter the document number listed above followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of these guidance documents may do so by using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the Internet. Updated on a regular basis, the CDRH home page includes these guidance documents, device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. These guidance documents are also available at http://www.fda.gov/cdrh/ODE.

III. Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding these guidance documents by July 18, 2000. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number for each guidance document as listed in the table in the **SUPPLEMENTARY INFORMATION** section of this document. If you wish to comment on more than one guidance document, please submit your comments separately for each guidance document. The guidance documents and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 3, 2000.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 00–9710 Filed 4–18–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Industry Grassroots Meeting: Report on Partnership Activities

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

The Food and Drug Administration (FDA), Office of Regulatory Affairs, San Francisco District Office is announcing the following meeting entitled "Industry Grassroots Meeting: Report on Partnership Activities." The purpose of the meeting is to report the Partnership Among Industry and Regulators (PAIR) Committee activities and to solicit input from participants for future activities and projects for the PAIR Committee. The PAIR Committee was formed as a result of an action item coming out of a similar grassroots meeting held at the Oakland Federal Bldg. in January of 1997.

Date and Time: The meeting will be held on May 10, 2000, from 8 a.m. to 5 p.m.

Location: The meeting will be held at the Oakland Federal Bldg., North Tower, 3d Floor Auditorium, 1301 Clay St., Oakland, CA 94612.

Contact: Jake Pearson, San Francisco District Office (HFR–PA 160), 510–337–6877, FAX 510–337–6701, e-mail jpearson@ora.fda.gov, or Kathryn D. Macropol (HFR–PA 140), 510–337–6867, e-mail kmacropo@ora.fda.gov, Food and Drug Administration, 1431 Harbor Bay Pkwy., Alameda, CA 94502. Information is also available at the PAIR website at http://www.pair-ca.org.

Registration: There is no charge to attend the meeting; however, registration is required. The meeting is open to all interested in management and regulatory affairs activities of industries regulated by FDA. While attendance would most benefit those industries located in Northern California, all interested groups are encouraged to attend. You may register via the Internet at http://www.pair-ca.org and by completing the online registration form. Alternatively, you can register by sending your name, title, firm name, address, telephone, fax number, and e-mail address (if available) to the contacts listed above. Please include any topics of interest you would like to have included in the program.

If you need special accommodations due to a disability, please notify Jake Pearson at least 7 days in advance.

Dated: April 12, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–9712 Filed 4–18–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–4201]

Guidance for Industry: Dioxin in Anti-caking Agents Used in Animal Feed and Feed Ingredients; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a revised guidance for industry (#98) entitled "Dioxin in Anti-caking Agents Used in Animal Feed and Feed Ingredients." The guidance is intended to notify members of the feed industry of recent findings regarding the presence of dioxins congeners that may be present in anti-caking agents in animal feeds and to offer general advice regarding monitoring of these products. This guidance has been revised in response to comments.

DATES: Submit written comments at any time.

ADDRESSES: Submit written comments on this guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Copies of the guidance document entitled "Dioxin in Anti-caking Agents Used in Animal Feed and Feed Ingredients" may be obtained on the Internet from the CVM home page at http://www.fda.gov/cvm/fda/TOCs/guideline.html. Persons without Internet access may submit written requests for single copies of the guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests.

FOR FURTHER INFORMATION CONTACT:

For general questions regarding the guidance document: Judy A. Gushee, Center for Veterinary Medicine (HFV–230), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0150, e-mail: jgushee@cvm.fda.gov.

For scientific questions regarding the guidance document: Randall A.

Lovell, Center for Veterinary Medicine (HFV–222), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0176, e-mail: rlovell@cvm.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of October 15, 1999 (64 FR 55948), FDA published a notice of availability of a guidance entitled "Dioxin in Anti-caking Agents Used in Animal Feed and Feed Ingredients." This guidance was issued as a Level 1 guidance consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). It was implemented without prior public comment because of concern for the public health. The guidance was intended to notify the feed industry of recent findings regarding the presence of dioxins in mined clays that may be used as anti-caking agents in animal feeds and to offer general advice regarding monitoring of these clays. The agency received comments regarding this guidance and has revised the guidance in response to the comments. The following is a discussion of the issues raised by the comments.

II. Discussion of Comments

The agency received two comments on the guidance. One comment was from the feed industry objecting to the term "mined clay products" and one was from a company that produces limestone objecting to the term "lime."

(Comment 1) One comment noted that the term "mined clay products" was not appropriate because materials labeled as silicate and lime also tested positive to one or more of the dioxin congeners. We agree with the comment that the term was inappropriate for the scope of the affected product. FDA was attempting to use a generic term to describe the source of products of concern. FDA has revised the guidance document by replacing the term "mined clay products" with "clay and non-clay anti-caking products." We have added the term "anti-caking" to emphasize that our primary concern is for the use of these products in feed and feed ingredients and not when used as litter or absorbents.

This comment also noted that of the terms montmorillonite, bentonite, and ground clay, only montmorillonite has a mineral definition. It was also noted that the animal feed industry and its suppliers do not follow scientific terminology for classification and description of these anti-caking animal feed ingredients. The comment recommended that FDA contact the U.S. Geological Survey (USGS) and the Clay Minerals Society (CMS) for assistance in mineral terminology. It was also suggested that the samples, which were analyzed for dioxin, be evaluated for their mineralogy and then properly classified based on the mineralogical components according to accepted scientific guidelines.

FDA was aware that many of the terms used by suppliers and the feed industry were only loosely based on mineralogy and were often more closely associated with some property (e.g., ball clay) of the product than mineralogical components. However, FDA did not fully understand the scope of the interchanging of the terms used by suppliers of these products. FDA agrees that classifying these products based upon the mineralogical components according to accepted scientific guidelines is preferred. FDA has contacted the USGS regarding analyzing the samples for their mineralogy. We have also contacted the USGS and the CMS for information on developing a scientifically accurate naming scheme based on mineralogy. We plan to seek the assistance of the feed industry and the Association of American Feed Control Officials (AAFCO) to implement a scientifically accurate naming scheme based on mineralogy.

(Comment 2) Another comment objected to the use of the term "lime." The National Lime Association (NLA) noted that limestone is a naturally occurring mineral, while lime is not. Lime, according to the NLA, consists of either calcium oxide or calcium hydroxide and results from reacting "limestone" (calcium carbonate) and heat.

FDA does not dispute the NLA's definition of lime and, as mentioned above, has revised the terminology for the products of concern from "mined clay products" to "clay and non-clay anti-caking products." FDA realizes that this does not directly address the NLA's concern that a product might have been incorrectly identified in the survey. FDA reported the findings based on what was on the label of the product sampled or by what the product was called by the company when the FDA investigator collected it.

In essence, the concern expressed by the NLA for the correct identification of the product is the same as that expressed by the other comment and is a concern shared by FDA. We encourage the NLA to work with its members, companies producing limestone, the feed industry, and AAFCO to ensure a scientifically accurate naming scheme is applied to the products supplied to the feed industry.

III. Status of this Guidance

This guidance represents the agency's current thinking on the presence of dioxin congeners in anti-caking agents. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

FDA plans to continue to sample regulated clay and non-clay anti-caking products for dioxin in conjunction with the Environmental Protection Agency and other Government agencies. Plans are also underway to sample other feed components for dioxin.

IV. Comments

As with all of FDA's guidances, the public is encouraged to submit to the Dockets Management Branch (address above) written comments with new data or other new information regarding this guidance. The comments will be periodically reviewed, and, where appropriate, the guidance will be amended. The public will be notified of any such amendments through a notice in the **Federal Register**.

Dated: April 11, 2000.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–9711 Filed 4–18–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–0790]

Draft Guidance for Industry: The Use of Published Literature in Support of New Animal Drug Approval; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability for comment of a draft guidance for industry entitled "The Use of Published Literature in Support of New Animal Drug Approval." The draft guidance is intended to fulfill the section of the FDA Modernization Act of 1997 (FDAMA) that requires the agency to issue guidance to clarify the circumstances in which published matter may be the basis for approval of a supplemental application. The draft guidance also clarifies the circumstances in which published

literature may be the basis for approval of an original application. The draft guidance is intended to provide specific advice on when FDA may be able to rely on published literature, with or without the submission of underlying data, to support new animal drug approval.

DATES: Submit written comments on the draft guidance for industry by July 18, 2000.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on this draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Copies of the draft guidance may be obtained on the Internet at http://www.fda.gov/cvm/fda/TOCs/guideline.html.

FOR FURTHER INFORMATION CONTACT: Gail L. Schmerfeld, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20850, 301–594–1620, e-mail: gschmer1@cvm.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 403(b) of FDAMA (Public Law 105–115) requires FDA to issue guidances to clarify the requirements for, and facilitate the submission of data to support, the approval of supplemental applications for articles approved under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq.*) or section 351 of the Public Health Service Act (42 U.S.C. 262). This provision includes a requirement that FDA publish guidance to clarify circumstances in which published matter may be the basis for approval of a supplemental application.

This draft guidance for industry clarifies the circumstances in which published literature may be the basis for approval of both original and supplemental new animal drug applications. Specifically, the draft guidance describes the circumstances under which FDA could rely on published literature without access to the underlying data and the circumstances under which the applicant should provide additional information about a published study.

II. Significance of Guidance

This draft guidance represents the agency's current thinking with regard to the use of published literature in support of new animal drug approval. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both. The agency has developed this draft guidance in accordance with the agency's good guidance practices (62 FR 8961, February 27, 1997), which set forth the policies and procedures for the development, issuance, and use of guidance documents.

III. Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments on the draft guidance by July 18, 2000. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 10, 2000.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–9713 Filed 4–18–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources And Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Public Law 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

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.

Proposed Project: National Donor Sabbath Organ Procurement Organization Survey—New

November 10–12, 2000, will mark the fifth annual National Donor Sabbath (NDS), a time for clergy throughout the Nation to help increase awareness about the critical need for organs and tissues. In support of the 1999 NDS, the Health Resources and Services Administration, Office of Special Programs, Division of Transplantation (DoT) distributed to 61 Organ Procurement Organizations (OPO) in the U.S. more than 300,000 organ donor awareness lapel pins attached to paper backings containing NDS information. The OPOs were asked to distribute the pins to their local clergy to be used for further distribution and education of their congregation. DoT plans to replicate this activity for 2000 NDS.

While DoT believed the 1999 pin distribution to be a positive educational tool there exists a need to properly investigate the efficacy of the pins as an aid in promoting NDS. The Division wishes to examine the pin distribution in 2000 NDS in order to plan the most effective, efficient, and cost effective role for DoT in subsequent observances of NDS. Investigation will consist of requesting each OPO to complete a short survey concerning usage, distribution, and impact of the pins. This is a one-time survey.

ESTIMATES OF ANNUALIZED HOUR BURDEN

Subjects	Number of respondents	Responses per respondent	Total responses	Hrs. per response	Total hour burden
Organ Procurement Organizations	60	1	60	.33	20

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: April 13, 2000.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 00–9757 Filed 4–18–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)-443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Grants for Hospital Construction and Modernization—Federal Right of Recovery and Waiver of Recovery (42 CFR, Subpart H) (OMB No. 0915–0099)—Extension

The regulation known as "Federal Right of Recovery and Waiver of Recovery," provides a means for the Federal Government to recover grant funds and a method of calculating interest when a grant-assisted facility under Titles VI and XVI is sold or leased, or there is a change in use of the facility. It also allows for a waiver of the right of recovery under certain circumstances. Facilities are required to provide written notice to the Federal Government when such a change occurs; and to provide copies of sales contracts, lease agreements, estimates of current assets and liabilities, value of equipment, expected value of land on the new owner's books and remaining depreciation for all fixed assets involved in the transactions, and other information and documents pertinent to the change of status.

ESTIMATES OF ANNUALIZED HOUR BURDEN

Regulation	Number of respondents	Responses per respondent	Hours per response	Total burden hours
124.704(b) and 707	20	1	3	60

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Wendy A. Taylor, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: April 13, 2000.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 00–9756 Filed 4–18–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Early Therapeutics Development with Phase 2 Emphasis.

Date: May 8–9, 2000.

Time: 8 am to 5 pm.

Agenda: To review and evaluate contract proposals.

Place: Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Lalita D. Palekar, Scientific Review Administrator, Special Review, Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8066, Bethesda, MD 20892–7405, 301–496–7575.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology

Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: April 11, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–9720 Filed 4–18–00; 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 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: April 27, 2000.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Conference Room B2B32/Bldg 31, 31 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ken D Nakamura, Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institute of Health, Bethesda, MD 20892, 301–402–0838.

This notice is being published less that 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. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: April 11, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–9722 Filed 4–18–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group, Health Services Research Review Subcommittee.

Date: June 15, 2000.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Bethesda, MD 20814.

Contact Person: Elsie Taylor, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., Bethesda, MD 20892–7003, 301–443–9787, etaylor@niaaa.nih.gov.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group, Clinical and Treatment Subcommittee.

Date: June 29–30, 2000.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 1450 Glenarm Place, Denver, CO 80202.

Contact Person: Elsie Taylor, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., Bethesda, MD 20892–7003, 301–443–9787, etaylor@niaaa.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: April 12, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–9715 Filed 4–18–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: May 9, 2000.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, Presidential Board Room, One Washington Circle, NW., Washington, DC 20037.

Contact Person: Paula S. Strickland, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Solar Building, Room 4C02, 6003 Executive Boulevard MSC 7610, Bethesda, MD 20892–7610, 301–402–0643.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: April 12, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–9716 Filed 4–18–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Disease; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Disease Special Emphasis Panel.

Date: April 25, 2000.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: 6700–B Rockledge Drive, Room 2220, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Anna Ramsey-Ewing, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2220, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301–496–2550, ar15o@nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: April 12, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–9717 Filed 4–18–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Mid Career Investigator Award in Patient-Oriented Research.

Date: April 26, 2000.

Time: 10 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin Avenue, Gateway Building, Rm 2C212, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ramesh Vemuri, Office of Scientific Review, National Institute on Aging, Bethesda Gateway Building, Suite 2C212, Bethesda, MD 20892, 301–496–9666.

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: National Institute on Aging Special Emphasis Panel.

Date: April 25, 2000.

Time: 10:15 a.m. to 11:15 a.m.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin Avenue, Gateway Building, Rm 2C212, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jeffrey M. Chernak, Bethesda Gateway Building, 7201 Wisconsin Avenue, Rm 2C212, Bethesda, MD 20892, 301–496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: April 26, 2000.

Time: 10 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin Avenue, Gateway Building, Rm 2C212, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Mary Nekola, Chief, Office of Scientific Review, National Institute on Aging, Bethesda Gateway Building, Suite 2C212, Bethesda, MD 20892, 301–496–9666.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: April 12, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–9718 Filed 4–18–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; 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 Alcohol Abuse and Alcoholism.

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 Alcohol Abuse and Alcoholism.

Date: June 7–8, 2000.

Closed: June, 7, 2000, 7 p.m. to 9 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20892.

Open: June 8, 2000, 8:30 a.m. to 3:30 p.m.

Agenda: Progam documents.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD. 20892.

Contact Person: James F. Vaughan, Executive Secretary, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: April 11, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–9719 Filed 4–18–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

the meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussion could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, 05/2000 ZNS–1 SRB–W (03).

Dote: April 27, 2000.

Time: 12 p.m. to 3 p.m.

Agendo: To review and evaluate grant applications.

Ploce: 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contoct Person: Alan L. Willard, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd. Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: April 11, 2000.

LaVerne Y. Stringfield,

Director, Office of Federol Advisory Committee Policy.

[FR Doc. 00–9721 Filed 4–18–00; 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.

Nome of Committee: National Institute of Mental Health Special Emphasis Panel.

Dote: April 26, 2000.

Time: 1 pm to 5 pm.

Agendo: To review and evaluate grant applications.

Ploce: Sheraton University City Hotel Philadelphia, 36th and Chestnut Streets, Philadelphia, PA 19104–5939.

Contoct Person: Sheila O'Malley, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6138, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470.

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: April 11, 2000.

LaVerne Y. Stringfield,

Director, Office of Federol Advisory Committee Policy.

[FR Doc. 00–9723 Filed 4–18–00; 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.

Nome of Committee: National Advisory Council on Aging.

Dote: May 25–26, 2000.

Open: May 25, 2000, 1 pm to 5:30 pm.

Agenda: Called to Order; Report of Minority Program Review; Report on Working Group on Program; Program Highlights; and Review of Behavioral and Social Review Program.

Ploce: 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Closed: May 26, 2000, 8 am to Adjournment.

Agendo: To review and evaluate grant applications and/or proposals.

Place: 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Contoct Person: Miriam F. Kelty, PhD, Director, Office of Extramural Affairs, National Institute on Aging, National Institutes on 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: April 13, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–9805 Filed 4–18–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning

individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel "Drug Abuse Prevention Dissemination".

Date: April 19, 2000.

Time: 11 am to 1 pm.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1439.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: April 13, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–9807 Filed 4–18–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 19, 2000.

Time: 1:30 pm to 2:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Joseph Kimm, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178 MSC 7844, Bethesda, MD 20892, (301) 435–1249.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 28, 2000.

Time: 1 pm to 2 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: H. Mac Stiles, DDS, PhD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7816, Bethesda, MD 20892, 301–435–1785.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 1, 2000.

Time: 2 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Marcelina B. Powers, DVM, MS, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4152, MSC 7804, Bethesda, MD 20892, (301) 435–1720.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 3, 2000.

Time: 1 pm to 4 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Carl D. Banner, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5212, MSC 7850, Bethesda, MD 20892, (301) 435–1251, bannerc@drg.nih.gov

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 3, 2000.

Time: 2 pm to 3 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Marcelina B. Powers, DVM, MS, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4152, MSC 7804, Bethesda, MD 20892 (301) 435–1720.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 13, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–9806 Filed 4–18–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospect Grant of Exclusive License: Therapeutic and Diagnostic Uses of Novel Thiolesters for HIV and Other Applications

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice in accordance with 35 U.S.C. 209 (c)(1) and 37 CFR 404.7 (a) (1) (i) that the National Institutes of Health (NIH), Department of Health and Human Services (DHHS), is contemplating the grant of an exclusive license worldwide to practice the inventions embodied in patents under "Supplementary Information" to Achillion Pharmaceuticals, Inc., having a place of business in New Haven, Connecticut. The patent rights in these inventions have been assigned to the government of the United States of America.

DATES: Only written comments and/or license applications which are received by the NIH Office of Technology Transfer on or before June 19, 2000 will be considered.

ADDRESSES: Requests for a copy of these patent applications, inquiries, comments, and other materials relating to the contemplated license should be directed to: Mr. J.P. Kim, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; Telephone: (301) 496–7056, ext. 264; Facsimile: (301) 402–0220. A signed Confidential Disclosure Agreement (CDA) may be required to receive copies of the patent application.

SUPPLEMENTARY INFORMATION: The patent applications to be licensed are: "Novel Thiolesters and Uses Thereof", U.S. Provisional Patent Application Serial

No. 60/089,842, filing date 06/19/1998, "Novel Thiolesters and Uses Thereof", PCT International Patent Application No. PCT/US99/13856, International Filing Date 06/18/1999.

The zinc finger has been found in many proteins and in a great variety of species (e.g., the zinc finger structure can be found in the human immunodeficiency virus (HIV)). In viruses, the zinc-binding domains of nucleocapsid proteins have been identified as being involved in both early and late phases of viral replication, thus making them potentially attractive targets for antiviral agents.

The present invention provides for a novel family of thiolesters and uses thereof. These thiolesters are capable of inactivating viruses and other agents by a variety of mechanisms, particularly by complexing with metal ion-complexing zinc fingers. The invention further provides for methods for inactivating a virus, such as HIV, using these compounds, and thereby also inhibiting transmission of the virus.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The field of use may be limited to the use of novel thiolesters of the invention for therapeutic and diagnostic uses for anti-viral and anti-retroviral (including anti-HIV/AIDS), anti-tumor, anti-parasitic (e.g., malaria), anti-bacterial, and anti-fungal applications, as well as for agricultural uses (e.g., insecticidal use).

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act (FOIA), 5 U.S.C. 552.

Dated: April 13, 2000.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 00–9809 Filed 4–18–00; 8:45 am]

BILLING CODE 4140–01–P]

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program; National Toxicology Program (NTP) Board of Scientific Counselors Technical Reports Review Subcommittee Meeting; Review of Draft NTP Technical Reports

Pursuant to Public Law 92–463, notice is hereby given of the next meeting of the NTP Board of Scientific Counselors Technical Reports Review Subcommittee on May 18, 2000 in the Rodbell Auditorium, Building 101, South Campus, National Institute of Environmental Health Sciences (NIEHS), 111 Alexander Drive, Research Triangle Park, North Carolina. The meeting will begin at 8:30 a.m. on May 18 and is open to the public. The primary agenda topic is the peer review of draft Technical Reports of long-term toxicology and carcinogenesis studies from the NTP. There will also be a presentation about the beneficial effects of the NIH2000 diet in chronic studies.

Tentatively scheduled for peer review on May 18 are draft Technical Reports of six two-year studies, listed alphabetically in the attached table, along with supporting material. Studies were conducted using Fischer 344 rats and/or B6C3F_1 mice. The tentative order of review is given in the far right column of the table.

Draft Reports Available for Public Review and Comment

Approximately one month prior to the meeting, the draft reports will be available for public review and comment on the Internet free of charge through the Environmental Health Information Service (EHIS) at http://ehis.niehs.nih.gov. Printed copies can be obtained, as available, from: Central Data Management, NIEHS, PO Box 12233 MD E1–02, Research Triangle Park, NC 27709, T: 919–541–3419, FAX: 919–541–3687, or email: CDM@niehs.nih.gov.

The NTP Board of Scientific Counselors Technical Reports Review Subcommittee meeting is open to the public and public comment on any of the Technical Reports is welcome. Time will be provided for public comment on each of the reports under review. In order to facilitate planning for the meeting, persons requesting time for an oral presentation on a particular Technical Report are asked to notify the Executive Secretary, Dr. Mary S. Wolfe (PO Box 12233, MD A3–07, Research Triangle Park, NC 27709; telephone 919/541–3971; FAX 919/541–0295; email wolfe@niehs.nih.gov). Persons registering to make comments are asked to provide, if possible, a written copy of their statement by May 12th to enable review by the Subcommittee and staff prior to the meeting. Written statements can supplement and may expand the oral presentation, and each speaker is asked to provide his/her name, affiliation, mailing address, phone, fax, e-mail and supporting organization (if any). At least seven minutes will be allotted to each speaker, and if time permits, may be extended to 10 minutes. Registration for making public comments will also be available on-site. If registering on-site to speak and reading oral comments from printed copy, the speaker is asked to bring 25 copies of the text. These copies will be distributed to the Chair and Subcommittee members and supplement the record.

Written comments, in lieu of making oral comments, are also welcome. The comments should include name, affiliation, mailing address, phone, fax, e-mail and sponsoring organization (if any) and preferably be received by May 12th to enable review by the Subcommittee and staff prior to the meeting.

Request for Additional Information

The NTP would welcome receiving toxicology and carcinogenesis information from completed, ongoing, or planned studies as well as current production data, human exposure information, and use patterns for any of the chemicals listed in this announcement. Please forward this information to Central Data Management at the address given above who will relay it to the appropriate staff scientist.

The agenda and a roster of Subcommittee members will be available prior to the meeting on the NTP web homepage at http://ntp-server.niehs.nih.gov and upon request from the Executive Secretary. Following the meeting, summary minutes will be available on the NTP web homepage and upon request to Dr. Wolfe.

Attachment

Dated: April 11, 2000.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

TECHNICAL REPORTS TENTATIVELY SCHEDULED FOR REVIEW BY THE NTP BOARD OF SCIENTIFIC COUNSELORS TECHNICAL REPORTS REVIEW SUBCOMMITTEE ON MAY 18, 2000

Chemical CAS No.	Report No.	Primary uses	Route and exposure levels	Review order
Chloral Hydrate 302–17–0	TR–502	The primary sedative used in children.	Gavage (water vehicle) Mice: 0, 25, 50, or 100 mg/kg.	4
Chloral Hydrate (feed restricted) 302–17–0.	TR–503	The primary sedative used in children.	Gavage (water vehicle; feed restriction study) Male Mice: 0, 25, 50, or 100 mg/kg.	5
p,p'-Dichlorodiphenyl Sulfone 80–07–9.	TR–501	Starting product in production of polysulfones and polyethersulfones; by-product of pesticide production.	Feed Male Rats: 0, 10, 30, or 100 ppm; Female Rats & Mice: 0, 30, 100, or 300 ppm.	6
Indium Phosphide 22398–80–7	TR–499	Used in making semiconductors, lasers, solar cells, and photodiodes.	Inhalation Rats & Mice: 0, 0.03, 0.1, or 0.3 mg/m^3.	1
Naphthalene 91–20–3	TR–500	Ingredient in moth repellants and toilet bowl deodorants and as an intermediate in a variety of chemical synthesis processes.	Inhalation Rats: 0, 10, 30, or 60 ppm.	2
Sodium Nitrite 7632–00–0	TR–495	Color fixative and preservative in meats and fish; also used in a variety of industrial processes.	Drinking water Rats & Mice: 0, 750, 1500, or 3000 ppm.	3

[FR Doc. 00–9810 Filed 4–18–00; 8:45 am]
BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4561–N–29]

Notice of Submission of Proposed Information Collection to OMB; Manufactured Home Construction and Safety Standards Program

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* May 19, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502–0233) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail Wayne_Eddin@HUD.gov; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Manufactured Home Construction and Safety Standards Program.

OMB Approval Number: 2502–0233.

Form Numbers: HUD–101, –203, –203–B, –301, –302, –303, –304.

Description of the Need for the Information and Its Proposed Use: The Manufactured Home Construction and Safety Standards Act authorizes HUD to promulgate and enforce reporting standards for the production of manufactured housing. HUD uses the information collected to support an inspection program and to facilitate recalls as necessary.

Respondents: Business or other for-profit entities.

Frequency of Submission: On occasion.

Reporting Burden	Number of Respondents	×	Frequency of response	×	Hours per response	=	Burden hours
	283		24		1.2		8,032

Total Estimated Burden Hours: 8,032.

Status: Reinstate approval with change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: April 11, 2000.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Office.

[FR Doc. 00–9734 Filed 4–18–00; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Letters of Authorization to Take Marine Mammals

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of issuance of Letters of Authorization to take marine mammals incidental to oil and gas industry activities.

SUMMARY: In accordance with section 101(a)(5)(A) of the Marine Mammal Protection Act of 1972, as amended, and the U.S. Fish and Wildlife Service implementing regulations [50 CFR 18.27(f)(3)], notice is hereby given that Letters of Authorization to take polar bears and Pacific walrus incidental to oil and gas industry exploration, development, and production activities have been issued to the following companies:

Company	Activity	Date issued
Exxon Mobil	Exploration ...	March 16, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Bridges at the U.S. Fish and Wildlife Service, Marine Mammals Management Office, 1011 East Tudor Road, Anchorage, Alaska 99503, (800) 362–5148 or (907) 786–3810.

SUPPLEMENTARY INFORMATION: Letters of Authorization were issued in accordance with U.S. Fish and Wildlife Service Federal Rules and Regulations "Marine Mammals; Incidental Take During Specified Activities (65 FR 5275; February 3, 2000)."

Dated: March 27, 2000.

Gary Edwards,

Deputy Regional Director.

[FR Doc. 00–9726 Filed 4–18–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–070–99–5101–00; J–608; UTU–77149, UTU–77164, UTU–78301, FERC Doc. No. CP00–68–000]

San Juan County, New Mexico; La Plata, Montezuma, Dolores, and San Miguel Counties, Colorado; and San Juan, Grand, Emery, Carbon, Sanpete, Utah, Juab and Salt Lake Counties, Utah; EIS for a Refined Petroleum Products Pipeline, Natural Gas Pipelines and Utility Corridor Analysis and Plan Amendments

AGENCY: Bureau of Land Management, Utah.

ACTION: Revised Notice of Intent to Prepare an Environmental Impact Statement (EIS) (original notice was published April 28, 1999, (FR Vol. 64, No. 83 p. 23349–23351) for the construction of underground pipeline facilities and above ground structures for the transportation of Refined Petroleum Products and Natural Gas and Notice of Scoping Meetings.

SUMMARY: On April 28, 1999, the Bureau of Land Management, Utah, announced its intent to prepare an Environmental Impact Statement (EIS) and conduct EIS Scoping Meetings for: (1) Construction of Pipeline Facilities and Transportation of refined petroleum products via underground pipeline in San Juan County, New Mexico; La Plata, Montezuma, Dolores, and San Miguel Counties, Colorado; and San Juan, Grand, Emery, Carbon, Sanpete, Utah, Juab and Salt Lake Counties, Utah; and (2) Construction of Pipeline Facilities and Transportation of natural gas via an underground pipeline in Emery, Carbon, Sanpete, Utah, Juab, and Salt Lake Counties. This revised notice is to clarify the proposals, nature of the proposals, responsible officials, roles of responsible officials, and decisions. This revised notice also updates the project schedule and public involvement.

Pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, the Bureau of Land Management (BLM), Utah State Office, will be the lead agency directing the preparation of an EIS on the impacts of proposed transportation of refined petroleum products and natural gas through pipelines located on public lands, including BLM and National Forest System, State, and private lands in northwest New Mexico, southwest Colorado, and southeast to north-central Utah. In addition, the EIS will also analyze utility corridors across the Manti-LaSal and Uinta National Forests to identify the use and allocate National Forest System Lands which may or may not expand the existing designated corridors and/or identify other corridors. This analysis may result in Forest Plan amendments to the Manti-LaSal and Uinta National Forest Land and Resource Management Plans. The Federal Energy Regulatory Commission (FERC) and USDA Forest Service, Manti-LaSal and Uinta National Forests, will be participating in the EIS preparation as Cooperating Agencies in accordance with Title 40, Code of Federal Regulations, Section 1501.6. The EIS will address all reasonable alternatives including locating the pipelines on and off USFS and public lands.

SUPPLEMENTARY INFORMATION: Williams Pipeline Company has proposed to transport refined petroleum products to the Wasatch Front in Utah, using a combination of existing pipelines in New Mexico and Colorado, and a new segment of pipeline in Utah from near Crescent Junction, Utah to a terminal on the Wasatch Front. The refined petroleum products would include diesel fuel, fuel oil, jet fuel, and gasoline. In addition to the Williams proposal, Questar Pipeline Company (Questar) and Kern River Gas Transmission Company (Kern River) have proposals to transport natural gas from Price, Utah to the Wasatch Front and connect to an existing Kern River pipeline located in central Juab county and western Utah county. Questar has proposed to loop it's existing pipeline from Price to Payson, provide natural-gas service to the communities of Goshen, Genola, and Elberta, and connect to the existing Kern River Pipeline near Elberta. Kern River has proposed to construct a new pipeline from Price to near Indianola, then to a point just north of Nephi, and then westerly to intersect the existing Kern River Pipeline in Dog Valley.

Preliminary Issues

Issues identified at this time include: biology; visual resources; soils, water, and air resources and quality; threatened, endangered and sensitive plant and animal species; cultural and historic resources; public health and safety; geologic and land stability; roadless areas; multiple entries resulting in repetitive impacts and the ability to meet use demands; capacity of the utility corridor; and social and economic impacts in association with oil and natural gas pipeline construction and operation. Other issues and concerns may be identified through

scoping and development of this public notification process.

Possible Alternatives

The EIS will analyze the Proposed Action and No-Action Alternative as well as corridor capacity. Other alternatives may include different routes for portions of the proposed pipelines, fewer but larger pipelines in the corridor, and optional sites for pipeline facilities, as well as mitigating measures to minimize impacts.

Responsible Officials

The Responsible Officials are: Sally Wisely, the BLM Utah State Director (Utah State Office, 324 South State Street, Suite 301, Salt Lake City, Utah 84111; the Manti-LaSal National Forest Supervisor (Manti-LaSal National Forest, 599 West Price River Drive, Price, Utah 84501); and Peter W. Karp, the Uinta National Forest Supervisor (Uinta National Forest, 88 West 100 North, Provo, Utah 84601). Additional information about the natural gas pipeline proposals is available from Paul McKee of the FERC's Office of External Affairs at (202) 208–1088 (refer to Docket No. CP00–68–000).

Decisions to be Made

The purpose of the EIS is to disclose to the public and permitting agencies the environmental impacts of constructing and operating the proposed projects. If one or more of the projects are approved, the participating agencies would take the following actions. The BI.M, as the lead agency, would sign the necessary Record of Decision (ROD) for the issuance of right-of-way grants under the Mineral Leasing Act for the pipeline proposals. FERC, as a Cooperating Agency and the regulatory agency for the transmission of natural gas in interstate commerce, would issue the natural gas pipeline companies Certificates of Public Convenience and Necessity under the Natural Gas Act. The Forest Service, as a cooperating agency, would sign the necessary Record(s) of Decision for the Forest Land and Resource Management Plan Amendments (may include standards and guidelines) on the Manti-LaSal and Uinta National Forests. The USFS ROD would also include the use and allocation of National Forest System Lands which may or may not expand the existing designated utility corridor(s) and/or identify other corridor(s).

Tentative Project Schedule

The tentative project schedule is as follows:

- Begin Public Comment Period—April 1999.
- Scoping Meetings—May and June 1999, May 10, 11, 2000.
- Scoping Comment Period Ends—May 17, 2000.
- File Draft EIS—October 1, 2000.
- File Final EIS—February 2001.
- Record of Decision—March, 2001.

Public Scoping Meetings

Nine public scoping meetings were held on the following dates and in the following locations: May 18, 1999, Green River, Utah, May 19, 1999, Moab, Utah, May 20, 1999, Price, Utah, May 25, 1999, Salt Lake City, Utah, May 26, 1999, Payson, Utah, May 27, 1999, Lehi, Utah, June 2, 1999, Dolores, Colorado, June 3, 1999, Durango, Colorado, and June 23, 1999, Price, Utah. Additional public scoping meetings will be held in West Valley City, Utah, on May 10, 2000, and at Nephi, Utah on May 11, 2000.

Public Input Requested

Comments concerning the Proposed Action and EIS should address environmental issues to be considered, feasible alternatives to examine, possible mitigation, and information relevant to or bearing on the Proposed Action.

DATES: An additional comment period for scoping of the EIS will commence with publication of this revised notice. Written comments must be submitted on or before May 19, 2000.

Comments, including names and street addresses of respondents will be available for public review at the BLM Utah State Office and will be subject to disclosure under the Freedom of Information Act (FOIA). They may be published as part of the EIS and other related documents. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review and disclosure under the FOIA, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, will be made available for public inspection in their entirety.

ADDRESSES: Comments should be sent to LaVerne Steah, EIS Team Leader, Bureau of Land Management, Utah State Office, 324 South State Street, Suite 301, Salt Lake City, UT 84111 or at the website: QWK–EIS.ORG.

FOR FURTHER INFORMATION CONTACT: LaVerne Steah, (801) 539–4114 or e-mail: LaVerne__Steah@blm.gov

Dated: April 10, 2000.

Linda Colville,

Acting Utah State Director.

[FR Doc. 00–9460 Filed 4–18–00; 8:45 am]

BILLING CODE 4310–DQ–U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget Review, Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of information collection.

SUMMARY: Under the Paperwork Reduction Act of 1995, we are soliciting comments on an information collection titled Office of Indian Royalty Assistance Customer Satisfaction Survey, OMB 1010–0098, which expires on November 30, 2000. We are preparing an information collection request, which we will submit to the Office of Management and Budget (OMB), for a 3-year extension of this information collection.

DATES: Written comments should be received on or before June 19, 2000.

ADDRESSES: The mailing address for written comments regarding this information collection is David S. Guzy, Chief, Rules and Publications Staff, Minerals Management Service, Royalty Management Program, P.O. Box 25165, MS 3021, Denver, Colorado 80225. Courier address is Building 85, Room A–613, Denver Federal Center, Denver, Colorado 80225. The Internet address is RMP.comments@mms.gov.

PUBLIC COMMENT PROCEDURE If you wish to comment, you may submit your comments by any one of several methods and to the mailing addresses stated in the **ADDRESSES** section of this Notice. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include Attn: Office of Indian Royalty Assistance Customer Satisfaction Survey, OMB Control Number 1010–0098, and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact David S. Guzy directly (303) 231–3432.

We will post public comments after the comment period closes on the Internet at *http://www.rmp.mms.gov*. You may arrange to view paper copies of the comments by contacting David S. Guzy, Chief, Rules and Publications

Staff, telephone (303) 231–3432, FAX (303) 231–3385. Our practice is to make comments, including names and addresses of respondents, available for public review on the Internet and during regular business hours at our offices in Lakewood, Colorado. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Dennis C. Jones, Rules and Publications Staff, phone (303) 231–3046, FAX (303) 231–3385, email *Dennis.C.Jones@mms.gov*. A copy of the information collection is available to you without charge upon request.

Title: Office of Indian Royalty Assistance Customer Satisfaction Survey, OMB Control Number 1010–0098.

Abstract: Section 3506(c)(2)(A) of the Paperwork Reduction Act requires each agency "to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *" Agencies must specifically solicit comments to: (a) evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

The Department of the Interior (DOI) is responsible for matters relevant to mineral resource development on Federal and Indian Lands and the Outer Continental Shelf (OCS). The Secretary of the Interior (Secretary) is responsible for managing the production of minerals from Federal and Indian Lands and the OCS; for collecting royalties from lessees who produce minerals; and for distributing the funds collected in accordance with applicable laws. The Secretary also has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. MMS performs the royalty management functions and assists the Secretary in carrying out his Indian trust responsibility.

Executive Order 12862 requires Federal agencies to develop and implement customer service standards. As part of these standards, the Office of Indian Royalty Assistance (OIRA) pledges to "work continuously to streamline and improve our services." When individual Indian mineral owners request assistance from OIRA offices, we include a postage-paid Customer Satisfaction Survey card when responding to the owner's request. This survey card asks Indian mineral owners several questions regarding the quality of service that our offices are providing to them.

The information collected from these Customer Satisfaction Survey cards helps us determine the effectiveness of our office and guides us in developing and implementing new procedures to improve our service.

We receive approximately 300 completed survey cards annually. Based on this response rate and the 2 minutes required to complete the survey card, we estimate the annual reporting and recordkeeping "hour" burden is 10 hours; there is no "non-hour" burden.

Frequency: On occasion.

Estimated Number and Description of Respondents: 300 individual Indian mineral owners.

Estimated Annual Reporting and Recordkeeping "Hour" Burden: 10 hours.

Estimated Annual Reporting and Recordkeeping "Non-Hour" Burden: 0 hours.

Dated: April 12, 2000.

R. Dale Fazio,

Acting Associate Director for Royalty Management.

[FR Doc. 00–9803 Filed 4–18–00; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Environmental Assessment Prepared for Proposed Western Gulf Sale 177 on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of the environmental assessment on proposed western Gulf of Mexico Lease Sale 177.

SUMMARY: The Minerals Management Service (MMS) has prepared an environmental assessment (EA) for the proposed annual Lease Sale 177 for the Western Planning Area of the Gulf of Mexico Outer Continental Shelf.

In this EA, MMS has reexamined the potential environmental effects of the proposed action and alternatives based on any new information regarding potential impacts and issues that were not available at the time the Final Environmental Impact Statement (FEIS) for Lease Sales 171, 174, 177, and 180 was prepared.

In summary, no new significant impacts were identified for proposed Lease Sale 177 that were not already assessed in the FEIS for Lease Sales 171, 174, 177, and 180. As a result, MMS determined that a supplemental EIS is not required and prepared a Finding of No New Significant Impact.

If you wish to comment, you may mail or hand-carry written comments to the Department of the Interior, Minerals Management Service, Regional Director (MS–5410), Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Public Information Unit, Information Services Section at number below. You may obtain single copies of the EA from the Minerals Management Service, Gulf of Mexico OCS Region, Attention: Public Information Office (MS 5034), 1201 Elmwood Park Boulevard, Room 114, New Orleans, LA 70123–2394 or by calling 1–800–200–GULF.

Dated: April 13, 2000.
Chris C. Oynes,
Regional Director, Gulf of Mexico OCS Region.
[FR Doc. 00–9738 Filed 4–18–00; 8:45 am]
BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

60 Day Notice of Intention To Request Clearance of Collection of Information; Opportunity for Public Comment

AGENCY: National Park Service, Department of the Interior, Golden Gate National Recreation Area.

ACTION: Notice and request for comments.

SUMMARY: The Golden Gate National Recreation Area (GGNRA) is a national park which comprises over 76,000 acres of coastal lands spanning three California counties: Marin, San Francisco and San Mateo. GGNRA is proposing to conduct survey interview in peak, shoulder and off-peak season of calendar year 2000, and possibly through Spring 2001, to identify the market viability and specific visitor flow information for operationlizing recreational ferry services to sites within the GGNRA on San Francisco Bay such as Ft. Baker, Crissy Field (Presidio) and Ft. Mason. The results of these surveys will be used to develop alternative plans for a possible ferry service and to forecast potential demand for water shuttle access to GGNRA's sites, as well as land-based transit connections. Intercept interviews will be conducted at 5 park sites and at least 2 non-park sites. Telephone surveys will be conducted in 3–4 counties surrounding the park to determine latent demand for ferry service, and under what conditions such service might be used.

	Estimated number of	
	Responses	Burden hours
GGNRA Water Shuttle Access Plan: Telephone Interviews	1400	240
GGNRA Water Shuttle Access Plan: Intercept Surveys	8400	700
Total	9800	940

Under provisions of the Paperwork Reduction Act of 1995 and 5 CFR Part 1320, Reporting and Record Keeping Requirements, the National Park Service (NPS) is soliciting comments on: (a) Whether the collection of information is necessary for such a reliable and valid market analyses and to support the proper performance of the functions of the GGNRA in evaluating the best alternative operations in the interest of the government and the general public, including whether the information will have practical utility; (b) the accuracy of the NPS estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) the quality, utility, and clarity of the information to be collected; and (d) how to minimize the burden of the collection of information on those who are to respond, while maintaining an unbiased sample, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

DATES: Public comments will be accepted on or before June 19, 2000.

SEND COMMENTS TO: GGNRA, Attn. Mike Savidge, Bay and Franklin St., Bldg., 201, Ft. Mason, San Francisco, CA 94123.

FOR FURTHER INFORMATION CONTACT: Mike Savidge at (415) 561–4725.

SUPPLEMENTARY INFORMATION: *Title:* Scope of Work for Water Shuttle Access Plan.

Bureau Form Number: None.

OMB Number: To be requested.

Expiration Date of Approval: To be requested.

Type of Request: Request for new clearance.

Description of Need: The Metropolitan Transportation Commission (MTC) of the San Francisco Bay Area has identified updated data collection and surveys of this nature as critical to the foundation of improving alternative transportation access to GGNRA, and particularly to the feasibility of developing a potential water shuttle service to park sites. GGNRA has also been identified as one of five national park demonstration sites to improve alternative transportation access through a coordinated program with the U.S. Department of Transportation (DOT) because of its over 15 million visitors per year. To support these efforts, GGNRA needs information to better develop ridership potential to alternate park sites, and to determine the specific market feasibility and operational plans for alternative modes of access to GGNRA sites, particularly by ferry service. Such a need was identified in a GGNRA Travel Study completed in 1977 and remains today. GGNRA seeks to acquire this information in order to plan for increasing alternative access modes to the park and to decongest the critical roadway corridors to park sites such as the Golden Gate Bridge and Rt. 101 which result in both extensive traffic delays for visitors and other residents.

Automated Data Collection: At the present time, there is no automated way to gather this information, since the information gathering process involves asking visitors and/or the general public to identify characteristics, use patterns, expectations, preferences and perceptions that are relevant to a study of ferry service. Computerized responses could not be controlled for bias as intercept and random digit dialing surveys can be.

Description of respondents: Intercept interviews will be conducted with a random sample of individuals who visit GGNRA sites to include Alcatraz, Muir Woods, Presidio, Ft. Mason and the Marin Headlands. Intercept interviews will also be conducted at non-park sites in San Francisco and the East Bay with a random sample of individuals who are not visiting GGNRA. Telephone surveys will be conducted with a random sample of residents of the Counties of San Francisco, Alameda and one or two other counties surrounding the Bay as yet unselected.

Estimated average number of respondents: 1400 (completed telephone interviews); 8400 (completed intercept interviews).

Estimated average number of responses: Each respondent will respond only one time, so the number of responses will be the same as the number of respondents.

Estimated average burden hours per response: 10 minutes (telephone

interviews); 5 minutes (intercept surveys).

Frequency of Response: 1 time per respondent.

Estimated annual reporting burden: 940 hours.

Dated: April 13, 2000.

Betsy Chittenden,

Information Collection Clearance Officer, WASO Administrative Program Center, National Park Service.

[FR Doc. 00–9707 Filed 4–18–00; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Lincoln Boyhood National Memorial, Indiana

AGENCY: National Park Service, Interior.

ACTION: Notice of Intent to prepare a General Management Plan and Environmental Impact Statement for Lincoln Boyhood National Memorial, Indiana.

SUMMARY: The National Park Service (NPS) will prepare a General Management Plan (GMP) and an associated Environmental Impact Statement (EIS) for Lincoln Boyhood National Memorial, Indiana, in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA). This notice is being furnished as required by NEPA Regulations 40 CFR 1501.7.

To facilitate sound planning and environmental assessment, the NPS intends to gather information necessary for the preparation of the EIS, and to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are invited.

Participation in the planning process will be encouraged and facilitated by various means. Notification of all public involvement opportunities will be announced in the local press and in NPS mailings. To begin the public process, the NPS will conduct a scoping meeting to explain the planning effort and to solicit opinion about issues to address in the GMP/EIS.

DATES: Two public scoping meetings will be held on Wednesday, May 3, 2000 at the Lincoln Boyhood National Memorial Visitor Center, Highway 162, in Lincoln City, Indiana. An afternoon session will be held from 1:00 p.m. to 3:00 p.m.; an evening session will be held from 6:30 p.m. to 8:30 p.m. Both sessions will be in the Nancy Hanks Lincoln Hall. More information about the meetings is available from the Superintendent, Lincoln Boyhood National Memorial, at the address and telephone number below.

ADDRESSES: Written comments and information concerning the scope of the EIS and other matters, or requests to be added to the project mailing list should be directed to: Ms. Dusty Shultz, Superintendent, Lincoln Boyhood National Memorial, P.O. Box 1816, Lincoln City, IN 47552–1816. Telephone: 812–937–4541. E-mail: dusty__shultz@nps.gov

FOR FURTHER INFORMATION CONTACT: Superintendent, Lincoln Boyhood National Memorial, at the address and telephone number above.

SUPPLEMENTARY INFORMATION: Lincoln Boyhood National Memorial preserves the site of the farm where Abraham Lincoln spent 14 formative years of his life. He and his family moved to Indiana in 1816 and stayed until 1830 when they moved to Illinois. During this period, Lincoln grew physically and intellectually into a man. The people he knew here and the things he experienced had a profound influence on his life. The time he spent here helped shape the man that went on to lead the country. This site is the most direct tie with that time of his life. Lincoln Boyhood National Memorial is also significant because it represents that period within the history of the preservation movement, when the creation of memorial edifices and landscapes were an important expression of the nation's respect and reverence for Abraham Lincoln.

In accordance with NPS Park Planning policy, the GMP will ensure the Memorial has a clearly defined direction for resource preservation and visitor use. It will be developed in consultation with servicewide program managers, interested parties, and the general public. It will be based on an adequate analysis of existing and potential resource conditions and visitor experiences, environmental impacts, and costs of alternative courses of action.

The environmental review of the GMP/EIS for the Memorial will be conducted in accordance with requirements of the NEPA (42 U.S.C. 4371 *et seq.*), NEPA regulations (40 CFR 1500–1508), other appropriate Federal regulations, and National Park Service procedures and policies for compliance with those regulations.

Dated: April 12, 2000.

David N. Given,

Acting Regional Director.

[FR Doc. 00–9708 Filed 4–18–00; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 8, 2000. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written comments should be submitted by May 4, 2000.

Carol D. Shull,

Keeper of the National Register.

ALASKA

Kenai Peninsula Borough-Census Area

Johnson, Harry A., Trapline Cabin, 20 mi. S of Hope, Hope, 00000424

CALIFORNIA

Los Angeles County

St. John's Episcopal Church, 514 W. Adams Blvd., Los Angeles, 00000425

San Diego County

Naval Training Station, Barnett St. and Rosecrans Blvd., San Diego, 00000426

FLORIDA

Collier County

Monroe Station, Jct. of Tamiami Trail and Loop Rd., Ochopee, 00000427

Orange County

Polasek, Albin, House and Studio, 633 Osceola Ave., Winter Park, 00000428

MARYLAND

Frederick County

Linganore Farm, 6229 Linganore Rd., Frederick, 00000429

MISSOURI

Greene County

Hotel Sansone, (Springfield, Missouri MPS (Additional Documentation)) 312 Park Central East, Springfield, 00000430

Marquette Hotel, (Springfield, Missouri MPS (Additional Documentation)) 400 East Walnut, Springfield, 00000431

Jackson County

Baker-Vawter Building, 915–917 Wyandotte, Kansas City, 00000432

Columbia Building, 2006–2012 Wyandotte St., Kansas City, 00000433
Helping Hand Institute Building, 523 Grand Blvd., Kansas City, 00000434
National Garage, 1100–1110 McGee St., Kansas City, 00000436
Safeway Stores and Office and Warehouse Building, 2029–2043 Wyandotte St., Kansas City, 00000435

Scotland County

Bible Grove Consolidated District #5 School, South side of Rte T. at Bible Grove, Bible Grove, 00000441

St. Louis County

Kreienkamp Store, 19160 Melrose Rd., Wildwood, 00000439

St. Louis Independent City

Hamilton—Brown Shoe Factory, 2031 Olive St., St. Louis, 00000437
Kennard, J., and Sons Carpet Company Building, 400 Washington Ave., St. Louis, 00000438
Stork Inn, 4527 Virginia Ave, 3301 Taft Ave., 4526 Idaho Ave., St. Louis, 00000440

NORTH CAROLINA

Chatham County

Pittsboro Historic District, (Pittsboro MRA) Roughly bounded by Chatham St., Small St., Rectory St., and Launis St., Pittsboro, 00000442

Johnston County

Brooklyn Historic District, Roughly bounded by Spring Branch Creek, S. Fifth St., S. Third St., and Lee St., Smithfield, 00000443

Lenoir County

CSS NEUSE, 2612 W. Vernon Ave., Kinston, 00000444

OREGON

Hood River County

Cliff Lodge, 3345 Cascade Ave., Hood River, 00000445

Jackson County

Ashland Downtown Historic District, Roughly bounded by Lithia Way/C St., Church, Lithia Park/Hargadine, and Gresham Sts., Ashland, 00000446

Multnomah County

Fairmount Hotel, 1920 NW 26th Ave., Portland, 00000448
Villa St. Clara Apartments, 909 SW Twelfth Ave., Portland, 00000449

Yamhill County

Union Block, 610–620 W. First St., Newberg, 00000450

PENNSYLVANIA

Allegheny County

Phipps—McElveen Building, 525–529 Penn Ave., Pittsburgh, 00000451

Jefferson County

Segers, Redferd, House, US 219, opposite Snyder Township Rte 1025, Snyder Township, 00000447

Washington County

Nelson, John H., House, 104 Colvin Rd., Fallowfield, 00000452

TEXAS

Travis County

Austin Central Fire Station #1, 401 E. Fifth St., Austin, 00000454

Wood County

Robinson, Florence, Cottage, Washington Place at Emma B. Smith Blvd., Jarvis Christian College, Hawkins, 00000453

WASHINGTON

Spokane County

Mount Saint Michael, 8500 N. Saint Michael Rd., Spokane, 00000456

WISCONSIN

Door County

Zahn, August, Blacksmith Shop and House, 8152 WI trunk 57, Baileys Harbor, 00000455

A request for REMOVAL has been made for the following resource:

MASSACHUSETTS

Worcester County

Northborough Town Hall, NE corner of W. Main and Blake St., Northborough, 72000151

[FR Doc. 00–9706 Filed 4–18–00; 8:45 am]
BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Quarterly Status Report of Water Service, Repayment, and Other Water-Related Contract Negotiations

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given of proposed contractual actions that are new, modified, discontinued, or completed since the last publication of this notice on January 21, 2000. The January 21, 2000, notice should be used as a reference point to identify changes. This annual notice should be used as a point of reference to identify changes in future notices. This notice is one of a variety of means used to inform the public about proposed contractual actions for capital recovery and management of project resources and facilities. Additional Bureau of Reclamation (Reclamation) announcements of individual contract actions may be published in the **Federal Register** and in newspapers of general circulation in the areas determined by Reclamation to be affected by the proposed action. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation procedures do not apply to proposed contracts for sale of surplus or interim irrigation water for a term of 1 year or less. Either of the contracting parties may invite the public to observe contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act.

ADDRESSES: The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the supplementary information.

FOR FURTHER INFORMATION CONTACT: Sandra L. Simons, Manager, Water Contracts and Repayment Office, Bureau of Reclamation, PO Box 25007, Denver, Colorado 80225–0007; telephone 303–445–2902.

SUPPLEMENTARY INFORMATION: Pursuant to section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1273) and 43 CFR 426.20 of the rules and regulations published in 52 FR 11954, Apr. 13, 1987, Reclamation will publish notice of the proposed or amendatory contract actions for any contract for the delivery of project water for authorized uses in newspapers of general circulation in the affected area at least 60 days prior to contract execution. Pursuant to the "Final Revised Public Participation Procedures" for water resource-related contract negotiations, published in 47 FR 7763, Feb. 22, 1982, a tabulation is provided of all proposed contractual actions in each of the five Reclamation regions. Each proposed action is, or is expected to be, in some stage of the contract negotiation process in 2000. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary of the Interior, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the regional directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved.

Public participation in and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

1. Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

2. Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of Reclamation.

3. Written correspondence regarding proposed contracts may be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

4. Written comments on a proposed contract or contract action must be submitted to the appropriate regional officials at the locations and within the time limits set forth in the advance public notices.

5. All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

6. Copies of specific proposed contracts may be obtained from the appropriate regional director or his designated public contact as they become available for review and comment.

7. In the event modifications are made in the form of a proposed contract, the appropriate regional director shall determine whether republication of the notice and/or extension of the comment period is necessary.

Factors considered in making such a determination shall include, but are not limited to: (i) The significance of the modification, and (ii) the degree of public interest which has been expressed over the course of the negotiations. As a minimum, the regional director shall furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Acronym Definitions Used Herein

(BON) Basis of Negotiation
(BCP) Boulder Canyon Project
(CAP) Central Arizona Project
(CUP) Central Utah Project
(CVP) Central Valley Project
(CRSP) Colorado River Storage Project
(D&MC) Drainage and Minor Construction
(FR) Federal Register
(IDD) Irrigation and Drainage District
(ID) Irrigation District
(M&I) Municipal and Industrial
(NEPA) National Environmental Policy Act
(O&M) Operation and Maintenance
(P–SMBP) Pick-Sloan Missouri Basin Program
(PPR) Present Perfected Right
(RRA) Reclamation Reform Act
(R&B) Rehabilitation and Betterment
(SOD) Safety of Dams
(SRPA) Small Reclamation Projects Act
(WCUA) Water Conservation and Utilization Act
(WD) Water District

Pacific Northwest Region: Bureau of Reclamation, 1150 North Curtis Road, Suite 100, Boise, Idaho 83706–1234, telephone 208–378–5346.

Modified Contract Action

4. Pioneer Ditch Company, Boise Project, Idaho; Clark and Edwards Canal and Irrigation Company, Enterprise Canal Company, Ltd., Lenroot Canal Company, Liberty Park Canal Company, Parsons Ditch Company, Poplar ID, Wearyrick Ditch Company, all in the Minidoka Project, Idaho; Juniper Flat District Improvement Company, Wapinitia Project, Oregon: Amendatory repayment and water service contracts; purpose is to conform to the RRA (Public Law 97–293).

Discontinued Contract Action

10. Five individual contractors, Umatilla Project, Oregon: Repayment agreements for reimbursable cost of dam safety repairs to McKay Dam. Agreements not needed, contractors are being billed for reimbursement.

Completed Contract Action

4. Pioneer Ditch Company, Boise Project, Idaho; Clark and Edwards Canal and Irrigation Company, Enterprise Canal Company, Ltd., Lenroot Canal Company, Liberty Park Canal Company, Parsons Ditch Company, Poplar ID, Wearyrick Ditch Company, all in the Minidoka Project, Idaho; Juniper Flat District Improvement Company, Wapinitia Project, Oregon; Roza ID, Yakima Project, Washington: Amendatory repayment and water service contracts; purpose is to conform to the RRA (Public Law 97–293). Contract with Roza ID executed February 14, 2000.

Mid-Pacific Region: Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1898, telephone 916–978–5250.

New Contract Actions

36. Townsend Flat Ditch Company or its shareholders, Centerville Community Services District and McConnell Foundation, CVP, California: Proposed exchange contract for 6,000 acre-feet of water in relation to the Clear Creek restoration and fish passage program in Section 3406(b)(12) of the Central Valley Project Improvement Act.

37. Colusa County WD, CVP, California: Proposed long-term Warren Act contract for conveyance of up to 4,500 acre-feet of ground water through the Tehama-Colusa Canal.

Discontinued Contract Actions

22. Widren WD, CVP, California: Assignment of 2,940 acre-feet of Widren WD's water service contract to the City of Tracy. The assignment will require approval of conversion of the District's CVP irrigation water to M&I.

23. Warren Act Contracts, CVP, California: Execution of long-term Warren Act contracts with various entities for conveyance of non-project water in the Delta-Mendota Canal.

Lower Colorado region: Bureau of Reclamation, PO Box 61470 (Nevada Highway and Park Street), Boulder City, Nevada 89006–1470, telephone 702–293–8536.

New Contract Actions

58. San Carlos-Apache Tribe, CAP, Arizona: Agreement among the United States, Salt River Project Agricultural Improvement and Power District, and Salt River Valley Water Users' Association for exchange of up to 14,000 acre-feet of Black River Water for CAP water.

59. San Carlos-Apache Tribe, Arizona: Agreement among the San Carlos-Apache Tribe, the United States, and Phelps Dodge Corporation for the lease of Black River Water.

60. Arizona Water Banking Authority and Southern Nevada Water Authority, BCP, Arizona and Nevada: Contract to provide for the interstate contractual distribution of Colorado River water through the offstream storage of Colorado River water in Arizona, the development by the Arizona Water Banking Authority of intentionally created unused apportionment, and the release of this intentionally created unused apportionment by the Secretary of the Interior to Southern Nevada Water Authority.

Discontinued Contract Action

55. Cibola Valley IDD, BCP, Arizona: Amendment to the District's Colorado River water delivery contract to permanently reduce the District's water entitlement by approximately 600 acre-feet per year to facilitate the transfer of such water to a golf course development in the Lake Havasu area. New or amendatory Colorado River water delivery contract with the entitlement holder for the transferred water.

Completed Contract Actions

34. Bureau of Land Management, BCP, California: Agreement for 1,000 acre-feet

per year of Colorado River water in accordance with Secretarial Reservation.

54. Miscellaneous PPR No.11, BCP, California: Assign the contract from Dickman et al. to Sonny Gowan.

Upper Colorado Region: Bureau of Reclamation, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1102, telephone 801–524–4419.

Completed Contract Action

1. Individual irrigators, M&I, and miscellaneous water users, Initial Units, CRSP; Utah, Wyoming, Colorado, and New Mexico: Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 10 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

(f) Margarett W. Furey, Wayne N. Aspinall Unit, CRSP, Colorado: Contract for 1 acre-foot to support augmentation plan. R&D Investment has filed an application with the Division 4 Water Court of the State of Colorado seeking decree for a domestic well to serve the Ms. Furey domestic in-house residential use, lawn and garden irrigation, pond evaporation, and stock watering.

Great Plains Region: Bureau of Reclamation, PO Box 36900, Federal Building, 316 North 26th Street, Billings, Montana 59107–6900, telephone 406–247–7730.

New Contract Actions

37. North Fork Valley Ditch (Individual), Shoshone Project, Buffalo Bill Dam, Wyoming: Exchange water service contract not to exceed 1,000 acre-feet of water to service 855 acres.

38. Virginia L. and Earl K. Sauerwein (Individual), Shoshone Project, Buffalo Bill Dam, Wyoming: Exchange water service contract not to exceed 100 acre-feet of water to service 126 acres.

39. Denise J. Evans (Individual), Shoshone Project, Buffalo Bill Dam, Wyoming: Exchange water service contract not to exceed 100 acre-feet of water to service 48.5 acres.

40. Glendo Unit, P–SMBP, Wyoming: Initiate negotiations for renewal of long-term water service contracts for Burbank Ditch, New Grattan Ditch Company, Torrington ID, Lucerne Canal and Power Company, and Wright and Murphy Ditch Company.

41. Glendo Unit, P–SMBP, Nebraska.: Initiate negotiations for renewal of long-term water service contracts for Bridgeport, Enterprise, and Mitchell ID, and Central Nebraska Public Power and Irrigation District.

Modified Contract Actions

7. Northern Cheyenne Indian Reservation, Yellowtail Unit, Lower Bighorn Division, P–SMBP, Montana: The Northern Cheyenne Reserved Water Rights Settlement Act of 1992 allocates to the Tribe, 30,000 acre-feet of water per year stored at Bighorn Reservoir, Montana. In accordance with section 9 of the Act, Reclamation and the Tribe must negotiate a management agreement for the water. The Tribe is to pay the United States both capital and O&M costs for water the Tribe uses or sells from this storage for M&I purposes. Reclamation and the Tribe are continuing to negotiate the terms of the Agreement. A date for execution has not been scheduled.

9. Angostura ID, Angostura Unit, P–SMBP, South Dakota: The District had a contract for water service which expired on December 31, 1995. An interim 3-year contract provided for a continuing water supply and the District to operate and maintain the dam and reservoir. The proposed long-term contract would provide a continued water supply for the District and the District's continued O&M of the facility. A BON for another 3-year interim contract has been submitted for approval.

11. P–SMBP, Kansas and Nebraska: Anticipate executing renewal of long-term water supply contracts with Kansas-Bostwick, Nebraska-Bostwick, Frenchman Valley, Frenchman-Cambridge, and Almena IDs by the end of July 2000. The renewed long-term water service contracts will take effect January 1, 2001.

14. P–SMBP, Kansas: Water service contracts with the Kirwin and Webster IDs in the Solomon River Basin in Kansas will be extended for a period of 4 years in accordance with Public Law 104–326 enacted October 19, 1996. Water service contracts will be renewed prior to expiration. The 4-year contract extension for Kirwin ID has been executed.

21. Lower Marias Unit, P–SMBP, Montana: Water service contract expired June 1997. Initiating renewal of existing contract for 25 years for up to 480 acre-feet of storage from Tiber Reservoir to irrigate 160 acres. Received approved BON from the Commissioner. Currently developing the contract and consulting with the Tribes regarding the Water Rights Compact. A 1-year interim contract has been issued to continue delivery of water until the necessary actions can be completed to renew a long-term contract. Another 1-year interim contract will be issued to continue the delivery of water until the long-term renewal process can be completed.

22. Lower Marias Unit, P–SMBP, Montana: Initiating 25-year water service contract for up to 750 acre-feet of storage from Tiber Reservoir to irrigate 250 acres. A 1-year temporary contract has been issued to allow additional time to complete necessary actions required for the long-term contract. Another 1-year temporary contract will be issued to continue the delivery of water until the long-term renewal process can be completed.

23. Lower Marias Unit, P–SMBP, Montana: Water service contract expired May 31, 1998. Initiating renewal of the long-term water service contract to provide 4,570 acre-feet of storage from Tiber Reservoir to irrigate 2,285 acres. A 1-year interim contract has been issued to continue delivery of water until the necessary actions can be completed to renew the long-term contract. Another 1-year temporary contract will be issued to continue the delivery of water until the long-term renewal process can be completed.

25. Savage ID, P–SMBP, Montana: An interim contract has been entered into with the District. The District is currently seeking title transfer. The contract is subject to renewal on an annual basis pending outcome of the title transfer process. A second interim contract will be entered into with the District pending possible long-term renewal of the water service portion of the contract.

34. Tom Green County and Improvement District No. 1, San Angelo Project, Texas: The irrigation district is requesting a deferment of its 2000 construction payment. A BON has been submitted for approval.

Completed Contract Action

14. P–SMBP, Kansas: Water service contracts with the Kirwin and Webster IDs in the Solomon River Basin in Kansas will be extended for a period of 4 years in accordance with Public Law 104–326 enacted October 19, 1996. Water service contracts will be renewed prior to expiration. The 4-year contract extension for Kirwin ID has been executed.

Dated: April 12, 2000.

Wayne O. Deason,

Associate Director, Office of Policy.

[FR Doc. 00–9739 Filed 4–18–00; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF JUSTICE

Civil Rights Division; Office of Special Counsel for Immigration Related Unfair Employment Practices; Immigration Related Employment Discrimination: Public Education Grants

AGENCY: Office of Special Counsel for Immigration Related Unfair Employment Practices, Civil Rights Division, U.S. Department of Justice.

ACTION: Notice of availability of funds and solicitation for grant applications.

SUMMARY: The Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) announces the availability of funds for grants to conduct public education programs about the rights afforded potential victims of employment discrimination and the responsibilities of employers under the antidiscrimination provisions of the Immigration and Nationality Act (INA), 8 U.S.C. 1324b.

It is anticipated that a number of grants will be competitively awarded to applicants who can demonstrate a capacity to design and successfully implement public education campaigns to combat immigration related employment discrimination. Grants will range in size from $40,000 to $100,000.

OSC will accept proposals from applicants who have access to potential victims of discrimination or whose experience qualifies them to educate workers, employers and the general public about the antidiscrimination provisions of the INA. OSC welcomes proposals from diverse nonprofit organizations such as local, regional or national ethnic and immigrants' rights advocacy organizations, labor organizations, trade associations, industry groups, professional organizations, or other nonprofit entities, including state and local government agencies, providing information services to potential victims of discrimination and/or employers.

APPLICATION DUE DATE: June 5, 2000.

FOR FURTHER INFORMATION CONTACT: Pattia McEvoy, Public Affairs Specialist, Office of Special Counsel for Immigration Related Unfair Employment Practices, 1425 New York Ave., NW, Suite 9000, P.O. Box 27728, Washington, DC 20038–7728. Tel. (202) 616–5594, or (202) 616–5525 (TDD for the hearing impaired). OSC's e-mail address is: osc.crt@usdoj.gov

SUPPLEMENTARY INFORMATION: The Office of Special Counsel for Immigration on Related Unfair Employment Practices of the Civil Rights Division of the Department of Justice announces the availability of funds to conduct cost-effective public education programs concerning the antidiscrimination provisions of INA. Funds will be awarded to selected applicants who propose cost-effective ways of educating employers, workers covered by this statute, and/or the general public.

Background

The Immigration and Nationality Act makes knowingly hiring unauthorized workers unlawful, and requires employers to verify the identity and work authorization of all new employees. Employers who violate this law are subject to sanctions, including fines and possible criminal prosecution.

The INA also prohibits employers of four or more employees from discriminating on the basis of citizenship status or national origin in hiring, firing, recruitment or referral for a fee, and prohibits employers from engaging in document abuse in the employment eligibility verification process.

U.S. citizens and certain classes of work authorized individuals are protected from *citizenship status discrimination*. Protected non-citizens include:

- Temporary Residents;
- Legal Permanent Residents;
- Refugees;
- Asylees.

Citizens and *all* work authorized individuals are protected from *discrimination on the basis of national origin*. However, this prohibition applies only to employers with four to fourteen employees. National origin discrimination complaints against employers with fifteen or more employees remain under the jurisdiction of the Equal Employment Opportunity Commission pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e, *et seq.*

In addition, under the *document abuse provision* of the law, employers must accept all forms of work authorization and proof of identity allowed by the Immigration and Naturalization Service (INS) for completion of the Employment Eligibility Verification (I–9) Form. Employers may not prefer or require one form of documentation over another for hiring purposes. Requiring more or specific documents to prove identity and work authorization may constitute document abuse.

OSC is responsible for receiving and investigating discrimination charges and, when appropriate, filing complaints with specially designated administrative law judges. OSC also initiates independent investigations of possible immigration related job discrimination.

While OSC has established a record of vigorous enforcement, studies by the U.S. General Accounting Office and other sources have shown that there is an extensive lack of knowledge on the part of protected individuals and employers about the antidiscrimination provisions of the INA. Enforcement cannot be effective if potential victims of discrimination are not aware of their rights. Moreover, discrimination can never be eradicated so long as employers are not aware of their responsibilities.

Purpose

OSC seeks to educate both workers and employers about their rights and responsibilities under the antidiscrimination provisions of INA. Because previous grantees have developed a wealth of materials (e.g., brochures, posters, booklets, information packets and videos) to educate these groups, OSC has determined that the main focus of the program should be on the *actual delivery* of these materials to educate further both potential victims and employers. OSC seeks proposals that will use *existing materials* effectively to educate large numbers of workers or employers about exercising their rights or fulfilling their obligations under the antidiscrimination provisions. OSC will, of course, consider any proposal that articulates and substantiates other creative means of reaching these populations.

Program Description

The program is designed to develop and implement cost-effective approaches to educate potential victims of employment discrimination about their rights and to educate employers about their responsibilities under INA's antidiscrimination provisions. *Applications may propose to educate potential victims only, employers only, or both in a single campaign.* Program budgets must include the travel, lodging and other expenses necessary for up to two program staff members to attend the mandatory OSC grantee training (2 days) held in Washington, DC at the beginning of the grant period (late Autumn). Proposals should outline the following key elements of the program:

Part I: Intended Audience

The educational efforts under the grant should be directed to (1) work-authorized non-citizens who are protected individuals, since this group is especially vulnerable to employment discrimination; (2) those citizens who

are most likely to become victims of employment discrimination; and/or (3) employers, especially small businesses. The proposals should define the characteristics of the work authorized population or the employer group(s) intended to be the focus of the educational campaign, and the applicant's qualifications to reach credibly and effectively large segments of the intended audiences(s).

The proposals should also detail the reasons for focusing on each group of protected individuals or employers by describing particular needs or other factors to support the selection. In defining the campaign focuses and supporting the reasons for the selection, applicants may use census data, studies, surveys, or any other sources of information of generally accepted reliability.

Part II: Campaign Strategy

We encourage applicants to devise effective and creative means of public education and information dissemination that are specifically designed to reach the widest possible intended audience. Those applicants proposing educational campaigns addressing potential victims of discrimination should keep in mind that some of the traditional methods of public communication may be less than optimal for educating members of national or linguistic groups that have limited community-based support and communication networks.

Some grantees who are conducting citizenship campaigns have, in the past, combined those efforts and resources with the INA antidiscrimination education campaigns in order to maximize the scope and breadth of the project and to reach a larger number of individuals. Applicants proposing to combine these efforts, should discuss how the programs will interact and how the budgets will be administered.

Proposals should discuss the components of the campaign strategy, detail the reasons supporting the choice of each component, and explain how each component will effectively contribute to the overall objective of cost-effective dissemination of useful and accurate information to a wide audience of protected individuals or employers. Discussions of the campaign strategies and supporting rationale should be clear, concise, and based on sound evidence and reasoning.

Since there presently exists a wealth of materials for use in educating the public, applicants should include in their budget proposals the costs for distribution of materials received from OSC or from current/past OSC grantees.

To the extent that applicants believe the development of original materials particularly suited to their campaign is necessary, their proposal should articulate in detail the circumstances requiring the development of such materials. All such materials must be approved by OSC prior to production to ensure legal accuracy and proper emphasis. Proposed revisions/translations of OSC-approved materials must also be submitted for clearance. All information distributed should also identify OSC as a source of assistance, information and action, and include the correct address and telephone numbers of OSC, (including the toll-free numbers, TDD numbers) and OSC e-mail and Internet addresses.

Part III: Evaluation of the Strategy

One of the central goals of this program is determining what public education strategies are most effective and thus, should be included in future pubic education efforts. Therefore, it is crucial that the methods of evaluating the campaign strategy and public education materials and their results be carefully detailed. A full evaluation of a project's effectiveness is due within 60 days of the conclusions of a campaign. Interim evaluation/activity reports are due at least quarterly, or more frequently as needed throughout the grant year.

Selection Criteria

The final selection of grantees for award will be made by the Special Counsel for Immigration Related Unfair Employment Practices.

A panel made up of OSC staff will review and rate the applications and make recommendations to the Special Counsel regarding funding. The panel's results are advisory in nature and not binding on the Special Counsel. *Letters of support, endorsement, or recommendation are not part of the grant application process and will not be considered.*

In determining which applications to fund, OSC will consider the following (based on a one-hundred point scale):

1. Program Design (50 Points)

Sound program design and cost-effective strategies for educating the intended population are imperative. Consequently, areas that will be closely examined include the following:

a. Evidence of in-depth knowledge of the goals and objectives of the project. (15 points)

b. Selection and definition of the intended audience(s) for the campaign, and the factors that support the selection, including special needs, and the applicant's qualifications to reach effectively the intended audience(s). (10 points)

c. A cost-effective campaign strategy for educating employers and/or members of the protected class, with a justification for the choice of strategy, including the degree to which the campaign has prevented immigration related unfair employment practices and has reached individuals with such claims. (15 points)

d. The evaluation methods proposed by the applicant to measure the effectiveness of the campaign and their precision in indicating to what degree the campaign is successful. (10 points)

2. Administrative Capability (20 Points)

Proposals will be rated in terms of the capability of the applicant to define the intended audience, reach it and implement the public education and evaluation components of the campaign:

a. Evidence of proven ability to provide high quality results. (10 points)

b. Evidence that the applicant can implement the campaign, and complete the evaluation component within the time lines provided.

Note: OSC's experience during previous grant cycles has shown that a number of applicants choose to apply as a consortium of individual entities; or, if applying individually, propose the use of subcontractors to undertake certain limited functions. It is essential that these applicants demonstrate the proven management capability and experience to ensure that, as lead agency, they will be directly accountable for the successful implementation, completion, and evaluation of the project. (10 points)

3. Staff Capability (10 Points)

Applications will be evaluated in terms of the degree to which:

a. The duties outlined for grant-funded positions appear appropriate to the work that will be conducted under the award. (5 points)

b. The qualifications of the grant-funded positions appear to match the requirements of these positions. (5 points)

Note: If the grant project manager or other member of the professional staff is to be hired later as part of the grant, or should there be any change in professional staff during the grant period, hiring is subject to review and approval by OSC at that time.

4. Previous Experience (20 Points)

The proposals will be evaluated on the degree to which the applicant demonstrates that it has successfully carried out programs or work of a similar nature in the past.

Eligible Applicants

This grant competition is open to nonprofit organizations, including labor organizations and state and local government agencies.

Grant Period and Award Amount

It is anticipated that several grants will be awarded and will range in size from $40,000 to $100,000.

Publication of this announcement does not require OSC to award any specific number of grants, or to obligate all or any part of available funds. The period of performance will be twelve months from the date of the grant award, in most cases beginning October 1, 2000.

Application Deadline

All applications must be received by 6:00 PM EDT, on _____. If using regular first-class mail, send to: Office of Special Counsel for Immigration Related Unfair Employment Practices, U.S. Department of Justice, P.O. Box 27728, Washington, D.C. 20038–7728. If using overnight or priority mail, send to: Office of Special Counsel for Immigration Related Unfair Employment Practices, U.S. Department of Justice, 1425 New York Ave., N.W., suite 9000, Washington, D.C. 20005. *Applications may not be submitted via facsimile machine.*

Application Requirements

Applicants should submit an original and two (2) copies of their completed proposal by the deadline established above. All submissions must contain the following items in the order listed below:

1. A completed and signed Application for Federal Assistance (Standard Form 424). **Note**: the Catalogue of Federal Domestic Assistance number is 16.110 and the title is, Education & Enforcement of the Antidiscrimination Provision of the Immigration and Nationality Act (box #10 of the SF 424).

2. OJP Form 4061/6 (Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements).

3. OJP Form 4000/3 (Assurances).

4. An abstract of the full proposal, not to exceed one page.

5. A program narrative of not more than fifteen (15) double-spaced typed pages that includes the following:

a. A clear statement describing the approach and strategy to be used to complete the tasks identified in the program description;

b. A clear statement of the proposed goals and objectives, including a listing of the major events, activities, products and timetables for completion;

c. the proposed staffing plan (**Note:** If the grant project manager or other professional staff member is to be hired later as part of the grant, or should there be a change in professional staff during the grant period, hiring is subject to review and approval by OSC at that time); and

d. Description of how the project will be evaluated.

6. A proposed budget outlining all direct and indirect costs for personnel, fringe benefits, travel, equipment, supplies, subcontracts, and a short narrative justification of each budgeted line item cost. If an indirect cost rate is used in the budget, then a copy of a current fully executed agreement between the applicant and the cognizant Federal agency must accompany the budget. **Note**: Program budgets must include the travel, lodging and other expenses necessary for not more than two program staff members to attend the mandatory OSC grantee training (2 days) held in Washington, D.C. at the beginning of the grant period (late Autumn).

7. Copies of resumes of the professional staff proposed in the budget.

In order to facilitate handling, please do not use covers, binders or tabs.

Application forms may be obtaining by writing or telephoning: Office of Special Counsel for Immigration Related Unfair Employment Practices, P.O. Box 27728, Washington, D.C. 20038–7728. Tel. (202) 616–5594, or (202) 616–5525 (TDD for the hearing impaired). This announcement will also appear on the World Wide Web at www.usdoj.gov/cert/osc/.

Approved: April 13, 2000.

Robin M. Stutman,

Acting Special Counsel, Office of Special Counsel for Immigration, Related Unfair Employment Practices.

[FR Doc. 00–9735 Filed 4–18–00; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under The Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on March 14, 2000, a complaint and a proposed consent decree in *United States and the State of Colorado* v. *Beazer East, Inc. and Butala Construction Company,* Civil Action No. 00–561, were lodged with the United States District Court for the District of Colorado.

In this action, the United States seeks recovery of approximately $631,000 in unreimbursed response costs incurred in relation to Operable Unit #2 of the Smeltertown Superfund Site, located near Salida, Colorado, under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act. The State of Colorado seeks recovery of response costs to be incurred at the Site. Under the proposed decree, the defendants will implement a remedial action selected by the United States Environmental Protection Agency, which is designed to prevent the further migration of hazardous substances at Operable Unit #2, and will reimburse all of EPA's past costs, as well as all of EPA's and the State of Colorado's future response costs incurred at Operable Unit #2.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States and State of Colorado* v. *Beazer East, Inc. and Butala Construction Company,* D.J. Ref. 90–11–3–1522.

The propose consent decrees may be examined at the Office of the United States Attorney, 1961 Stout Street, 11th Floor, Drawer 3608, Denver, CO 80294; at U.S. EPA Region VIII, 999 18th Street, Denver, Colorado 80202; and at the Consent Decree Library, P.O. U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044–7611. In requesting a copy, please enclose a check in the amount of $20.00 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–9743 Filed 4–18–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on April 7, 2000, a proposed Consent Decree in *United States* v. *Fleetwood Industries, Inc., et al.* Civil Action No. 00–CV–1818, was lodged with the United States District Court for the Eastern District of Pennsylvania.

In this action the United States sought the reimbursement of response costs in connection with the Berks Landfill Superfund Site in Spring Township, Pennsylvania ("the Site") pursuant to

the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9601 *et seq.* The Consent Decree resolves the United States' claims against Fleetwood Industries, Inc., Herre Brothers, Inc., Heyco Metals, Inc., Kief Industries, Inc., Charles Koenig Wheel Alignment Service and Garage, and Brian R. Schlappich, Inc. for response costs incurred as a result of the release or threatened release of hazardous substances at the Site. These parties will pay the United States $82,297.77.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, DC 20044, and should refer to *United States* v. *Fleetwood Industries, Inc., et al.*, D.J. Ref. 90–11–2–1347.

The Consent Decree may be examined at the Office of the United States Attorney, Eastern District of Pennsylvania, 615 Chestnut Street, Suite 1250, Philadelphia, Pennsylvania 19106, or at the Region 3 Office of the Environmental Protection Agency, 1650 Arch Street, Philadelphia, Pennsylvania 19103. A copy of the Consent Decree may also be obtained by mail by requesting a copy from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044. In requesting a copy, please enclose a check in the amount of $8.75 (35 pages at 25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–9740 Filed 4–18–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

Notice is hereby given that on March 30, 2000, a proposed Consent Decree in *United States* v. *Morton International, Inc.*, Case No. 1:00–CV–220 was lodged in the United States District Court for the Western District of Michigan. The Complaint filed by the United States pursuant to sections 301 and 309 of the Clean Water Act ("Act"), 33 U.S.C. 1311 and 1319 alleges that during the period November, 1994 through January 1998, at its magnesium-based chemical manufacturing facility in Manistee, Michigan, Morton discharged into Manistee Lake effluent which failed to comply with the effluent limits of its National Pollutant Discharge Elimination System Permit, in violation of its Permit and the Act. Under the proposed Consent Decree Morton would pay a civil penalty of $75,500 and perform Supplemental Environmental Projects in settlement of the civil violations alleged in the Complaint.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044–7611, and should refer to *United States* v. *Morton International, Inc.*, D.J. Ref. No. 90–5–1–1–06486.

The proposed Consent Decree may be examined at the United States Attorney for the Western District of Michigan, 330 Ionia Avenue, NW, 5th Floor, Grand Rapids, MI 49503 and the United States Environmental Protection Agency, Region 5, 77 West Jackson Blvd., Chicago, Illinois 60604. A copy of the Consent Decree may also be obtained by regular mail addressed to the Department of Justice Consent Decree Library, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044. For a copy of the Consent Decree, please enclose a check in the amount of $8.00 (25 cents per page reproduction costs) payable to Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–9741 Filed 4–18–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with the Departmental Policy, 28 CFR 50.7, notice is hereby given that on March 24, 2000, the United States lodged a proposed consent decree with the United States District Court for the Western Disctrict of Wisconsin, in *United States* v. *Redi-Serve Foods Limited Partnership*, Case No. 00–C–0166–C (W.D. Wis. 2000), under Section 113(b) of the Clean Air Act, 42 U.S.C. 7413(b). The proposed consent decree resolves certain claims of the United States against Redi-Serve Foods Limited Partnership ("Redi-Serve"), arising out of Redi-Serve's meat processing facility located at 1200 Industrial Drive in Fort Atkinson, Wisconsin.

Under the proposed Consent Decree, Redi-Serve will pay the United States a $195,000 civil penalty. The proposed Consent Decree requires Redi-Serve to retain a certified opacity observer to perform a daily stack inspection and report to the United States Environmental Protection Agency ("U.S. EPA") any visible emission readings which exceed 20%. The proposed Consent Decree also requires Redi-Serve to report to U.S. EPA any temperature excursions (of minus 25 degrees Fahrenheit from the last stack test), malfunctions or down times for the thermal oxidizer. The proposed Consent Decree will terminate eighteen months after its entry by the United States District Court for the Western District of Wisconsin.

The Department of Justice will accept written comments relating to the proposed Consent Decree for 30 days after publication of this Notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044–7611, and should refer to *United States* v. *Redi-Serve Foods Limited Partnership*, Case No. 00–C–0166 C (W.D. Wis. 2000), DOJ No. 90–5–2–1–2188. The proposed Consent Decree may be examined at the Office of the United States Attorney for the Western District of Wisconsin, Madison, Wisconsin, and at the Region V Office of the United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. A copy of the proposed Consent Decree may be obtained by mail from the U.S. Department of Justice, Consent Decree Library, P.O. Box 7611, Washington, DC 20044–7611. In requesting a copy, please enclose a check for reproduction costs (at 25 cents per page) in the amount of $3.50 for the Decree, payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–9742 Filed 4–18–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. The Earthgrains Company, Specialty Foods Corporation, and Metz Holdings, Inc.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Hold Separate Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the Northern District of Illinois, Chicago, IL, in *United States* v. *The Earthgrains Company, Specialty Foods Corporation, and Metz Holdings, Inc.*, Civ. No. 00 CV 1687 (J. Bucklo).

On March 20, 2000, the United States filed a Complaint, which sought to enjoin Earthgrains from acquiring Metz or from entering into or carrying any agreement or understanding the effect of which would be to combine the businesses or assets of Earthgrains and Metz. The Complaint alleged that Earthgrains's acquisition of Metz would lessen competition substantially in the sale of white pan bread though retail outlets in violation of section 7 of the Clayton Act, 15 U.S.C. 18, in many markets in the Midwest, including Kansas City, MO; Omaha, NE; Des Moines, IA; and many smaller communities in Illinois, Iowa, Kansas, Missouri, and Nebraska.

The proposed Final Judgment, also filed on March 20, 2000, requires Earthgrains and Metz to divest two popular brands of white pan bread, Colonial and Taystee, and such other assets (*e.g.*, Earthgrains's Des Moines bakery, bread routes, customer lists, thrift stores, depots, warehouses, and trucks) as the government determines is necessary in order to create an effective and viable competitor in the sale of white pan bread in the geographic areas in which the acquisition would adversely affect competition. A Hold Separate Stipulation and Order requires the defendants to maintain, prior to divestiture, the competitive independence of many of the operations that must be sold under the Judgment.

Public comment is invited within the statutory 60-day comment period. Such comments and responses thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to J. Robert Kramer II, Chief, Litigation II Section, Antitrust Division, U.S. Department of Justice, 1401 H Street, NW, Suite 3000, Washington, D.C. 20530 [telephone: (202) 307–0924].

Constance K. Robinson,

Director of Operations & Merger Enforcement.

[Civil No: 00C 1687]

Judge Bucklo,

Magistrate Judge Nolan.

Hold Separate Stipulation and Order

It is hereby stipulated and agreed by and between the undersigned parties, subject to approval and entry by the Court, that:

I. Definitions

As used in this Hold Separate Stipulation and Order:

A. "Earthgrains" means defendant The Earthgrains Company, a Delaware corporation with its headquarters in St. Louis, Missouri, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

B. "Specialty Foods" means defendant Specialty Foods Corporation, a Delaware corporation with its headquarters in Deerfield, Illinois, and includes its successors and assigns, and its subsidiaries (including defendant Metz Holdings, Inc. or "Metz"), divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

C. "Acquirer" means the entity or entities to whom defendants divest the Relevant Baking Assets.

D. "Relevant Banking Assets" means:

1. A perpetual, royalty-free, freely assignable and transferable, and exclusive license to make, have made, use or sell white pan bread in the Relevant Territory under each of the Relevant Labels; and

2. Each of the Additional Baking Assets.

E. "Additional Baking Assets" means:

1. Earthgrains' Des Moines, IA bakery;

2. A perpetual, royalty-free, freely assignable and transferable, and exclusive license to make, have made, use or sell under each of the Relevant Labels any bread, bun or roll other than white pan bread in the Relevant Territory;

3. All trucks and other vehicles, depots and warehouses, and thrift stores used by defendants in the sale and distribution of bread, buns and rolls under each of the Relevant Labels in the Relevant Territory; and

4. All route books, customer lists, contracts and accounts used by defendants in the sale and distribution of bread, buns and rolls under each of the Relevant Labels in the Relevant Territory.

F. "Label" means all legal rights associated with a brand's trademarks, trade names, copyrights, service names, service marks, intellectual property, designs, and trade dress; the brand's trade secrets; the brand's technical information and production know-how, including, but not limited to, recipes and formulas used to produce bread currently sold under the brand, and any improvements to, or line extensions thereof; and packaging, marketing and distribution know-how and documentation, such as customer lists and route maps, associated with the brand.

G. "Relevant Labels" means:

(1) Earthgrain's Colonial label; and

(2) Metz's Taystee label (a license to which label may be divested to an Acquirer without prior approval of the licensor, Interstate Brands West Corporation, see the letter hereto attached as an appendix to the proposed Final Judgment, Exhibit A).

H. "Relevant Territory" means:

(1) Every county in the state of Iowa;

(2) The following counties in the state of Nebraska: Burt, Butler, Cass, Colfax, Cuming, Dodge, Douglas, Gage, Jefferson, Johnson, Lancaster, Nemaha, Otoe, Pawnee, Platte, Richardson, Saline, Sarpy, Saunders, Stanton, Seward, and Washington;

(3) The following counties in the state of Kansas: Atchison, Brown, Clay, Dickinson, Doniphan, Douglas, Franklin, Geary, Jackson, Jefferson, Johnson, Leavenworth, Lyon, Marshall, Miami, Morris, Nemaha, Osage, Pottawatomie, Riley, Shawnee, Washington, Waubaunsee, and Wyandotte;

(4) The following counties in the state of Illinois: Carroll, Henry, Mercer, Rock Island, and Whiteside; and

(5) The following counties in the state of Missouri: Andrew, Atchison, Buchanan, Caldwell, Carroll, Cass, Clay, Clinton, Daviess, De Kalb, Gentry, Grundy, Harrison, Holt, Jackson, Lafayette, Livingston, Mercer, Nodaway, Pettis, Platte, Ray, Saline, and Worth.

I. "Earthgrain's Des Moines, IA bakery" means the bakery located at 1225–1303 2nd Avenue, Des Moines, IA 50314, and all of Earthgrain's rights, titles and interests in any tangible assets (*e.g.*, land, buildings, other real property and improvements, fixtures, machinery, tooling, fixed assets, personal property, inventory, office furniture, material, supplies and equipment) relating thereto, including all fee and leasehold and renewal rights in such assets or any

options to purchase any adjoining property.

J. "White Pan Bread" means white bread baked in a pan, but shall not include hamburger and hot dog buns, or variety breads such as French bread and Italian bread.

II. Objectives

The Final Judgment filed in this case is meant to ensure defendants' prompt divestitures of the Relevant Baking Assets for the purpose of establishing one or more viable competitors in the production and sale of white pan bread in the Relevant Territory in order to remedy the effects that the United States alleges would otherwise result from Earthgrain's acquisition of Metz. This Hold Separate Stipulation and Order ensures, prior to such divestitures, that the Relevant Baking Assets remain independent, economically viable, and ongoing business concerns that will remain independent and uninfluenced by Earthgrains, and that competition is maintained during the pendency of the ordered divestitures.

III. Jurisdiction and Venue

The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District for the Northern District of Illinois, Eastern Division.

IV. Compliance with and entry of Final Judgment

A. The parties stipulate that a Final Judgment in the form attached hereto as Exhibit A may be filed with and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that the United States has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

B. Defendants shall abide by and comply with the provisions of the proposed Final Judgment, pending the Judgment's entry by the Court, or until expiration of time from all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court.

C. Defendants shall not consummate the transaction sought to be enjoined by the Complaint herein before the Court has signed this Hold Separate Stipulation and Order.

D. This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

E. In the event (1) the United States has withdrawn its consent, as provided in Section IV(A) above, or (2) the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

F. Defendants represents that the divestitures ordered in the proposed Final Judgment can and will be made, and that defendants will later raise no claim of mistake, hardship or difficulty of compliance as grounds for asking the Court to modify any of the provisions contained therein.

V. Hold Separate Provisions

Until the divestitures required by the Final Judgment have been accomplished:

A. Defendants shall preserve, maintain, and continue to operate the Relevant Baking Assets as independent competitive businesses, with management, sales and operations of such assets held entirely separate, distinct and apart from those of Earthgrains's other operations. Earthgrains shall not coordinate its production, marketing, or terms of sale of any products with those produced by or sold under any of the Relevant Baking Assets. Within twenty (20) days after the entry of the Hold Separate Stipulation and Order, defendants will inform the United States of the steps defendants have taken to comply with this Hold Separate Stipulation and Order.

B. Earthgrains shall take all steps necessary to ensure that (1) the Relevant Baking Assets will be maintained and operated as independent, ongoing, economically viable and active competitors in the production and sale of bread; (2) management of the Relevant Baking Assets will not be influenced by Earthgrains (or Metz); and (3) the books, records, competitively sensitive sales, marketing and pricing information, and decision-making concerning production, distribution or sales of products by or under any of the Relevant Baking Assets will be kept separate and apart from Earthgrains's other operations. Earthgrains influence over the production and sale of products utilizing the Relevant Baking Assets shall be limited to that necessary to carry out its obligations under this Hold Separate Stipulation and Order and the proposed Final Judgment. Earthgrains may, however, receive historical aggregate financial information (excluding capacity utilization or pricing information relating to the Relevant Baking Assets to the extent necessary to allow Earthgrains to prepare financial reports, tax returns, and other legally required reports).

C. Defendants shall use all reasonable efforts to maintain and increase the sales and revenues of the products produced by or sold under Relevant Baking Assets, and shall maintain at 1999 or previously approved levels for 2000, whichever are higher, all promotional, advertising, sales, technical assistance, marketing and merchandising support for the Relevant Baking Assets and otherwise maintain the Relevant Baking Assets as active competitors in the Relevant Territory.

D. Earthgrains shall take all steps necessary to ensure that its Des Moines, IA bakery will be maintained and operated as an independent, ongoing, economically viable business concern.

E. Earthgrains shall provide sufficient working capital and lines and sources of credit to continue to maintain the Relevant Baking Assets as economically viable and competitive, ongoing businesses, consistent with the requirements of Section V (A) and (B).

F. Earthgrains shall take all steps necessary to ensure that its Des Moines, IA bakery is fully maintained in operable condition at no less than its current capacity and sales, and shall maintain and adhere to normal repair and maintenance schedules for the Relevant Baking Assets.

G. Defendants shall not, except as part of a divestiture approved by the United States in accordance with the terms of the proposed Final Judgment, remove, sell, lease, assign, transfer, pledge or otherwise dispose of any of the Relevant Baking Assets.

H. Defendants shall maintain, in accordance with sound accounting principles, separate, accurate and complete financial ledgers, books and records that report on a periodic basis, such as the last business day of every month, consistent with past practices, the assets, liabilities, expenses, revenues

and income of products produced, distributed or sold utilizing the Relevant Baking Assets.

I. Except in the ordinary course of business or as otherwise consistent with this Hold Separate Stipulation and Order, defendants shall not hire, transfer, terminate, or otherwise alter the salary or employment agreements for any Earthgrains, Metz, or Specialty Foods employee who, on the date of defendants' signing of this Hold Separate Stipulation and Order, either: (1) Works in Earthgrains's Des Moines, IA bakery or in the production, distribution or sale of bread, buns or rolls under a Relevant Baking assets or (2) is a member of management referenced in Section V(J) of this Hold Separate Stipulation and Order.

J. Until such time as the Relevant Baking Assets are divested pursuant to the terms of the Final Judgment, the Relevant Baking Assets shall be managed by Mr. Paul Johnson, Vice President for Earthgrains's Iowa/Nebraska Zone. Mr. Johnson shall have complete managerial responsibility for the Relevant Baking Assets, subject to the provisions of this Order and the proposed Final Judgment. In the event that Mr. Johnson is unable to perform his duties, defendants shall appoint, subject to the approval of the United States, a replacement within ten (10) working days. Should defendants fail to appoint a replacement acceptable to the United States within ten (10) working days, the United States shall appoint a replacement.

K. Defendants shall take no action that would interfere with the ability of any trustee appointed pursuant to the Final Judgment to complete the divestitures pursuant to the Final Judgment to a Acquirer or Acquirers acceptable to the United States.

L. This Hold Separate Stipulation and Order shall remain in effect until consummation of the divestitures required by the proposed Final Judgment or until further order of the Court.

Dated: March 17, 2000.

For Plaintiff, United States of America:

Anthony E. Harris,

Esquire, IL Bar #1133713, U.S. Department of Justice, Antitrust Division, Litigation II Section, 1401 H Street, NW, Suite 3000, Washington, DC 20005, (202) 307–6583.

Respectfully submitted,

For Defendant, The Earthgrains Company:

Roxanne E. Henry;

Esquire, DC Bar #351569, Howrey Simon Arnold & White, 1299 Pennsylvania Avenue, NW, Washington, DC 20005, (202) 383–6503.

For Defendants, Specialty Foods Inc. and Metz Holdings, Inc:

Roxanne E. Henry;

Esquire, DC Bar #351569, Howrey Simon Arnold & White, 1299 Pennsylvania Avenue, NW, Washington, DC 20005, (202) 383–6503.

Order

It is so ordered by the Court, this 20th day of March 2000.

United States District Judge

Final Judgment

Whereas, plaintiff, the United States of America, having filed its Compliant in this action on March 20, 2000 and plaintiff and defendants, The Earthgrains Company, Specialty Foods Corporation, and Metz Holdings, Inc., by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

And whereas, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And whereas, the essence of this Final Judgment is the prompt and certain divestiture by defendants of the Relevant Baking Assets and, if necessary, the Additional Relevant Baking Assets to assure that competition is not substantially lessened;

And whereas, the United States requires defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Compliant;

Exhibit A

And whereas, defendants have represented to the United States that the divestitures ordered herein can and will be made and that they will later raise no claims of hardship, mistake or difficulty as grounds for asking the Court to modify any of the injunctive provisions contained below;

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby ordered, adjudged, and decreed as follows:

I. Jurisdiction

This Court has jurisdiction over each of the parties hereto and over the subject matter of this action. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

II. Definition

As used in this Final Judgment:

A. "Earthgrains" means defendant The Earthgrains Company, a Delaware corporation with its headquarters in St. Louis, Missouri, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

B. "Specialty Foods" means defendant Specialty Foods Corporation, a Delaware corporation with its headquarters in Deerfield, Illinois, and includes its successors and assigns, and its subsidiaries (including defendant Metz Holdings, Inc. or "Metz"), divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

C. "Acquirer"means the entity or entities to whom defendants divest the Relevant Baking Assets.

D. "Relevant Baking Assets" means:

1. A perpetual, royalty-free, freely assignable and transferrable, and exclusive license to make, have made, use or sell white pan bread in the Relevant Territory under each of the Relevant Labels; and

2. Such Additional Baking assets as the United States, in its sole discretion, determines may be reasonably necessary for an Acquirer or Acquirers to complete effectively and viably in the sale of white pan bread under each of the Relevant Labels in the Relevant Territory.

E. "Additional Baking Assets" means:

1. Earthgrains's Des Moines, IA bakery;

2. A perpetual, royalty-free, freely assignable and transferrable, and exclusive license to make, have made, use or sell under each of the Relevant Labels any bread, buns or rolls other than white pan bread in the Relevant Territory.

3. All trucks and other vehicles, depots and warehouses, and thrift stores used by defendants in the sale and distribution of bread, buns or rolls under each of the Relevant Labels in the Relevant Territory; and

4. All route books, customer lists, contracts and accounts used in defendants' distribution and sale of bread, buns or rolls under each of the Relevant Labels in the Relevant Territory.

F. "Label" means all legal rights associated with a brand's trademarks, trade names, service names, service

marks, intellectual property, copyrights, designs, and trade dress; the brand's trade secrets; the brand's technical information and production know-how, including, but not limited to, recipes and formulas used to produce bread currently sold under the brand, and any improvements to, or line extensions thereof; and packaging, marketing and distribution know-how and documentation, such as customer lists and route maps, associated with the brand.

G. "Relevant Labels" means:

(1) Earthgrains's Colonial label; and

(2) Metz's Taystee label (a license to which label may be divested to an Acquirer without prior approval of the licensor, Interstate Brands West Corporation, *see* the letter attached hereto as Appendix A).

H. "Relevant Territory" means:

(1) Every county in the state of Iowa;

(2) The following counties in the state of Nebraska: Burt, Butler, Cass, Colfax, Cuming, Dodge, Douglas, Gage, Jefferson, Johnson, Lancaster, Nemaha, Otoe, Pawnee, Platte, Richardson, Saline, Sarpy, Saunders, Stanton, Seward, and Washington;

(3) The following counties in the state of Kansas: Atchison, Brown, Clay, Dickinson, Doniphan, Douglas, Franklin, Geary, Jackson, Jefferson, Johnson, Leavenworth, Lyon, Marshall, Miami, Morris, Nemaha, Osage, Pottawatomie, Riley, Shawnee, Washington, Waubaunsee, and Wyandotte;

(4) The following counties in the state of Illinois: Carroll, Henry, Mercer, Rock Island, and Whiteside; and

(5) The following counties in the state of Missouri: Andrew, Atchison, Buchanan, Caldwell, Carroll, Cass, Clay, Clinton, Daviess, De Kalb, Gentry, Grundy, Harrison, Holt, Jackson, Johnson, Lafayette, Livingston, Mercer, Nodaway, Pettis, Platte, Ray, Saline, and Worth.

I. "Earthgrains's Des Moines, IA bakery" means the bakery located at 1225–1303 2nd Avenue, Des Moines, IA 50314, and all of Earthgrains's rights, titles and interests in any tangible assets (*e.g.*, land, buildings, other real property and improvements, fixtures, machinery, tooling, fixed assets, personal property, inventory, office furniture, material, supplies and equipment) relating thereto, including all fee and leasehold and renewal rights in such assets or any options to purchase any adjoining property.

J. "White Pan Bread" means white bread baked in a pan but shall not include hamburger and hot dog buns, or variety breads such as French bread and Italian bread.

III. Applicability

A. The provisions of this Final Judgment apply to defendants, their successors and assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees, and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Defendants shall require, as a condition of the sale or other disposition of all or substantially all of their assets, or of a lesser business unit that includes the Relevant Baking Assets, that the acquiring party or parties agree to be bound by the provisions of this Final Judgment.

IV. Divestitures

A. Defendants are hereby ordered and directed, in accordance with the terms of this Final Judgment, within ninety (90) calendar days after the filing of the Complaint in this matter, or five (5) days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest all Relevant Baking Assets as viable, ongoing businesses to a Acquirer or Acquirers acceptable to the United States, in its sole discretion.

B. Defendants shall use their best efforts to accomplish the divestitures ordered by this Final Judgment as expeditiously and timely as possible. The United States, in its sole discretion, may extend the time period for any divestiture two additional periods of time, not to exceed thirty (30) calendar days each.

C. In accomplishing the divestitures ordered by this Final Judgment, defendants promptly shall make known, by usual and customary means, the availability of the Relevant Baking Assets. Defendants shall inform any person making an inquiry regarding a possible purchase of the Relevant Banking Assets that the sale is being made pursuant to this Final Judgment and provide such person with a copy of this Final Judgment. Defendants shall also offer a furnish to any prospective Acquirer, subject to customary confidentiality assurances, all information and documents relating to the Relevant Baking Assets customarily provided in a due diligence process except such information or documents subject to attorney-client privilege or attorney work-product privilege. Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

D. Defendants shall provide the Acquirer and the United States information relating to the personnel involved in the production, development, and sale of the divestiture assets to enable the Acquirer to make offers of employment. Defendants shall not interfere with any negotiations by any Acquirer to employ any Earthgrains (or former Specialty Foods or Metz) employee who works at, or whose primary responsibility concerns, any bakery business that is part of the Relevant Banking Assets.

E. Defendants shall permit prospective Acquirers of the Relevant Baking Assets to have access to personnel and to any and all environmental, zoning, and other permit documents and information, and to make inspection of the Relevant Baking Assets, and have access to any and all financial, operational, business, strategic or other documents and information customarily provided as part of a due diligence process.

F. Defendants shall warrant to any Acquirer of Earthgrains's Des Moines, IA bakery that the bakery will be fully operational on the date of sale.

G. Defendants shall not take any action, direct or indirect, that will impede in any way the operation, sale, or divestiture of the Relevant Baking Assets.

H. Unless the United States otherwise consents in writing, the divestitures pursuant to Section IV or by trustee appointed pursuant to Section V of this Final Judgment shall include all Relevant Baking Assets and be accomplished by selling or otherwise conveying each asset to an Acquirer in such a way as to satisfy the United States, in its sole discretion, that the Relevant Baking Assets can and will be used by the Acquirer as part of a viable, ongoing business or businesses engaged in sale of white pan bread in the Relevant Territory. The divestitures, whether pursuant to Section IV or Section V of this Final Judgment, shall be made to an Acquirer (or Acquirers) for whom it is demonstrated to the United States's sole satisfaction that: (1) The Acquirer(s) has the capability and intent of competing effectively in the sale of white pan bread in each area in the Relevant Territory; (2) the Acquirer(s) has the managerial, operational, and financial capability to compete effectively in the sale of white pan bread in each area of the Relevant Territory; and (3) none of the terms of any agreement between an Acquirer and defendants give any defendant the ability unreasonably to raise the Acquirer's costs, lower the Acquirer's efficiency, or otherwise interfere in the

ability of the Acquirer to compete effectively in the Relevant Territory.

V. Appointment of Trustee

A. In the event that defendants have not divested the Relevant Baking Assets within the time specified in Section IV(A) of this Final Judgment, defendants shall notify the United States of that fact in writing. Upon application of the United States, the Court shall appoint a trustee to be selected by the United States, at its sole discretion, to effect the divestiture of the Relevant Baking Assets. Defendants shall not object to the selection of the trustee on any grounds other than irremediable conflict of interest. Defendants must make any such objection within five (5) business days after the United States notifies defendants of the trustee's selection.

B. After the appointment of the trustee becomes effective, only the trustee shall have the right to divest the unsold Relevant Baking Assets. The trustee shall have the power and authority to accomplish any and all divestitures to an Acquirer(s) acceptable to the United States at such price and on such terms as are then obtainable upon reasonable efforts of the trustee, subject to the provisions of Sections IV and VI of this Final Judgment, and shall have such other powers as the Court shall deem appropriate. The trustee shall divest the unsold Relevant Baking Assets in the manner that is most conducive to remedying the loss of competition alleged in the Complaint. Subject to Section V(C) of this Final Judgment, the trustee shall have the power and authority to hire at the cost and expense of defendants any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestitures, and such professionals and agents shall be accountable solely to the trustee. The trustee shall have the power and authority to accomplish the divesitures at the earliest possible time to an Acquier or Acquirers acceptable to the United States, and shall have such other powers as this Court shall deem appropriate.

C. The trustee shall serve at the cost and expense of defendants, on such terms and conditions as the United States approves, and shall account for all monies derived from the sale of each asset sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to defendants and the trust shall then be terminated. The compensation of such trustee and of any professionals and agents retained by the trustee shall be reasonable in light of the value of the divested assets and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the disvestiture and the speed with which it is accomplished.

D. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestitures and shall take no action to interfere with or impede the trustee's accomplishment of the divestiture of the Relevant Baking Assets. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities for the Relevant Baking Assets, and to defendants' overall businesses as is reasonably necessary to effectuate the divestiture. Defendants shall provide financial or other information relevant to the Relevant Baking Assets customarily provided in a due diligence process as the trustee may reasonably request, subject to reasonable protection for trade secrets or other confidential research, development or commercial information. Subject to customary confidentiality assurances, defendants shall permit prospective Acquirers of any Relevant Baking Assets to have reasonable access to the information provided to the trustee and to management personnel for the Relevant Baking Assets, and to make inspection of any physical facilities for the Relevant Baking Assets.

E. After the trustee's appointment, the trustee shall file biweekly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestitures ordered under this Final Judgment; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address and telephone number of each person who, during the preceding period, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Relevant Baking Assets, and shall describe in detail each contact with any such person during the period. The trustee shall maintain full records of all efforts to divest the Relevant Baking Assets.

F. The United States may object to a proposed divestiture by the trustee in the manner prescribed in Section VI of this Final Judgment. Defendants shall not object to a divestiture by the trustee on any grounds other than the trustee's malfeasance. Any such objections by defendants must be conveyed in writing to the United States and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VI of this Final Judgment.

G If the trustee has not accomplished such divestitures within one hundred and twenty (120) days after its appointment, the trustee thereupon shall file promptly with the Court a report setting forth (1) The trustee's efforts to accomplish the required divestitures, (2) the reasons, in the trustee's judgment, why the required divestitures have not been accomplished, and (3) the trustee's recommendations for completing the required divestiture; provided, however, that to the extent such report contains information that the trustee deems confidential, it shall not be filed in the public docket of the Court. The trustee shall at the same time furnish a copy of such reports to the parties, who shall have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall thereafter enter such orders as it shall deem appropriate in order to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

VI. Notice of Proposed Divestitures

A. Within two (2) business days following execution of a definitive agreement, contingent upon compliance with the terms of this Final Judgment, to effect, in whole or in part, any proposed divestiture pursuant to Sections IV or V of this Final Judgment, defendants or the trustee, whichever is then responsible for effecting the divestiture, shall notify the United States of the proposed divestiture. If the trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously identified who offered to, or expressed an interest in or a desire to, acquire any ownership interest in the Relevant Baking Assets that is the subject of the definitive agreement, together with full details of same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States, in its sole discretion, may request from defendants, the proposed Acquirer(s), any other third party, or the trustee additional information concerning the proposed divestiture, the proposed Acquirer, or any other potential Acquirer. Defendants and the trustee

shall furnish any additional information requested from them within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice, or within twenty (20) calendar days after the United States has been provided the additional information requested from defendants, the proposed Acquirer, any third party, and the trustee, whichever is later; the United States shall provide written notice to defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice to defendants (and the trustee, if applicable) that it does not object, then the divestiture may be consummated, subject only to defendants' limited right to object to the sale under Section V(F) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer, or upon objection by the United States, a divestiture proposed under Section IV or Section V of this Final Judgment shall not be consummated. Upon objection by defendants under the provision in Section V(F), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII. Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter and every twenty (20) calendar days thereafter until the divestiture has been completed, whether pursuant to Section IV or Section V of this Final Judgment, defendants shall deliver to the United States as affidavit as to the fact and manner of compliance with Sections IV or V of this Final Judgment. Each such affidavit shall include, *inter alia,* the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring any interest in the Relevant Baking Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts that defendants have taken to solicit buyers for any and all Relevant Baking Assets and to provide required information to prospective Acquirers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by defendants, including limitations on information, shall be made within fourteen (14) days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, defendants shall deliver to the United States an affidavit which describes in reasonable detail all actions defendants have taken and all steps defendants have implemented on an ongoing basis to comply with Section VIII of this Final Judgment and the Hold Separate Stipulation and Order entered by the Court. The affidavit also shall describe, but not be limited to, defendants' efforts to maintain and operate each Relevant Baking Asset as a viable active competitor; to maintain separate management, staffing, sales, marketing and pricing of each asset; and to maintain each asset in operable condition at current capacity configurations. Defendants shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in defendants' earlier affidavit(s) filed pursuant to this Section within fifteen (15) calendar days after any such change has been implemented.

C. For a one-year period following the completion of each divestiture, defendants shall preserve all records of any and all efforts made to preserve and divest the Relevant Baking Assets.

VIII. Hold Separate Order

Until the divestitures required by the Final Judgment have been accomplished, defendants shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the sale of any Relevant Baking Asset.

IX. Financing

Defendants are ordered and directed not to finance all or any part of any acquisition by any person made pursuant to Sections IV or V of this Final Judgment.

X. Compliance Inspection

For purposes of determining or securing compliance with the Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the United States Department of Justice, upon written request of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants, shall be permitted:

1. Access during office hours of defendants to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendants, who may have counsel present, relating to any matters contained in this Final Judgment and the Hold Separate Stipulation and Order; and

2. Subject to the reasonable convenience of defendants and without restraint or interference from them, to interview, either informally or on the record, their officers, employees, and agents, who may have counsel present, regarding any such matters.

B. Upon the written request of the Assistant Attorney General in charge of the Antitrust Division, defendants shall submit such written reports, under oath if requested with respect to any matter contained in the Final Judgment and the Hold Separate Stipulation and Order.

C. No information or documents obtained by the means provided in Sections IV, VI or X of this Final Judgment shall be divulged by the United States to any person other than an authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to the United States, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material, "Subject" to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then the United States shall give defendants ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI. Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XII. Termination

Unless this Court grants an extension, this Final Judgment will expire upon the tenth anniversary of the date of its entry.

XIII. Public Interest

Entry of this Final Judgment is in the public interest.

Dated _____, 2000.

Court approval subject to procedures of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16

United States District Judge

Interstate Brands Corporation,
East Armour Blvd., 64111/P.O. Box 419627, Kansas City, MO 64141–5627, (816) 502–4000

Legal Department

March 17, 2000.

Mr. David E. Groce,
The Earthgrains Company, 8400 Maryland Avenue, St. Louis, MO 63105.

Dear David: I understand that The Earthgrains Company has agreed to acquire Metz Baking Company ("Metz"), and that both firms have agreed to resolve certain competitive concerns raised by the U.S. Department of Justice ("DOJ") in connection with this merger by entering into a consent decree. I have been advised that the consent decree would require Earthgrains and Metz to divest, to a purchaser approved by DOJ, Metz's license rights under the TAYSTEE® trademark for certain geographic areas in the Midwest. Interstate Brands West Corporation, will, upon the request of Metz and in accordance with the provisions of the License Agreement dated July 27, 1987, between American Bakeries Licensing Co. (our predecessor in interest) and Heileman Baking Company (Metz's predecessor in interest) (except for provisions of Articles 5(G) and 9 requiring prior written approval of sublicensees), consent to a transfer and sublicense of the TAYSTEE® trademark to any third party approved by DOJ under the proposed consent decree. Any final decision concerning whether the sublicensing of the TAYSTEE® trademark to such third party satisfies the conditions of the consent decree shall be in the sole discretion of the United States.

Sincerely,

Kim B. Murphy,
Sr. Staff Attorney.

Appendix A

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedure and Penalties Act ("APPA"), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On March 20, 2000, the United States field a civil antitrust suit the alleges that an acquisition by The Earthgrains Company ("Earthgrains") of Metz Holdings, Inc. ("Metz") would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The complaint alleges that in many markets in the Midwest, Earthgrains and Metz are two of only a few significant competitors in the production and sale of white pan bread, and that their combination would substantially lessen competition in these already highly concentrated markets, including Kansas City, Missouri,; Omaha, Nebraska; Des Moines, Iowa; and many smaller communities in Illinois, Iowa, Kansas, Missouri, and Nebraska. According to the Complaint, the loss of competition would likely result in retailers and consumers paying higher prices for white pan bread in these areas. The prayer for relief in the Complaint seeks: (1) A judgment that the proposed acquisition would violate Section 7 of the Clayton Act; and (2) a permanent injunction that would prevent Earthgrains from acquiring control of Metz or otherwise combining Metz's assets with its own business.

At the same time the Complaint was filed, the United States also filed a proposed settlement that would permit Earthgrains to complete its acquisition of Metz, yet preserve competition in the markets in which the transaction would otherwise raise significant competitive concerns. The settlement consists of a proposed Final Judgment and a Hold Separate Stipulation and Order. In essence, the Hold Separate Stipulation and Order would require Earthgrains to maintain certain bread brands, and associated production and distribution assets, as economically viable, ongoing concerns, operated independently of Earthgrains' other businesses until the divestitures mandated by the Final Judgment have been accomplished.

The proposed Final Judgment orders defendants to divest to one or more acquirers the Colonial and Taystee labels of white pan bread for use in each of the affected markets, including all of the cities and counties identified in the proposed Final Judgment. See Final Judgment, § II (H). Because an acquirer may require other assets in order to compete effectively and viably in the sale of white pan bread in the affected areas, under the Final Judgment the United States may, in its sole discretion, require the divestiture of additional assets, including (a) Earthgrains' Des Moines, IA bakery; (b) a license to produce buns, rolls and any other bread under the Colonial and Taystee labels; (c) Earthgrains' and Metz's bread routes, trucks, and customer lists; and (d) other ancillary assets currently used by Eathgrains and Metz in the production, distribution and sale of white pan bread under the Colonial or Taystee labels. Defendants must complete these divestitures within 90 days after filing of the Complaint,[1] or five days after entry of the Final Judgment, whichever is later. If they do not complete the divestitures within the prescribed time, the Court may appoint a trustee to see the assets.

The United States and defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

1. Earthgrains. Earthgrains, based in St. Louis, Missouri, is the nation's second largest wholesale commercial baker. It operates a total of 43 commercial bakeries throughout the United States, though its bread production and sales are concentrated primarily in the South and Midwest. In 1999, Earthgrains reported sales of $1.93 billion.[2]

2. Specialty Foods and Metz. Specialty Foods Corporation is a privately held concern that owns several baking operations, including Metz. Metz, based in Deerfield, Illinois, is one of the largest regional wholesale commercial bakers. It produces and sells white pan bread throughout the Midwest, primarily in Colorado, Illinois, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Utah, and Wisconsin. In 1999, Metz's total revenue exceeded $600 million.

3. The proposed transaction. On November 15, 1999, Earthgrains agreed to acquire Metz from Specialty Foods for about $625 million. This proposed

[1] The Complaitn was filed on march 20, 2000.

[2] The Complaint inaccurately alleges that Earthgrains operates 28 commercial bakeries and reported sales of $1.6 billion in 1999. It, in fact, operated 43 commercial bakeries and reported $1.93 million in annual sales.

transaction, which would combine Earhtgrains and Metz and substantially lessen competition in the sale of white pan bread in many areas of the Midwest, precipitated the government's antitrust suit.

B. The Bread Industry and the Competitive Effects of the Transaction

1. White pan bread. White pan bread describes the ubiquitous, white, sliced, soft loaf known to most consumers as "plain old white bread." An American household staple, typically used for sandwiches, white pan bread is sold in the commercial bread aisle of every grocery store, as well as many other retail stores. White pan bread differs significantly from other types of bread, such as variety bread (*e.g.*, wheat, rye or French) and freshly baked in-store breads, in taste, texture, uses, perceived nutritional value, keeping qualities, and appeal to various groups of consumers. Families with young children, for instance, strongly prefer to purchase white pan bread because children prefer this bread.

Because of its unique appeal and distinguishing attributes, a small but significant increase in the price of white pan bread by all producers would not cause a significant number of current purchasers to substitute any other type of breads, or for that matter, any other product. The sale of white pan bread to consumers through retailers is, therefore, a relevant product market in which to assess the competitive effects of the acquisition.

White pan bread is mass produced on high-speed production lines by wholesale commercial bakers, who package and sell it to retailers under either their own brand or a private label (*i.e.*, a brand controlled by a grocery chain or buying cooperative). Though physically similar to private label brand, branded white pan bread is perceived by consumers as higher quality bread; consequently, consumers often pay a premium of twice as much or more for branded white pan bread.

The Complaint alleges that the provision of white pan bread through retail outlets takes place in highly localized geographic markets. The high transportation costs, short shelf life, and extensive bakery control over the sale of their branded white bread products all make it very expensive and difficult for retail stores and consumers to purchase white pan bread from bakers that are not local market incumbents.

2. Competition between Earthgrains and Metz in the sale of white pan bread. Earthgrains and Metz compete directly in producing, promoting, and selling both private label and branded white pan bread to grocery retailers, who in turn sell it to consumers. In the relevant areas alleged in the Complaint, Earthgrains sells two brands of white pan bread, either IronKids and Colonial or IronKids and Rainbo, and Metz sells two brands of white pan bread, either Pillsbury and Old Home or Pillsbury and Taystee.

Earthgrains and Metz recognize the keen rivalry between their bread products in the relevant geographic markets. To avoid losing sales to the other, each has engaged in extensive promotional and couponing campaigns that reduce the prices charged for their branded white pan breads to the benefit of retailers and consumers. Each also competed against the other in pricing and in improving the quality and services offered in connection with both branded and private label white pan bread. Through these activities, Earthgrains and Metz have each operated as a significant competitive constraint on the other's prices for branded and private label white pan bread.

3. Anticompetitive consequences of the acquisition. The Complaint alleges that Earthgrains's acquisition of Metz would remove the competitive constraint each has had on the other, and create (or facilitate Earthgrains's exercise of) market power (*i.e.*, the ability to increase prices to consumers) in a number of relevant geographic markets throughout the Midwest, including Kansas City, Missouri; Omaha, Nebraska; and Des Moines, Iowa metropolitan areas; and in many smaller communities in Illinois, Iowa, Kansas, Missouri and Nebraska.

Specifically, the Complaint alleges that in each of the markets, Earthgrains and Metz are two of only a few significant competitors. The acquisition would increase concentration significantly in these already highly concentrated, difficult-to-enter markets.[3] Post-acquisition, Earthgrains would dominate each market, accounting for at least 58 percent of all sales of white pan bread in the Omaha market, at least 52 percent in the Kansas City market, about 56 percent in the Des Moines market, and likely half or more of all sales of white pan bread in many smaller communities in Iowa, western Illinois, northeastern Kansas, northwestern Missouri, and eastern Nebraska. Moreover, after the merger, Earthgrains and only one or two other competitors would control more than 90 percent of annual sales revenues of white pan bread in these areas.

The Complaint alleges that Earthgrains's acquisition of Metz in each of these markets would cause a substantial reduction in competition either from an increased likelihood of coordinated pricing that would result from the elimination of a significant competitor, Metz, or from the likelihood that Earthgrains will acquire the power to unilaterally increase prices to consumers for branded white pan bread after the merger. In both instances, the merger is likely to lead to higher prices to consumers who purchase white pan bread through retail outlets in the relevant areas.

The Complaint alleges that entry by other wholesale commercial bakers into the sale of white pan bread in any of the adversely affected geographic markets is time-consuming, expensive and difficult, and hence, unlikely to soon counteract these anticompetitive effects.

III. Explanation of the Proposed Final Judgment

The proposed Final Judgment would preserve competition in the sale of white pan bread in each of the relevant geographic markets. Within 90 days after March 20th, the date the Complaint was filed, or five days after entry of the Final Judgment, whichever is later, defendants must divest two of their popular white pan bread brands, the Colonial and Taystee labels,[4] and such other production and distribution assets that the United States determines may be necessary to create an economically viable competitor in the sale of white pan bread in each geographic market.[5] It may well be that the sale to an

[3] The Herfindahl-Hirschman Index ("HHI") is a widely-used measure of market concentration. Following the acquisition, the approximate post-merger HHIs, calculated from 1999 dollar sales, would be about 3800 with a change of 875 points for the Omaha area; 3400 with a change of 1378 points for the Kansas City area; and 3500 with a change of 1530 points for the Des Moines area. Under the Merger Guidelines, an acquisition that increases the HHI by 50 points or more in a market in which the post-merger HHI will exceed 1800 points may raise serious competitive concerns.

[4] As defined in the Final Judgment, a "label" "means all legal rights associated with a brand's trademarks, trade names, service names, service marks, intellectual property, copyrights, designs, and trade dress; the brand's trade secrets; the brand's technical information and production known-how, including, but not limited to, recipes and formulas used to produce bread currently sold under the brand, and any improvements to, or line extensions thereof; and packaging, marketing and distribution know-how and documentation, such as customer lists and route maps, associated with the brand." Final Judgment, § II(F). Divesting a label would require defendants to grant, at a minimum, "[a] perpetual, royal-free, freely assignable and transferrable, and executive license to make, have made, use or sell white pan bread in the Relevant Territory under each of the Relevant Labels." *Id.*, § II(D)(1).

[5] These assets are defined in the Final Judgment as the "Additional Baking Assets." See Final Judgment, § II(E).

existing wholesale baker of exclusive rights to make and sell white pan bread under either the Colonial and Taystee labels is all that is required to accomplish this goal. Depending on the acquirer's requirements, however, effective divestiture may require the sale other assets such as Earthgrain's Des Moines, IA bakery, which currently services the relevant areas; a license to sell buns, rolls, or other bread under the Colonial and Taystee labels; and the bread routes, trucks, thrift stores, depots, warehouses, customers contracts and lists used by Earthgrains and Metz in production, distribution, and sale of white pan bread under the Colonial and Taystee labels. Defendants must use their best efforts to accomplish the divestitures as expeditiously as possible. The proposed Final Judgment provides that the assets must be divested in such a way as to satisfy the United States, in its sole discretion, that the assets can and will be used by the acquirer as part of a viable, ongoing business or businesses engaged in the sale of white pan bread in the geographic areas covered by the Final Judgment.[6]

If defendants do not accomplish the ordered divestitures within the prescribed time period, the proposed Final Judgment provides that the Court will appoint a trustee to complete the divestitures. If a trustee is appointed, the proposed Final Judgment provides that defendants must pay all costs and expenses of the trustee. The trustee's commission will be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which divestiture is accomplished. After his or her appointment becomes effective, the trustee will file periodic, biweekly reports with the parties and the Court, setting forth the trustee's efforts to accomplish the required divestiture. At the end of six months, if the divestiture has not been accomplished, then the trustee and the parties will make recommendations to the Court, which shall enter such orders as appropriate.

The relief in the Final Judgment has been tailored to ensure that the ordered divestitures maintain competition that would have been eliminated as a result of the merger and prevent the exercise of market power after the merger in each of the various markets alleged in the Complaint.

[6] These areas, listed in the "Relevant Territory" definition of the Final Judgment, § II(H), include a number of cities and counties in Illinois, Iowa, Kansas, Missouri and Nebraska.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against defendant.

V. Procedures Available for Modification of the Proposed Final Judgment

The parties have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry of the decree upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final judgment. Any person who wishes to comments should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The United States will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to entry. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**. Written comments should be submitted to: J. Robert Kramer II, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 1401 H Street, NW, Suite 3000, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to The Proposed Final Judgment,

The United States considered, as an alternative to the proposed Final Judgment a full trial on the merits against defendants Earthgrains, Specialty Foods and Metz. The United States could have continued the litigation to seek preliminary and permanent injunctions against Earthgrains's acquisition of Metz. The United States is satisfied, however, that defendants' divestiture of the assets described in the proposed Final Judgment will establish, preserve and ensure a viable competitor in each of the relevant markets identified by the United States. To this end, the United States is convinced that the proposed relief, once implemented by the Court, will prevent Earthgrains's acquisition of Metz from having adverse competitive effects.

VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires the proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment "is in the public interest." In making that determination, the court may consider—

(1) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) The impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e) (emphasis added). As the Court of Appeals for the District of Columbia Circuit has held, the APPA permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. See *United States* v. *Microsoft Corp.*, 56 F.3d 1448, 1458–62 (D.C. Cir. 1995).

In conducting this inquiry, "the Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly

settlement through the consent decree process."[7] Rather,

absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.*, 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D.Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public" *United States* v. *BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988), quoting *United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.), cert. denied, 454 U.S. 1083 (1981); see also Microsoft, 56 F.3d 1448 (D.C. Cir. 1995). Precedent requires that the balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "within the reaches of the public interest." More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.[8]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. "[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest' (citations omitted)."[9]

Moreover, the court's role under the Tunney Act is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and does not authorize the Court to "construct [its] own hypothetical case and then evaluate the decree against that case," Microsoft, 56 F.3d at 1459. Since "[t]he court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place," it follows that the court "is only authorized to review the decree itself," and not to "effectively redraft the complaint" to inquire into other matters that the United States might have but did not pursue. *Id.*

VIII. Determinative Documents

There is a single determinative document within the meaning of the APPA that was considered by the United States in formulating the proposed Final Judgment. That document, a letter dated March 17, 2000 from Kim Murphy, an attorney at Interstate Brands Corporation ("IBC"), to David Groce, General Counsel of Earthgrains, is attached to the Final Judgment as Appendix A. (A copy of this letter is reproduced in the attached Appendix). Although defendants proposed licensing the Taystee label as a step toward alleviating the competitive harm, Metz's license rights to that label were subject to the approval of the original licensee, IBC. Defendants subsequently secured assurances from IBC that it would permit the Taystee label to be licensed to an acquirer acceptable to the United States under the terms of the Final Judgment. Divestiture of the Taystee label became acceptable to the United States only after it had received that written assurance.

Dated: April 7, 2000.

Respectfully submitted,

Anthony E. Harris, Illinois Bar #1133713.

U.S. Department of Justice, 1401 H Street, NW, Suite 3000, Washington, DC 20530, (202) 307–6583.

Certificate of Service

I hereby certify that on April 7, 2000, I caused a copy of the foregoing Competitive Impact Statement to be served by causing the pleading to be mailed first-class, postage prepaid, to a duly authorized legal representative of each of the defendants, as follows:

The Earthgrains Company

Roxann E. Henry, Esquire, Howrey Simon Arnold & White, 1299 Pennsylvania Avenue, NW, Washington, DC 20004

Specialty Foods Corporation and Metz Holdings, Inc.

David E. Schreibman, Esquire, Vice President, Secretary and General Counsel, Specialty Foods Corporation, 520 Lake Cook Road, Deerfield, IL 60015.

Anthony E. Harris, (IL Bar #1133713).

[FR Doc. 00–9747 Filed 4–18–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Joint Motion To Modify Final Judgment and United States' Memorandum in Support of Motion To Modify; United States v. Baroid Corp., et al.

Notice is hereby given that the United States and Diamond Products International ("DPI") have filed a joint motion to modify the final judgment filed in a civil antitrust case, *United States* v. *Baroid Corpation., et al.* Civil Action No. 93–2621, in the United States District Court for the District of Columbia. The Department has consented to modification of the Judgment but has reserved the right to withdraw its consent if it determines that, based upon comments filed or other information received, consent to the modification is not in the public interest.

This case was filed on December 23, 1993, and alleged that the merger of Dresser Industries, Inc. ("Dresser") and Baroid Corporation ("Baroid") might substantially lessen competition in the United States in the manufacture and sale of two oil field service products, diamond drill bits and drilling fluids, in violation of section 7 of the Clayton Act. The Final Judgment was entered on April 12, 1994.

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[7] 119 Cong. Rec. 24598 (1973). See *United States* v. *Gillette Co.*, 406 F. Supp. 713, 715 (D. Mass. 1975). A "public interest" determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. § 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. See H.R. 93–1463, 93rd Cong. 2d Sess. 8–9, reprinted in (1974) U.S.C.C. A.N. 6535, 6538.

[8] *United States* v. *Bechtel Corp.*, 648 F.2d at 666 (citations omitted) (emphasis added); see *United States* v. *BNS, Inc.*, 858 F.2d at 463; *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *United States* v. *Gillette Co.*, 406 F. Supp. at 716. See also *United States* v. *American Cyanamid Co.*, 719 F.2d 558, 565 (2d Cir. 1983), cert. denied, 465 U.S. 1101 (1984).

[9] *United States* v. *American Tel. and Tel. Co.*, 552 F. Supp. 131, 150 (D.D.C. 1982), aff'd sub nom. *Maryland* v. *United States*, 460 U.S. 1001 (1983) quoting *United States* v. *Gillette Co.*, supra, 406 F. Supp. at 716; *United States* v. *Alcan Aluminum, Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985).

Under the Final Judgment, Dresser was required to divest Baroid's diamond bit business, which included all Baroid assets used in the United States to research, develop, test, manufacture, service, or market its diamond drill bits. Pursuant to the judgment, Dresser sold that business to a company then called International Superior Products, Inc., and now known as Diamond Products International ("DPI").

Paragraph V.F. of the Final Judgment states that the purchaser of the divested diamond drill bit business may not sell that business to, or combine that business with the diamond bit business of, any of four named companies: Dresser (now part of Halliburton Company), Camco, Inc. (Now part of Schlumberger Ltd.), Baker Hughes, Inc., or Smith International, Inc, or any of their subsidiaries or affiliates. The joint motion proposes modifying the Final Judgment to eliminate the absolute prohibition or transactions involving Camco, Baker Hughes, or Smith and instead require DPI to give notice to the Department of any such proposed transactions. The Final Judgment would continue to bar DIP from selling its diamond drill bit business to, or combining that business with the diamond drill bit operations, of Dresser, the firm required by the Final Judgment to divest the diamond bit business in the final instance.

Copies of the Complaint and Judgment, the joint motion, and the United States' supporting memorandum are available for inspection in Room 215, Antitrust Division, U.S. Department of Justice, 325 7th St., NW, Washington, DC 20530 and at the Office of the Clerk of the United States District Court for the District of Columbia, Third Street and Constitution Avenue, NW, Washington, DC 20001. Copies of any of these materials may be obtained upon request and payment of a copying fee.

Comments to the Department of Justice and to the Court regarding the proposed modification of the Final Judgment are invited from members of the public. They should be addressed to Roger W. Fones, Chief, Transportation, Energy and Agriculture Section, Antitrust Division, U.S. Department of Justice, Suite 500, 325 7th Street, NW, Washington, DC 20530 (202–307–6351). Such comments must be received within 50 days.

Constance K. Robinson,

Director of Operations & Merger Enforcement, Antitrust Division.

[FR Doc. 00–9746 Filed 4–18–00; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Training Grant Program " Internet-Based OSHA Expert Compliance Assistance System

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of availability of funds and request for grant applications.

SUMMARY: The Occupational Safety and Health Administration (OSHA) awards funds to nonprofit organizations to conduct safety and health training and education. This notice announces grant availability for training employers in an internet-based OSHA expert compliance assistance system. The notice describes the scope of the grant program and provides information about how to get detailed grant application instructions. Applications should not be submitted without the applicant first obtaining the detailed grant application instructions mentioned later in the notice.

Section 21(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 670) authorizes this program.

DATES: Applications must be received by June 9, 2000.

ADDRESSES: Submit grant applications to the Office of Science and Technology Assessment, Directorate of Technical Support, OSHA, 200 Constitution Avenue, NW, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. Roy F. Gurnham, Director, Office of Science and Technology Assessment, Directorate of Technical Support, OSHA, (202) 693–2024, e-mail roy.gurnham@osha.gov.

SUPPLEMENTARY INFORMATION:

What Is the Purpose of the Grant Program?

OSHA's strategic plan contains goals to improve workplace safety and health for all workers, change the workplace culture to increase employer and worker awareness of, commitment to, and involvement in safety and health, and to secure public confidence through excellence in the development and delivery of OSHA's programs and services. OSHA's intent is to reduce the number of worker injuries, illnesses and fatalities by focusing nationwide attention and Agency resources on the most prevalent types of workplace injuries and illnesses, the most hazardous industries and the most hazardous workplaces. This grant is one of the mechanisms OSHA is using to achieve its strategic goals.

This grant provides funds to train employers to recognize, avoid, and prevent safety and health hazards in their workplaces.

The program emphasizes three areas.

- Educating employers in small businesses. A small business has 250 or fewer workers.
- Training employers in new OSHA standards.
- Training employers in high risk activities or hazards identified by OSHA.

Grantees are expected to develop Internet expert software, training and/or educational programs that address compliance assistance and Material Safety Data Sheet assistance as described below, and conduct the training. Grantees will also be expected to follow-up with people who have been trained by their program to find out what, if any, changes were made to reduce hazards in their workplaces as a result of the training.

What Are the Training Topics for This Grant?

The purpose of this notice is to announce that funds are available for a grant to train employers in an Internet-based OSHA expert compliance assistance system. Each grant application must address the following:

- Use of an Internet-based diagnostic ("expert") software system that, using a down loadable, on-line interview process, will give the user a compliance profile for each facility covered by the interview as well as a comprehensive "to-do" list to help the user manage compliance. The information must be customized for each facility and must be kept current over the Internet;
- The system must be capable of automatically downloading, indexing, viewing, and printing Material Safety Data Sheets (MSDS) files. Once tagged, MSDSs would be monitored and user files would be automatically updated via the Internet;
- Use of training materials for the purpose of training employers how to use the system.

Who Is Eligible To Apply for a Grant?

Any non-profit educational foundation is eligible to apply. Applicants will be required to submit evidence of nonprofit status, preferably from the IRS.

What Can Grant Funds Be Spent On?

Grant funds can be spent on the following:

- Conducting training.
- Conducting other activities that reach and inform workers and employers about occupational safety

and health hazards and hazard abatement.

• Developing educational materials for use in the training.

Are There Restrictions on How Grant Funds Can Be Spent?

OSHA will not provide funding for the following activities.

1. Any activity that is inconsistent with the goals and objectives of the Occupational Safety and Health Act of 1970.

2. Training involving workplaces that are not covered by the Occupational Safety and Health Act. Examples include state and local government workers in non-State Plan States and workers covered by section 4(b)(1) of the Act.

3. Production, publication, reproduction or use of training and educational materials, including newsletters and instructional programs, that have not been reviewed by OSHA for technical accuracy.

4. Activities that address issues other than recognition, avoidance, and prevention of unsafe or unhealthy working conditions. Examples include workers' compensation, first aid, and publication of materials prejudicial to labor or management.

5. Activities that provide assistance to workers in arbitration cases or other actions against employers, or that provide assistance to employers and/or workers in the prosecution of claims against Federal, State or local governments.

6. Activities that directly duplicate services offered by OSHA, a State under an OSHA-approved State Plan, or consultation programs provided by State designated agencies under section 21(d) of the Occupational Safety and Health Act.

7. Activities intended to generate membership in the grantee's organization. This includes activities to acquaint nonmembers with the benefits of membership, inclusion of membership appeals in materials produced with grant funds, and membership drives.

What Other Grant Requirements Are There?

1. *OSHA review of expert software systems and educational materials.* OSHA will review all expert software systems and educational materials produced by the grantee for technical accuracy. OSHA will also review training curriculums and training materials for accuracy before they are used.

When grant recipients produce training materials, they will provide copies of completed materials to OSHA before the end of the grant period. All materials produced by grantees may be placed on the Internet by OSHA.

2. *OMB and regulatory requirements.* Grantees will be required to comply with the following documents.

• 29 CFR part 95, which covers grant requirements for nonprofit organizations, including universities and hospitals. These are the Department of Labor regulations.

• OMB Circular A–122, which describes allowable and unallowable costs for nonprofit organizations.

• OMB Circular A–133, which provides information about audit requirements.

3. *Certifications.* All applicants will be required to certify to a drug-free workplace in accordance with 29 CFR part 98, to comply with the New Restrictions on Lobbying published at 29 CFR part 93, to make a certification regarding the debarment rules at 29 CFR part 98, and to complete a special lobbying certification.

How Are Applications Reviewed and Rated?

OSHA staff will review grant applications and present the results to the Assistant Secretary who will make the selection of the organization to be awarded the grant.

OSHA will give preference to applications which:

• Address multiple safety and health subjects.

• Train managers and/or supervisors.

• Serve multiple employers. OSHA is interested in reaching more than one employer with each grant awarded.

The following factors will be considered in evaluating grant applications.

1. Program Design

a. The proposed training and education program addresses the topics set out above.

b. The proposal plans to train employers and clearly estimates the numbers to be trained.

c. The planned activities are appropriate for the employers to be trained.

d. There is a plan for OSHA to review the software and educational materials.

e. There is a plan to evaluate the program's effectiveness and this includes plans to follow-up with trainees to see if the training resulted in workplace change.

f. The planned work can be accomplished in one year.

2. Program Experience

a. The organization applying for the grant demonstrates experience with occupational safety and health.

b. The organization applying for the grant demonstrates experience training adults in work-related subjects.

c. The staff to be assigned to the project have experience in (1) occupational safety and health, (2) the specific topic chosen, and (3) training adults.

d. The organization applying for the grant demonstrates experience in recruiting and training the population it proposes to serve under the grant.

3. Administrative Capability

a. The applicant organization demonstrates the capacity to maintain fiscal management.

b. The application is complete, including forms, budget detail, narrative and work plan, and required attachments.

4. Budget

a. The budgeted costs are reasonable.

b. The budget complies with Federal cost principles (which can be found in applicable OMB Circulars) and with OSHA budget requirements contained in the grant application instructions.

In addition to the factors listed above, the Assistant Secretary will take other items into consideration, such as the geographical distribution of the grant programs and the coverage of populations at risk.

How Much Money Is Available for Grants?

There is approximately $100,000 available for this program.

How Long Are Grants Awarded for?

Grants are awarded for a one year period

How Do I Get a Grant Application Package?

Grant application instructions may be obtained from the OSHA Directorate of Technical Support, 200 Constitution Avenue, NW, Washington, DC 20210.

When and Where Are Applications To Be Sent?

The application deadline is 4:30 p.m. Eastern Time, Friday, June 9, 2000.

Applications are to be mailed to the Office of Science and Technology Assessment, Directorate of Technical Support, OSHA, 200 Constitution Avenue, NW, Washington, DC 20210. Applications may be sent by fax to (202) 693–1644.

How Will I Be Told if My Application Was Selected?

Organizations selected as grant recipients will be notified by a representative of the Assistant Secretary. An applicant whose proposal is not selected will be notified in writing.

Notice that an organization has been selected as a grant recipient does not constitute approval of the grant application as submitted. Before the actual grant award, OSHA will enter into negotiations concerning such items as program components, funding levels, and administrative systems. If the negotiations do not result in an acceptable submittal, the Assistant Secretary reserves the right to terminate the negotiation and decline to fund the proposal.

Signed at Washington, DC, this 6th day of April 2000.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 00–9754 Filed 4–18–00; 8:45 am]

BILLING CODE 4510–26–P

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Laura S. Nelson, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* May 1, 2000.
Time: 9 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Summer Seminars and Institutes for College and University Teachers, submitted to the Division of Education at the March 1, 2000 deadline.

2. *Date:* May 2, 2000.
Time: 9 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Summer Seminars and Institutes School Teachers, submitted to the Division of Education at the March 1, 2000 deadline.

3. *Date:* May 3, 2000.
Time: 9 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Summer Seminars and Institutes for College and University Teachers, submitted to the Division of Education at the March 1, 2000 deadline.

4. *Date:* May 5, 2000.
Time: 9 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Summer Seminars and Institutes for College and University Teachers, submitted to the Division of Education at the March 1, 2000 deadline.

5. *Date:* May 8–9, 2000.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Humanities Focus Grants, submitted to the Division of Education at the April 15, 2000 deadline.

6. *Date:* May 15–16, 2000.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Humanities Focus Grants, submitted to the Division of Education at the April 15, 2000 deadline.

7. *Date:* May 18–19, 2000.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Humanities Focus Grants, submitted to the Division of Education at the April 15, 2000 deadline.

8. *Date:* May 19, 2000.
Time: 9 a.m. to 6 p.m.
Room: 415.
Program: This meeting will review applications for Regional Humanities Centers Planning Grants, submitted to the Office of Challenge Grants at the March 31, 2000 deadline.

9. *Date:* May 19, 2000.
Time: 8:30 a.m. to 5 p.m.
Room: 527.
Program: This meeting will review applications for Extending the Reach Faculty Research Grants in Faculty Research Grants, submitted to the Division of Research Programs at the April 10, 2000 deadline.

10. *Date:* May 22, 2000.
Time: 8:30 a.m. to 5 p.m.
Room: 527.
Program: This meeting will review applications for Extending the Reach Faculty Research Grants in Faculty Research Grants, submitted to the Division of Research Programs at the April 10, 2000 deadline.

Laura S. Nelson,

Advisory Committee Management Officer.

[FR Doc. 00–9814 Filed 4–18–00; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR part 150, "Exemptions and Continued Regulatory Authority in Agreement States and in Offshore Waters under Section 274".

2. *Current OMB approval number:* 3150–0032.

3. *How often the collection is required:* 10 CFR 150.16(b), 150.17(c),

and 150.19(c) require the submission of reports following specified events, such as the theft or unlawful diversion of licensed radioactive material. The source material inventory reports required under 10 CFR 150.17(b) must be submitted annually by certain licensees.

4. *Who is required or asked to report:* Agreement State licensees authorized to possess source or special nuclear material at certain types of facilities, or at any one time and location in greater than specified amounts.

5. *The number of annual respondents:* 9 Agreement State licensees.

6. *The number of hours needed annually to complete the requirement or request:* 42 hours.

7. *Abstract:* 10 CFR part 150 provides certain exemptions from NRC regulations for persons in Agreement States. Part 150 also defines activities in Agreement States and in offshore waters over which NRC regulatory authority continues, including certain information collection requirements. The information is needed to permit NRC to make reports to other governments and the International Atomic Energy Agency in accordance with international agreements. The information is also used to carry out NRC's safeguards and inspection programs.

Submit, by June 19, 2000, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/NRC/PUBLIC/OMB/index.html). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 E 6, Washington, DC 20555–0001, by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 13th day of April, 2000.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–9750 Filed 4–18–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–247]

Consolidated Edison Company of New York, Inc., Indian Point Nuclear Generating Unit No. 2; Issuance of Final Director's Decision Under 10 CFR 2.206

By letter dated September 15, 1999, Mr. David A. Lochbaum, on behalf of the Union of Concerned Scientists (Petitioner), pursuant to Section 2.206 of Title 10 of the *Code of Federal Regulations* (10 CFR 2.206), requested that the U.S. Nuclear Regulatory Commission (Commission or NRC) take action with regard to the Indian Point Nuclear Generating Unit No. 2 (IP2), owned and operated by Consolidated Edison Company of New York, Inc. (Con Ed). The Petitioner requested that the NRC take enforcement action to modify or suspend the operating license for IP2, operated by Con Ed (the licensee), to prevent the reactor from resuming operation until the five issues identified in the attachment to the Petition have been fully resolved. As an acceptable alternative in lieu of a suspension or modification of the license, the Petitioner requested that the NRC issue a confirmatory action letter or an order requiring these issues to be fully resolved before unit restart. The five issues that were raised in the Petition are (1) The apparent violation of station battery design and licensing bases, (2) the apparent failure to adequately correct circuit breaker problems, (3) the apparent unreliability of emergency diesel generators, (4) the potentially unjustified license amendment for undervoltage and degraded voltage relay surveillance intervals, and (5) the apparent errors and nonconservatisms in individual plant examinations (IPEs). Along with the last issue, the Petitioner stated that the event on August 31, 1999, at IP2 revealed potential problems with the plant-specific risk assessment developed by the licensee and now used to establish priorities for maintenance and inspections. Additionally, the Petitioner requested that a public hearing on this Petition be conducted in the vicinity of the plant before its restart is authorized by the NRC. In a transcribed telephone conversation between the Petitioner and the members of the NRC's Petition Review Board on September 22, 1999, the Petitioner clarified two of the issues in the Petition. First, the Petitioner stated that because of an apparent failure to accomplish the commitment in the NRC's safety evaluation for the license amendment mentioned in the Petition, the Petitioner was concerned that past licensing commitments may not have been implemented. Second, the Petitioner questioned whether the amount of time the licensee took to perform certain actions during the event on August 31, 1999, was consistent with the times expected if a station blackout (SBO) had occurred since many of the procedures and processes in response to an SBO event were used.

The Director of the Office of Nuclear Reactor Regulation has addressed the technical concerns provided by the Petitioner. However, the Petitioner's request for the staff to take enforcement action was not granted for the reasons that are explained in the "Final Director's Decision Pursuant to 10 CFR 2.206" (DD–00–02). The complete text of the Final Director's Decision is available for public inspection at the Commission's Public Document Room located in the Gelman Building, 2120 L Street, NW., Washington, DC, and will be accessible electronically from the agencywide documents access and management system (ADAMS) public library component on the NRC web site, *http://www.nrc.gov* (the electronic reading room).

A copy of the Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations. As provided for by this regulation, the Decision will constitute the final action of the Commission 25 days after the date of issuance of the Decision unless the Commission, on its own motion, institutes a review of the Decision within that time.

Dated at Rockville, Maryland, this 13th day of April 2000.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 00–9751 Filed 4–18–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–275 and 50–323]

Pacific Gas and Electric Company; Notice of Consideration of Issuance of Amendment to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR–80 and DPR–82 issued to Pacific Gas and Electric Company (the licensee) for operation of the Diablo Canyon Power Plant, Units 1 and 2, located in San Luis Obispo County, California.

The proposed amendment would revise several sections of the improved Technical Specification (ITS) to correct 20 editorial errors made in either (1) The application dated June 2, 1997 (and supplemental letters), for the ITS, or (2) the certified copy of the ITS that was submitted in the licensee's letters of May 19 and 27, 1999. The proposed amendment would also revise 11 instances of incorrect incorporation of the current Technical Specifications (CTS) into the ITS. The ITS were issued as License Amendments 135 and 135 dated May 28, 1999, and will be implemented by the licensee to replace the CTS by May 31, 2000.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed elimination of the channel calibration for the turbine stop valve position switches will not change the probability or consequences of an accident previously evaluated since they are not subject to drift. Since the limit switches do not drift and therefore do not have a setpoint that can potentially change, the remaining verification of the trip actuation device operational test (TADOT) will provide all necessary assurances of Operability.

The proposed elimination of the TADOT for the auto stop oil pressure will not change the probability or consequences of an accident previously evaluated since the TADOT verifies the same requirements as the required channel calibration.

The proposed elimination of the requirement to calibrate the neutron wide range detectors will not change the probability or consequences of an accident previously evaluated since they are only used to monitor power following an accident. They provide no automatic control or actuation functions. Since an accident must first occur before these channels are used, this change can not increase the probability or consequences of an accident. Further, the necessary elements of the calibration for the channel and the detector will be accomplished through cross correlation similar to the power range detectors.

The remaining proposed changes are administrative in nature. They correct errors made while incorporating the current Technical Specifications (CTS) into the improved Technical Specifications (ITS), or errors made while creating the final copy of the ITS from the NRC reviewed mark-up of NUREG–1431. The proposed change of the Shift Supervisor title to Shift Manager is administrative since it does not decrease the responsibilities of the individual.

There are no hardware changes nor are there any changes in the method by which any safety-related plant system performs its safety function. The proposed changes are administrative.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed elimination of the calibration for the turbine stop valve position switches will not create the possibility of a new or different kind of accident since they are not subject to drift. The remaining verification of the TADOT will provide all necessary assurances of operability.

The proposed elimination of the TADOT for the auto stop oil pressure will not create the possibility of a new or different kind of accident since this test will not evaluate anything not already verified by the required channel calibration.

The proposed elimination of the requirement to calibrate the neutron wide range detectors will not create the possibility of a new or different kind of accident since they are only used to monitor power following an accident. They provide no automatic control or actuation functions. Since an accident must first occur before these channels are used, this change can not cause a new or different type of an accident. Further, the necessary elements of the calibration for the channel and the detector will be accomplished through cross correlation similar to the power range detectors.

The remaining proposed changes are administrative in nature. They correct errors made while incorporating the CTS into the ITS, or errors made while creating the final copy of the ITS from the NRC reviewed mark-up of NUREG–1431. The proposed change of the Shift Supervisor title to Shift Manager is administrative since it does not decrease the responsibilities of the individual.

There are no hardware changes nor are there any changes in the method by which any safety-related plant system performs its safety function. The changes are administrative in nature so there are no new accident scenarios, transient precursors, failure mechanisms, or limiting single failures are introduced.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed elimination of the calibration for the turbine stop valve position switches will not reduce the margin of safety since they are not subject to drift. The remaining verification of the TADOT will provide all necessary assurances of operability.

The proposed elimination of the TADOT for the auto stop oil pressure will not reduce the margin of safety since this test will not evaluate anything not already verified by the channel calibration.

The proposed elimination of the requirement to calibrate the neutron wide range detectors will not reduce the margin of safety since they are only used to monitor power following an accident. They provide no automatic control or actuation functions. Since an accident must first occur before these channels are used, this change can not decrease the margin of safety. Further the necessary elements of the calibration for the channel and the detectors will be accomplished through cross correlation similar to the power range detectors.

The remaining proposed changes are administrative in nature. They correct errors made while incorporating the CTS into the ITS, or errors made while creating the final copy of the ITS from the NRC reviewed mark-up of NUREG–1431. The proposed change of the Shift Supervisor title to Shift Manager is administrative since it does not decrease the responsibilities of the individual.

The proposed changes do not affect the acceptance criteria for any analyzed event. There will be no effect on the manner in which safety limits or limiting safety system settings are determined nor will there be any effect on those plant systems necessary to assure the accomplishment of protection functions.

Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three

standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 19, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Christopher J. Warner, Esq., Pacific Gas and Electric Company, P. O. Box 7442, San Francisco, California 94210, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request

should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 16, 2000, as supplemented by letter dated April 11, 2000, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 13th day of April 2000.

For the Nuclear Regulatory Commission.

Steven D. Bloom,

Project Manager, Section #2, Project Directorate IV and Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–9752 Filed 4–18–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Meeting Notice

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission

DATES: Weeks of April 17, 24, May 1, 8, 15, and 22, 2000

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland

STATUS: Public and Closed

MATTERS TO BE CONSIDERED:

Week of April 17

There are no meetings scheduled for the Week of April 17.

Week of April 24—Tentative

There are no meetings scheduled for the Week of April 24.

Week of May 1—Tentative

Tuesday, May 2

9:30 a.m. Briefing on Oconee License Removal (Public Meeting) (Contact: Dave Lange, 301–415–1730)

Wednesday, May 3

9:25 a.m. Affirmation Session (Public Meeting) (If needed)

9:30 a.m. Briefing on Efforts Regarding Release of Solid Material (Public Meeting) (Contact: Frank Cardile, 301–415–6185)

Week of May 8—Tentative

Monday, May 8

10:00 a.m. Briefing on Lessons Learned from the Nuclear Criticality Accident at Tokaimura and the Implications on the NRC's Program (Public Meeting) (Contact: Bill Troskoski, 301–415–8076)

Tuesday, May 9

8:55 Affirmation Session (Public Meeting) (If needed)

9:00 a.m. Meeting with Stakeholders on Efforts Regarding Release of Solid Material (Public Meeting) (Contact: Frank Cardile, 301–415–6185)

Week of May 15—Tentative

Tuesday, May 16

9:25 a.m. Affirmation Session (Public Meeting) (If needed)

Week of May 22—Tentative

Thursday, May 25

8:30 a.m. Briefing on Operating Reactors and Fuel Facilities (Public Meeting)

10:15 a.m. Briefing on Status of Regional Programs, Performance and Plans (Public Meeting)

1:30 p.m. Briefing on Improvements to 2.206 Process (Public Meeting)

*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.

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: April 16, 2000.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 00–9907 Filed 4–17–00; 12:48 pm]

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NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from March 25, 2000, through April 7, 2000. The last biweekly notice was published on April 5, 2000 (65 FR 17908).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By May 19, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room).

Commonwealth Edison Company, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of amendment request: January 20, 2000.

Description of amendment request: The proposed amendment would revise the technical specifications (TSs) to extend the allowable completion times for the required actions associated with restoration of an inoperable emergency diesel generator (EDG), and permit the performance of the 24-hour EDG endurance run during Modes 1 and 2 (i.e., "Power Operation" or "Startup"). A new requirement is proposed which

will require verification of the opposite unit's EDGs when the affected EDG is inoperable.

Basis for proposed no significant hazards consideration determination. As required by 10 CFR 50.92(c), the staff's analysis of the issue of no significant hazards consideration is presented below:

Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes include the extension of the completion time for the EDGs from 72 hours to 14 days. In conjunction with the proposed change, a new required action is proposed to be incorporated into the TSs that will require verification of the operability of the opposite unit's EDGs while the affected EDG is inoperable. The proposed changes do not significantly increase the probability of occurrence of a previously evaluated accident because the EDGs are not initiators of accidents. Extending the completion times of the EDGs would not have any impact on the frequency of any accident previously evaluated and, therefore, the probability of a previously analyzed accident is unchanged. The proposed change to the completion time for EDGs will not result in any changes to the plant activities associated with EDG maintenance. The EDGs mitigate the consequences of previously evaluated accidents involving a loss of normal power, the safety-related buses and as such, the operability or availability of the EDGs could affect accident consequences. A configuration risk management program (CRMP) was developed and will be used to ensure that the risk impact of equipment out of service is appropriately evaluated prior to performing any maintenance activity. Increases in risk posed by potential combinations of equipment out of service during the EDG extended completion time will be managed under the CRMP. In addition, compensatory actions have been identified to mitigate an increase in risk. Procedures have been developed to implement the compensatory actions.

The proposed changes also include a change to the TS surveillance requirement related to the conduct of the 24-hour EDG endurance run. Specifically, the change would permit the endurance run to be performed during Modes 1 and 2. The test configuration to be used is consistent with the configuration currently used during the one-hour monthly EDG tests currently conducted.

The probability of an accident is not increased by performing the 24-hour endurance run in Modes 1 and 2 since the EDGs are used to support mitigation of the consequences of an accident. The failure of an EDG while testing is not an assumed initiator of a previously analyzed accident. The EDGs were designed to be tested by running in parallel with offsite power and design features such as protective devices were included. The proposed change does not affect parallel testing design features, the consequences of postulated failures during parallel testing, and postulated interactions with offsite power during parallel testing. If problems are encountered during testing, the EDG connection to the bus will be interrupted, allowing the offsite circuits to continue to supply the bus. Testing of the EDG does not affect the remainder of the safety-related equipment analyzed to mitigate the consequences of an accident. The control logic prevents potential damage of the emergency core cooling System (ECCS) equipment powered by the EDG to ensure that the ECCS equipment is available in the event of an actual safety injection with or without a Loss of Offsite Power (LOOP). Only one EDG per unit will be tested in parallel with the offsite sources at a time in order to prevent any grid disturbance from potentially affecting more than one EDG. Thus, during the test, the remaining EDG, which is capable of supplying power to mitigate all design basis accidents, will be available to respond normally to a start signal.

To fully evaluate the effect of the proposed EDG TS changes, probabilistic risk assessment (PRA) methods and deterministic analyses were utilized. The results of the risk analysis show no significant increase in Core Damage Frequency (CDF) and Large Early Release Frequency (LERF).

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously analyzed.

Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes do not involve a physical change to the plant. No new equipment is being introduced, and installed equipment is not being operated in a new or different manner except for the following. The electrical lineup for performing the 24-hour run will be the same as the lineup for performance of the one-hour run, which is routinely performed at least once per month for each EDG. The difference between these two surveillances is in their duration. There is no change being made to the parameters within which the plant is operated. There are no setpoints affected by this proposed change at which protective or mitigative actions are initiated. This proposed changes will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. No alteration in the procedures, which ensure that the plant remains within analyzed limits, is being proposed, and no change is being made to the procedures relied upon to respond to an off-normal event. As such, no new failure modes are being introduced. Other than the changes in duration of EDG unavailability from 72 hours to 14 days and on-line testing from 60 minutes to 24 hours, the change does not alter assumptions made in the safety analysis and licensing basis.

Therefore, these proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Does the change involve a significant reduction in a margin of safety?

The proposed changes will extend the allowable Completion Times for the Required Actions associated with restoration of an inoperable EDG and allow the performance of the 24-hour endurance run at power. In conjunction with the proposed changes, a new required action is proposed to be incorporated into the TSs. The new action will require verification of the operability of the opposite unit's EDGs while the affected EDG is inoperable. These actions will be taken to ensure the availability of the remaining alternating current power sources to the affected engineered safety feature bus.

The CRMP will be used to ensure that the risk impact of equipment out of service is appropriately evaluated prior to performing any maintenance activity. Increase in risk posed by potential combinations of equipment out of service during the EDG extended completion time will be managed under the CRMP. In addition, compensatory actions have been identified to mitigate increase in risk. Procedures have been developed to implement the compensatory actions.

With regard to the proposed change for the 24-hour endurance run, the EDGs were designed to be tested by running in parallel with offsite power and, design features such as protective devices were included. The proposed change does not affect parallel testing design features, the consequences of postulated failures during parallel testing, and postulated interactions with offsite power during parallel testing. If problems are encountered during testing, the EDG connection to the bus will be interrupted allowing the offsite circuits to continue to supply the bus. Further, the EDG system design includes emergency override of the test mode for both accident conditions (safety injection) and loss of offsite power to permit a response to actual emergency signals and return control of the EDG to the automatic control system.

Therefore, implementation of the proposed changes will not involve a significant reduction in the margin of safety.

Based on the staff's analysis, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Pamela B. Stroebel, Senior Vice President and General Counsel, Commonwealth Edison Company, P.O. Box 767, Chicago, Illinois 60690–0767.

NRC Section Chief: Anthony J. Mendiola.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Nuclear Generating Plant, Unit No. 3, Citrus County, Florida

Date of amendment request: March 6, 2000.

Description of amendment request: The proposed amendment would revise the Improved Technical Specification (ITS) Action Condition and Surveillance Requirement (SR) for the safety-related diesel-driven emergency feedwater pump (EFP–3). The ITS required

inventory volume for lube oil would be revised to agree with the actual test values and are included in the ITS Action Condition, SR and Bases.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below.

1. Does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The revised lube oil requirements are being made to ensure EFP–3 is capable of seven days of continuous operation. The proposed amendment provides the same functional requirement as previously approved. The EFW system is used for accident mitigation and is not an initiator of design basis accidents. Therefore, the probability of previously analyzed events is not affected by this change. No capability or design functions of EFP–3 or the emergency feedwater (EFW) system will change. The initial conditions for accidents that require EFW and accident mitigation capability of the EFW system will remain unchanged. Therefore, the proposed amendment will not increase the consequences of evaluated accidents.

2. Does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The revised ITS Condition will ensure equipment is restored to operable status in accordance with previously approved timeframes and functional levels. The revised SR will assure the same functional requirement as the previously approved SR. Lube oil will be stored on-site and the lube oil inventory in the sump ensures adequate time to transfer the stored inventory into the engine. No new plant configurations or conditions are created by these revised ITS Conditions or SR. Therefore, the proposed amendment cannot create the possibility of an accident of a different type than previously evaluated in the Safety Analysis Report.

3. Does not involve a significant reduction in the margin of safety.

The proposed ITS Condition and SR changes ensure adequate lube oil inventory is available to operate EFP–3 for seven days. The proposed changes replace the calculated lube oil inventory values with a more conservative value derived from actual test data for EFP–3. The revised SR ensures the same functional requirement for a seven-day supply of lube oil for EFP–3 as was previously approved. Similarly, the revised ITS Condition ensures the same functional level as currently approved by requiring that a reduced lube oil inventory of less than seven days but more than six days is restored to the seven-day level within 48 hours. The revised SR allows the lube oil inventory to be stored off engine. The inventory in the EFP–3 sump and auxiliaries provides sufficient time to permit the transfer of stored inventory into the engine. EFP–3 is designed to allow monitoring of lube oil level and addition of lube oil while the engine is operating. Based on the above, the revised ITS meets the same intent as the currently approved specifications. Therefore, there is no reduction in the margin of safety associated with the proposed ITS amendment.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: R. Alexander Glenn, General Counsel, Florida Power Corporation, MAC–A5A, P. O. Box 14042, St. Petersburg, Florida 33733–4042.

NRC Section Chief: Richard P. Correia.

Pacific Gas and Electric Company, Docket Nos. 50–275, Diablo Canyon Nuclear Power Plant, Unit No. 1, San Luis Obispo County, California

Date of amendment requests: December 31, 1999, as supplemented by letter dated January 18, 2000.

Description of amendment requests: The amendment would revise Section 2.C.(1) of Facility Operating License No. DPR–80 for the Diablo Canyon Power Plant, Unit No. 1 to authorize operation at reactor core power levels not to exceed 3411 megawatts thermal (100 percent rated power). This amendment would also (1) revise the definition in Section 1.1 of the technical specifications (TS) of rated thermal power to reflect Unit 1 operation at the uprated reactor core power level, (2) change the reactor core safety limits in TS Figure 2.1.1–1 to reflect the current fuel type and provide additional margin for OTΔT and OPΔT setpoint calculations, and change the nominal full power T_{avg} in the OTΔT and OPΔT function in Notes 1 and 2 to TS Table 3.3.3–1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

All previously evaluated accidents have been reviewed for the proposed increase in Unit 1 power rating, and these reviews are summarized in WCAP–14819, "Pacific Gas and Electric Company Diablo Canyon Power Plant, Unit 1 3425 MWt [megawatt thermal] Uprating Program Licensing Report." The majority of the Diablo Canyon Power Plant (DCPP) accident analyses already bound the higher power rating of Unit 2 combined with the lower reactor coolant system (RCS) flow rate of Unit 1. Hence, the uprate has no impact on these previously evaluated accidents. This is also true of dose assessment, which remains based on the original 3568 MWt core source terms and is not impacted by the uprate.

The previously evaluated accidents that are impacted by the uprate are large break loss-of-coolant accident (LOCA), small break LOCA, the OTΔT/ OPΔT setpoint calculations, and accidental depressurization of the RCS. The large break LOCA was reanalyzed for uprated conditions using best estimate methodology. The reanalysis demonstrated no increase in consequence and was approved by the NRC in License Amendments 121 (Unit 1) and 119 (Unit 2). The small break LOCA was also reanalyzed, and continues to demonstrate a large margin to peak clad temperature limits. The current OTΔT/OPΔT setpoints are bounding for the Unit 1 uprated power conditions based on revising the reactor core safety limits in TS Figure 2.1.1–1 to credit the exclusive use of Vantage 5 fuel. The accidental RCS depressurization reanalysis shows that the departure from nucleate boiling ratio remains above the applicable limit value. In summary, no design or analysis acceptance criteria will be exceeded, the functional integrity of all plant systems are unaffected, and there is no impact on the integrity of the fission product barriers or assumed dose source terms. Therefore, the consequences of all previous evaluated accidents are not substantially increased.

It was determined that there would be no impact on any component reliabilities assumed in the PRA model, and therefore no impact on the resulting core damage frequency. The PRA model envelopes both units, based on using the originally higher rated Unit 2 power level.

The operation impacts of the proposed power increase were reviewed against the unit design capability, and it was determined that no system, structure, or component would exceed design conditions or loads. While the low pressure turbines see a small (less than 1.5°F) increase in temperature, the effect on missile generation probability is not significant. There is no significant increase in the probability of component failure, offsite power loss, or any other accident initiator. Therefore, the probability of all previously evaluated accidents is not substantially increased.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Normal operation will not be substantially impacted by increasing the Unit 1 licensed power rating to match Unit 2. Procedures will be essentially unchanged, or where changes are required, they will be made to more closely resemble those in effect at Unit 2. Training will communicate all impacts to personnel and the plant simulator will be updated to match the power level of both

Units 1 and 2. There is, therefore, no possibility of a new or different kind of accident related to human performance.

Plant systems, structures, and components have been evaluated for the proposed uprate. Most have identical counterparts in operation at Unit 2 at this higher power level. A few are slightly different, such as the generator cooling system, and for these the design margins have been reviewed and found to be acceptable. Therefore, there is no possibility of a new or different kind of accident related to system, structure, or component performance.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed changes do not involve a significant reduction in a margin of safety because the margin of safety associated with plant parameters as verified by the results of the accident analyses are within acceptable limits. As mentioned, most analyses demonstrating adequate margins of safety already assume the higher thermal power rating of Unit 2 and bound Unit 1 at the uprated thermal power conditions. The few transients that are reanalyzed meet the applicable acceptance criteria.

The reactor core safety limits specified in TS Figure 2.1.1–1 envelope operation with both 17x17 standard and 17x17 Vantage 5 fuel. The proposed change revises the reactor core safety limits in Figure 2.1.1–1 to credit the exclusive use of Vantage 5 fuel. These revised safety limits will continue to satisfy fuel design criteria. The current OTΔT and OPΔT setpoints provide adequate margin to the revised reactor core safety limits at the uprated Unit 1 conditions, which include a slightly higher nominal full power T_{avg} in Notes 1 and 2 to ITS Table 3.3.3–1.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Section Chief: Stephen Dembek.

PECO Energy Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: August 11, 1999.

Description of amendment request: The proposed amendment clarifies the use of containment overpressure for ensuring adequate net positive suction head (NPSH) for the emergency core cooling system (ECCS) pumps.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed License Amendment Request does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This proposed license amendment request does not involve any physical changes to plant Structures, Systems, or Components (SSC), or how the SSC are operated, maintained, and tested. The proposed changes involve the acceptability of taking credit for a specific amount of containment overpressure following the initiation of an event. This credit involves the mitigation of an event, and not prevention or identification of an event. Credit for containment overpressure is not considered a precursor to any event.

Crediting containment overpressure does not turn an Anticipated Operational Occurrence (AOO) into an Abnormal Operational Transient (AOT) or a Design Basis Accident (DBA).

Calculations performed in support of the license amendment request provide a conservative estimate of the Minimum Containment Pressure Available (MCPA) following all design and licensing basis events for which some amount of containment overpressure is required. The NPSH calculations for the Residual Heat Removal (RHR) and Core Spray (CS) pumps include conservative assumptions and input values ensure that, barring beyond-design-basis loss of containment integrity, adequate NPSH is provided to the RHR and CS pumps for the entire duration of any of these events.

The proposed license amendment request makes a change to the PBAPS licensing basis to clearly define amount of containment overpressure allowed. This value is designated as the Containment Overpressure License (COPL). Conservative analyses have assured that the MCPA is always greater than this COPL for design basis events. Therefore, adequate NPSH is provided to the RHR and Core Spray pumps for all design and licensing basis events.

The evaluation for MCPA and NPSH includes the consideration for any one single active failure. The worst-case single active failure is the failure of one electrical division. There is no credible single active failure that can compromise the containment integrity. The evaluation for MCPA and NPSH does not place any restrictions on system operation following a design or licensing basis event. The analysis concludes that adequate NPSH will be available, even assuming the worst single active failure.

Therefore, the proposed license amendment request does not significantly increase the probability or consequences of an accident previously evaluated.

2. The proposed License Amendment Request does not create the possibility of a new or different kind of accident from any accident previously evaluated.

This proposed license amendment request does not involve any physical changes to plant SSC, or how the SSC are operated, maintained, and tested. This proposed license amendment request involves the acceptability of taking credit for some amount of containment overpressure following the initiation of an event. This credit involves the mitigation of an event, and not prevention or identification of an event. Credit for containment overpressure is not considered a precursor to any event. Worst-case single active failure (i.e., loss of one electrical division) was considered in the assessment of MCPA and COPR [containment overpressure required]. The supporting calculations indicate that adequate NPSH is provided to the RHR and CS pumps for all design and licensing basis events, even with the worst single active failure.

Therefore, the proposed license amendment request does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed License Amendment Request does not involve a significant reduction in a margin of safety.

The MCPA and NPSH analyses supporting this license amendment request include conservative assumptions and use conservative input values that are consistent with or bound the analytical limits of the PBAPS Technical Specifications. These analyses indicate that adequate NPSH margin is available for operation of the RHR and CS systems to meet their safety functions following any design or licensing basis event. This includes operation of RHR in Suppression Pool Cooling, Wetwell Spray, Drywell Spray, and Low Pressure Coolant Injection modes, and CS in Short Term and Long Term Spray Cooling. Therefore, the proposed license amendment request does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for Licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, PECO Energy Company, 2301 Market Street, Philadelphia, PA 19101.

NRC Section Chief: James W. Clifford.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of amendment requests: January 19, 2000 (PCN–512).

Description of amendment requests: The amendment application proposes to revise the San Onofre Nuclear

Generating Station, Units 2 and 3, technical specifications (TSs) Surveillance Requirement (SR) 3.0.3.

SR 3.0.3 allows compliance with the requirement to declare a limiting condition for operation not met to be delayed whenever it is discovered that a surveillance was not performed within its specified frequency (a missed surveillance). Presently, SR 3.0.3 allows a delay "up to 24 hours or up to the limit of the specified Frequency, whichever is less." The licensee proposes to revise the allowable delay "up to 24 hours or up to the limit of the specified Frequency, whichever is greater."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of any accident previously evaluated?

Response: No.

The proposed change would extend the maximum allowable time for completing a Surveillance not performed within its specified Frequency (a missed Surveillance) without declaring the affected Limiting Condition For Operation (LCO) not met. The presently allowed time is up to 24 hours from the time of discovery or up to the limit of the specified Frequency, whichever is less. The proposed allowed time is up to 24 hours from the time of discovery or up to the limit of the specified Frequency, whichever is greater.

Surveillances are rarely missed. This is demonstrated by a limited review of Licensee Event Reports (LERs), which found very few occurrences of missed Surveillances, given the number of LERs submitted and the large number of Surveillances performed. Moreover, Surveillances, whether performed inside or outside the required Frequency, nearly always verify conformance with Technical Specification requirements. This is demonstrated by a survey of selected licensees regarding entries into Surveillance Requirement (SR) 3.0.3. As stated in Generic Letter 87–09, "* * * the vast majority of surveillances do in fact demonstrate that systems or components are operable." As stated in the SR 3.0.3 Bases, "* * * the most probable result of any particular Surveillance being performed is the verification of conformance with the requirements."

Therefore, it is unlikely that plant equipment would be inoperable during the time period of up to 24 hours or up to the limit of the specified Frequency, whichever is greater, that would be allowed under the proposed change for the completion of a missed Surveillance.

If, upon discovery of a missed Surveillance, it is known that the Surveillance would fail, SR 3.0.1 would require that the affected LCO be declared not met and the appropriate Condition(s) entered.

Performance of some Surveillances carries with it a slight risk, either from making some plant equipment temporarily inoperable or from performing plant manipulations, or both. The increase in plant risk from performing such Surveillances, combined with the confidence that a Surveillance test will be satisfactory when performed, together provide justification for extending the current allowable time to up to 24 hours or up to the specified Frequency, whichever is greater.

The foregoing discussion demonstrates that the probability or consequences of any accident previously evaluated will not be significantly increased by the proposed change.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

This amendment request is administrative in nature and does not involve any change to plant equipment. Therefore, it will not create the possibility of a new or different kind of accident from any previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No.

This amendment request does not change the manner in which safety limits or limiting safety settings are determined.

As discussed above, Surveillances are rarely missed, and, when performed, Surveillances nearly always verify conformance with Technical Specification requirements, making it unlikely that plant equipment would be inoperable during the time period of up to 24 hours or up to the limit of the specified Frequency, whichever is greater, that would be allowed under the proposed change for the completion of a missed Surveillance.

Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Douglas K. Porter, Esquire, Southern California Edison Company, 2244 Walnut Grove Avenue, Rosemead, California 91770.

NRC Section Chief: Stephen Dembek.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: March 17, 2000.

Description of amendment request: Revise Technical Specification 3/4.7.4 to revise the surveillance requirements (SRs) 4.7.4.b.1 and 4.7.4.b.2 to incorporate the wording from the Westinghouse Standard Improved Technical Specifications (NUREG–1431) and to delete SR 4.7.4.b.3. SR 4.7.4.b.3 requires verifying at least once per 18 months that each screen wash booster pump and the traveling screen start automatically on a safety injection test signal. The licensee also proposed changes to the Technical Specifications Bases associated with the Technical Specification changes and administrative changes to the Bases Index.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

NUREG 1431 related changes:

Incorporating the NUREG 1431 [Westinghouse Standard Improved Technical Specifications] wording for SR 4.7.4.b.1 and SR 4.7.4.b.2 does not significantly increase the probability of an accident because the surveillance testing of the Essential Cooling Water system has no effect on accident initiation probability. This change does not significantly increase the consequences of an accident because the surveillance requirements still provide adequate assurance that the Essential Cooling Water system can provide its design function.

Screen wash system changes:

Eliminating the requirement for the Essential Cooling Water traveling screens and screen wash booster pumps to start on a safety injection signal does not increase the probability of any accident previously evaluated. The traveling screens and the screen wash booster pumps have no potential for initiating an accident. Eliminating the requirement for the traveling screens and the screen wash booster pumps to start on a safety injection signal does not increase the consequences of any accident previously evaluated. A control system is provided to automatically start and stop the traveling screens during normal operation. A high differential water level sensed across any traveling screen alarms in the control room and automatically starts the screen wash booster pump and, after reaching adequate screen wash pressure, starts the traveling screen. A safety injection signal is not needed for this function. In addition, there are no circumstances associated with any event requiring a safety injection signal that would cause a high differential water level across the traveling screen.

The changes to the Bases Index are administrative and have no relevance to accident probability or consequences.

Based on the above, STPNOC [STP Nuclear Operating Company] concludes that the proposed change does not increase the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

NUREG 1431 related changes:

Incorporation of the NUREG 1431 wording into the surveillance requirements does not create the possibility of a new or different kind of accident because the surveillance requirements are not substantially changed and do not involve any different operational configurations for the station.

Screen wash system changes:

Elimination of the requirement to start the traveling screen and screen wash booster pump on a safety injection signal will not create the possibility of a new or different kind of accident from any accident previously evaluated. As discussed above, the traveling screens and screen wash booster pump have no potential to initiate an accident. In addition, STPNOC is not proposing any different operational configurations for the station.

The changes to the Bases Index are administrative and have no relevance to accidents.

Based on the above, STPNOC concludes that the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

NUREG 1431 related changes:

Incorporation of the NUREG 1431 wording for SR 4.7.4.b.1 and SR 4.7.4.b.2 does not significantly change the way the surveillance requirements will be performed. The Surveillance Requirements still provide adequate assurance that the Essential Cooling Water will perform its function. There is no change in the operational configuration of the plant. Consequently, the changes to these surveillance requirements do not significantly affect the margin of safety.

Screen wash system changes:

Elimination of the requirement for the traveling screen and screen wash booster pump to start on a safety injection signal will not prevent the traveling screen and screen wash booster pump to start when required. The systems will start automatically without the need for a safety injection signal. In addition, there is no design basis or mechanistic reason to postulate the need to automatically start the traveling screens or screen wash booster pump on a safety injection signal.

The changes to the Bases Index are administrative and have no relevance to the safety margin.

Based on the above, STPNOC concludes that the proposed change does not involve a significant decrease in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Jack R. Newman, Esq., Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036–5869.

NRC Section Chief: Robert A. Gramm.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: March 31, 2000 (ET 00–0018).

Description of amendment request: The proposed amendment would modify the actions for Limiting Condition for Operation (LCO) 3.7.9, "Ultimate Heat Sink (UHS)," of the technical specifications (TSs). The proposed new Action A would allow the plant to operate with the plant inlet water temperature of the UHS above 90 °F, if the licensee verified the required cooling capacity within 4 hours and once per 12 hours thereafter, but that the plant would be shut down if the water temperature exceeded 94 °F. This would change the current requirement to shut down the plant if the inlet water temperature of the UHS exceeded the 90 °F. The time to shut down the plant is not being changed in the amendment request.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change does not involve any physical alteration of plant systems, structures or components. The proposed change provides an allowance for the plant to continue operation with [the] plant inlet water temperature [of the UHS] in excess of the current Technical Specification limit of 90 °F with the verification that required cooling capacity being maintained and [the plant inlet water] temperature ≤ 94 °F. The 94 °F limit is less than the design limit of 95 °F for associated plant components. The plant inlet water temperature is not assumed to be an initiating condition of any accident analysis evaluated in the Updated Safety Analysis Report (USAR). Therefore, the allowance for the [plant inlet] water temperature to be in excess of the current limit does not involve an increase in the probability of an accident previously evaluated in the USAR. The UHS supports OPERABILITY of safety related systems used to mitigate the consequences of an accident. Plant operation for brief periods with [the] plant inlet water temperature greater than 90 °F up to 94 °F will not adversely affect the OPERABILITY of these safety related systems and will not adversely impact the ability of these systems to perform their safety related functions. Therefore, the proposed change does not involve a significant increase in the consequences of an accident previously evaluated in the USAR.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not involve any physical alteration of plant systems, structures or components. The temperature of the plant inlet water being greater than 90 °F but less than or equal to 94 °F (with the main cooling lake dam intact) does not introduce new failure mechanisms for systems, structures or components not already considered in the USAR. The 94 °F limit is less than the design limit of 95 °F for associated plant components. Therefore, the possibility of a new or different kind of accident from any accident previously evaluated is not created.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change will allow an increase in [the] plant inlet water temperature above the current Technical Specification limit of 90 °F for the UHS, provided [the] UHS temperature is maintained below 95 °F and that the required cooling capacity is verified maintained within 4 hours and once per 12 hours thereafter. Additionally, the plant inlet water temperature will be verified to be ≤94 °F once per 12 hours. The proposed change does not alter any safety limits, limiting safety system settings, or limiting conditions for operation, and the proposed changes provide continued assurance that with a plant inlet water temperature > 90 °F, the design temperature of safety related equipment are maintained within acceptable limits such that a safe shutdown of the plant can be performed. In addition, avoiding a plant transient during environmental conditions that could challenge the stability of the Electrical Power System offsets any perceptible reduction in the margin of safety as a result of the proposed change. Thus, the proposed change does not involve a significant reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Section Chief: Stephen Dembek.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notice was previously published as a separate individual notice. The notice content was the same as above. It was published as an individual notice either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. It is repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Tennessee Valley Authority, Docket Nos. 50–259, 50–260 and 50–296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendments: March 29, 2000 (TS–402).

Brief description of amendments: Changes Technical Specification 3/4.6.4.1 "Secondary Containment" to permit maintenance on a secondary containment access door when one or more units are operating and the other door is closed.

Date of publication of individual notice in the **Federal Register:** April 6, 2000 (65 FR 18141)

Expiration date of individual notice: April 20, 2000.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room).

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: August 26, 1999, as supplemented on February 24, and March 14, 2000.

Brief description of amendment: This amendment revises Technical Specification 3/4.9.4, and its associated bases, to allow the personnel airlock and certain other containment penetrations to remain open during refueling operations provided specific administrative controls are met. This amendment is approved for use during refueling outage 9 and operating cycle 10.

Date of issuance: March 27, 2000.

Effective date: March 27, 2000.

Amendment No.: 97.

Facility Operating License No. NPF–63. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** October 6, 1999 (64 FR 54374).

The February 24, and March 14, 2000, submittals contained clarifying information only, and did not change the initial no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 27, 2000.

No significant hazards consideration comments received: No.

Commonwealth Edison Company, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of application for amendments: May 20, 1999.

Brief description of amendments: The amendments changed the Technical Specification (TS) value for the minimum suppression chamber water level to a more conservative value.

Date of issuance: March 30, 2000.

Effective date: Immediately, to be implemented within 60 days.

Amendment Nos.: 176 & 172.

Facility Operating License Nos. DPR–19 and DPR–25: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 25, 1999 (64 FR 46426).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 30, 2000.

No significant hazards consideration comments received: No.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of application for amendment: December 17, 1999, as supplemented March 8, 2000.

Brief description of amendment: The amendment revises Technical Specification (TS) 2.1, "Safety Limits (SLs)," changing the safety limit minimum critical power ratio limits in TS 2.1.1.2 to reflect the results of cycle-specific calculations performed for Fermi 2 operating Cycle 8.

Date of issuance: March 30, 2000.

Effective date: As of the date of issuance and shall be implemented prior to the startup from the seventh refueling outage.

Amendment No.: 138.

Facility Operating License No. NPF–43: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** January 26, 2000 (65 FR 4269).

The March 8, 2000, letter provided clarifying information that was within the scope of the original **Federal Register** notice and did not change the staff's initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 30, 2000.

No significant hazards consideration comments received: No.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of application for amendment: July 30, 1999, as supplemented December 17, 1999, and March 1, 2000.

Brief description of amendment: The amendment revises Technical Specification (TS) 3.3.1.1, "Reactor Protection System (RPS) Instrumentation," to reflect the activation of the automatic trip associated with the oscillation power range monitor (OPRM). The amendment also revises TS 3.4.1, "Recirculation Loops Operating," to remove requirements related to the manual detection and suppression of core thermal-hydraulic instabilities because these actions are no longer necessary after the OPRM upscale function is activated.

Date of issuance: March 31, 2000.

Effective date: As of the date of issuance and shall be implemented prior to the startup from the seventh refueling outage.

Amendment No.: 139.

Facility Operating License No. NPF–43: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** November 3, 1999 (64 FR 59800).

The December 17, 1999, and March 1, 2000, letters provided clarifying information that was within the scope of the original **Federal Register** notice and did not change the staff's initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 2000.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: August 6, 1998, as supplemented by letter dated February 16, 2000.

Brief description of amendment: The amendment revises the minimum and the maximum concentration limits for the sodium hydroxide tank. The amendment also deletes the maximum specified tank volume and revises the minimum specified tank volume to refer to the parameter used in the safety analysis with no allowance for instrument uncertainty.

Date of issuance: March 28, 2000.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment No.: 206.

Facility Operating License No. DPR–51: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 10, 1999 (64 FR 6695).

The February 16, 2000, letter provided clarifying information that did not change the scope of the August 6, 1998, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 28, 2000.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: January 27, 2000.

Brief description of amendment: The amendment deleted the current requirements of Technical Specification (TS) 4.7.9.1.2.d, "Source installed in the Boronometer," associated with the installed boronometer sealed source. The source was recently removed and stored, and the requirements of TS 4.7.9.1.2.d are no longer applicable.

Date of issuance: March 24, 2000.

Effective date: As of the date of issuance to be implemented within 30 days from the date of issuance.

Amendment No.: 212.

Facility Operating License No. NPF–6: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 23, 2000 (65 FR 9007).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 24, 2000.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: January 27, 2000.

Brief description of amendment: The amendment relocated the schedule for the withdrawal of reactor vessel material surveillance specimens, from the Technical Specifications to the Safety Analysis Report, pursuant to the guidance provided in Generic Letter 91–01, "Removal of the Schedule for the Withdrawal of Reactor Vessel Material Specimens From Technical Specifications." Changes to the related Bases were also made. In addition, the proposed change to the surveillance specimen removal schedule was approved.

Date of issuance: April 4, 2000.

Effective date: As of the date of issuance to be implemented within 30 days from the date of issuance.

Amendment No.: 213.

Facility Operating License No. NPF–6: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 23, 2000 (65 FR 9007).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 4, 2000.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio

Date of application for amendment: July 26, 1999, as supplemented by submittal dated December 7, 1999.

Brief description of amendment: This amendment permits implementation of 10 CFR Part 50, Appendix J, Option B, and reference Regulatory Guide 1.163, "Performance-Based Containment Leak Test Program," dated September 1995, which specifies a method acceptable to the NRC for complying with Option B. These changes relate only to Type B and C (local) leakage rate testing. The use of Option B for Type A (integrated) leakage rate testing was approved on February 22, 1996, by License Amendment No. 205.

Date of issuance: March 28, 2000.

Effective date: Immediately as of its date of issuance and shall be implemented within 120 days.

Amendment No.: 240.

Facility Operating License No. NPF–3: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 25, 1999 (64 FR 46437).

The letter of December 7, 1999, contained clarifying information and did not change the initial no significant hazards consideration determination and did not expand the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 28, 2000.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit 1, Lake County, Ohio

Date of application for amendment: September 9, 1999, as supplemented by submittal dated February 28, 2000.

Brief description of amendment: This amendment includes nine minor, unrelated revisions to the technical specifications (TSs). These revisions, which are minor in both content and safety significance, include

clarifications and editorial changes to the TSs.

Date of issuance: March 30, 2000.

Effective date: Immediately as of the date of issuance and shall be implemented within 90 days.

Amendment No.: 111.

Facility Operating License No. NPF–58: This amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 3, 1999 (64 FR 59803).

The supplemental information contained clarifying information and did not change the initial no significant hazards consideration determination and did not expand the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 30, 2000.

No significant hazards consideration comments received: No.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan

Date of application for amendments: December 3, 1998.

Brief description of amendments: The amendments made administrative changes to several Technical Specifications to remove obsolete information, provide consistency between Unit 1 and Unit 2, provide consistency with the Standard Technical Specifications, provide clarification, and correct typographical errors.

Date of issuance: March 31, 2000.

Effective date: March 31, 2000, with full implementation within 30 days.

Amendment Nos.: 243 and 224.

Facility Operating License Nos. DPR–58 and DPR–74: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 31, 1999 (64 FR 47535).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 31, 2000.

No significant hazards consideration comments received: No.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: December 6, 1999, as supplemented March 17, 2000.

Brief description of amendment: Amendment to technical specifications changes the safety limit minimum critical power ratio (SLMCPR) from 1.06 to 1.08 for two recirculation loop operation and from 1.07 to 1.09 for single recirculation loop operation.

Date of issuance: March 31, 2000.

Effective date: March 31, 2000, to be implemented within 30 days.

Amendment No.: 182.

Facility Operating License No. DPR–46: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 29, 1999 (64 FR 73093).

The March 17, 2000, letter provided additional clarifying information that was within the scope of the original application and **Federal Register** notice and did not change the staff's initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 2000.

No significant hazards consideration comments received: No.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: December 6, 1999, as supplemented by letters dated February 22 and March 14, 2000.

Brief description of amendment: The amendment modifies the Technical Specification (TS) surveillance requirements associated with ensuring a limited number of charging and high pressure safety injection pumps are incapable of injecting into the Reactor Coolant System when the plant is shutdown. In addition, the TS Bases are modified to address these changes.

Date of issuance: March 30, 2000.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment No.: 243.

Facility Operating License No. DPR–65: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 26, 2000 (65 FR 4285).

The February 22 and March 14, 2000, supplemental letters provided clarifying information that did not change the staff's original no significant hazards consideration determination or expand the scope of the application as published.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 30, 2000.

No significant hazards consideration comments received: No.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: September 7, 1999.

Brief description of amendment: The amendment removes the current special exception which precludes applying the 18-month functional testing surveillance to the Steam Generator Hydraulic Snubbers for Technical Specification 3/4.7.8, "Plant Systems, Snubbers."

Date of issuance: March 31, 2000.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment No.: 244.

Facility Operating License No. DPR–65: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 26, 2000 (65 FR 4283).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 2000.

No significant hazards consideration comments received: No.

Portland General Electric Company, et al., Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: January 29, 1998.

Brief description of amendment: The amendment deletes paragraph 2.D of Facility Operating License No. NPF–1 and revises the Permanently Defueled Technical Specifications (PDTS) by deleting PDTS 5.7.1.1(b). These changes remove the requirements for a security program at the 10 CFR part 50 licensed site once the spent nuclear fuel has been relocated to the 10 CFR part 72 licensed Independent Spent Fuel Storage Installation.

Date of issuance: April 6, 2000.

Effective date: April 6, 2000, to be implemented within 30 days after the transfer of the last cask of spent nuclear fuel from the spent fuel pool to the independent spent fuel storage installation is complete.

Amendment No.: 203.

Facility Operating License No. NPF–1: The amendment changes the Operating License and the Permanently Defueled Technical Specifications.

Date of initial notice in ***Federal Register:*** September 8, 1999 (64 FR 48865).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 6, 2000.

No significant hazards consideration comments received: No.

Public Service Electric & Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: July 23, 1999, as supplemented September 13, 1999, and January 31, 2000.

Brief description of amendments: The amendments revised the Technical Specifications to remove the restriction on performing the 24-hour endurance run test of emergency diesel generators (EDGs) every 18 months only during shutdown. Additionally, for Salem Unit 1 only, a note associated with a one-time extension of a surveillance requirement was deleted.

Date of issuance: March 30, 2000.

Effective date: As of its date of issuance and shall be implemented within 60 days.

Amendment Nos.: 229 and 210.

Facility Operating License Nos. DPR–70 and DPR–75: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** October 6, 1999 (64 FR 54380).

The January 31, 2000, supplement provided clarifying information that did not change the initial proposed no significant hazards consideration determination and did not expand the scope of the original application as published.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 30, 2000.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., et al., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: October 4, 1999.

Brief description of amendments: The amendments revised the Technical Specifications 5.5.6, "Prestressed Concrete Containment Tendon Surveillance Program," to incorporate three exceptions to Regulatory Guide (RG) 1.35, Revision 2, 1976. The exceptions concern the number of tendons detensioned, inspection of concrete adjacent to vertical tendons, and the time during which areas adjacent to tendons are inspected.

Date of issuance: March 27, 2000.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 1–112; Unit 2–90.

Facility Operating License Nos. NPF–68 and NPF–81: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 9, 2000 (65 FR 6411).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 27, 2000.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: April 29, 1999 (TS 99–04).

Brief description of amendments: The amendments delete Sequoyah Nuclear Plant Technical Specification (TS) monthly surveillance test on the auxiliary feedwater suction pressure switches.

Date of issuance: March 29, 2000.

Effective date: As of the date of issuance, to be implemented no later than 45 days after issuance.

Amendment Nos.: 253 and 244.

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revise the TS.

Date of initial notice in ***Federal Register:*** May 19, 1999 (64 FR 27325).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 29, 2000.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: August 30, 1999.

Brief description of amendments: Requirements related to containment isolation valves that were located in two different sections of the technical specifications were consolidated into one section. Also, conditions relating to or usage of a check valve as an isolation device was clarified.

Date of issuance: March 29, 2000.

Effective date: March 29, 2000.

Amendment Nos.: 254 and 245.

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revise the technical specifications.

Date of initial notice in ***Federal Register:*** October 6, 1999 (64 FR 54382).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 29, 2000.

No significant hazards consideration comments received: No.

TXU Electric, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: January 13, 2000.

Brief description of amendments: The amendments: (1) Revise Technical Specification 3.8.3 (Condition B and Surveillance Requirement (SR) 3.8.3.2) to increase the required emergency diesel generator (EDG) lube oil inventory values; (2) Revise SR 3.8.3.2, for EDG lube oil inventory, to add a note stating that the surveillance is not required to be performed until the diesel has been in shutdown greater than 10 hours; and (3) Delete the footnote associated with SR 3.8.4.7 which provided a "one time only" alternative to battery testing requirements.

Date of issuance: March 24, 2000.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 75 and 75.

Facility Operating License Nos. NPF–87 and NPF–89: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 23, 2000 (65 FR 9012). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 24, 2000.

No significant hazards consideration comments received: No

TXU Electric, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: January 13, 2000.

Brief description of amendments: The amendments add "NOTE 3" to Surveillance Requirement 3.3.1.10 to allow entry into MODES 2 or 1 without the performance of N–16 detector plateau verification until 72 hours after achieving equilibrium conditions at greater than or equal to 90 percent rated thermal power.

Date of issuance: March 24, 2000.

Effective date:E As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 76 and 76.

Facility Operating License Nos. NPF–87 and NPF–89: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 23, 2000 (65 FR 9013)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 24, 2000.

No significant hazards consideration comments received: No.

TXU Electric, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: January 13, 2000.

Brief description of amendments: The amendments add "NOTE 3" to Surveillance Requirement 3.3.1.10 to allow entry into MODES 2 or 1 without the performance of N–16 detector plateau verification until 72 hours after achieving equilibrium conditions at greater than or equal to 90 percent rated thermal power.

Date of issuance: March 24, 2000.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendments Nos.: 76 and 76.

Facility Operating License Nos. NPF–84 and NPF–89: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register***: February 23, 2000 (65 FR 9013).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 24, 2000.

No significant hazards consideration comments received: No.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri.

Date of application for amendment: December 3, 1999 (ULNRC–04158).

Brief description of amendment: The amendment changed Section 5.6.6, "Reactor Coolant System (RCS) Pressure and Temperature Limits Report (PTLR)," of the improved Technical Specifications (ITS) that were issued on May 28, 1999, in Amendment No. 133. The current Technical Specifications (CTS) remain in effect until the ITS are implemented on or before April 30, 2000. The changes to the ITS approve the use of the PTLR by the licensee to make changes to the plant pressure temperature limits and low temperature over pressure protection limits without prior NRC staff approval, in accordance with Generic Letter 96–03, "Relocation of the Pressure Temperature Limit Curves and Low Temperature Overpressure Protection System Limits," dated January 31, 1996. The changes (1) add the word criticality to ITS subsection 5.6.6.a as one of the reactor conditions for which RCS pressure and temperature limits will be determined, (2) add the phrase "and COMS PORV," where COMS PORV stands for cold overpressure mitigation system power operated relief valve, to the introductory paragraph of ITS subsection 5.6.6.b to show that the analytical methods listed in the subsection are also the COMS PORV, and (3) replace the two documents listed in ITS subsection 5.6.6.b by the reference to the NRC letter that approves use of the PTLR and the Westinghouse topical report, WCAP–14040-NP-A, Revision 2, "Methodology Used to Develop Cold Overpressure Mitigating System Setpoints and RCS Heatup and Cooldown Limit Curves," dated January 1996, that provides the methodology that will be used by licensee in using the PTLR report. The current plant pressure temperature limits and low temperature overpressure protection limits are in the CTS and were approved in Amendment No. 124, which was issued April 2, 1998.

Date of issuance: March 24, 2000.

Effective date: March 24, 2000, to be implemented no later than April 30, 2000.

Amendment No.: 134.

Facility Operating License No. NPF–30: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 29, 1999 (64 FR 73101).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 24, 2000.

No significant hazards consideration comments received: No

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: January 14, 2000, as supplemented by letter dated February 17, 2000 (ULNRC–04172 and -04187).

Brief description of amendment: The amendment revised several sections of the improved Technical Specification (ITSs) to correct 14 editorial errors made in either (1) the application dated May 15, 1997, (and supplementary letters) for the ITSs, or (2) the certified copy of the ITSs that was submitted in the licensee's letters of May 27 and 28, 1999. The ITSs were issued as Amendment No. 133 by the staff in its letter of May 28, 1999, and will be implemented by the licensee to replace the current TSs by April 30, 2000.

Date of issuance: March 27, 2000.

Effective date: March 27, 2000, to be implemented by April 30, 2000.

Amendment No.: 135.

Facility Operating License No. NPF–30: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 23, 2000 (65 FR 9013) and February 25, 2000 (65 FR 10118).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 27, 2000.

No significant hazards consideration comments received: No.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont.

Date of application for amendment: June 15, 1999, as supplemented on January 14, 2000.

Brief description of amendment: The amendment revises Technical Specifications (TSs) Sections 3.1/4.1 Reactor Protection System and 3.2/4.2 Protective Instrument Systems instrumentation, tables, and the associated Bases to increase the surveillance test intervals (STIs), add allowable out-of-service times (AOTs), replace generic emergency core cooling system actions for inoperable instrument channels with function-specific actions, and relocate selected trip functions from the TSs to a Vermont Yankee controlled document. In addition, revision to TS Section 3.1/4.1 Reactor Protection System and the associated Bases is proposed to remove the RUN Mode APRM Downscale/IRM High Flux/Inoperative Scram Trip Function (APRM Downscale RUN Mode SCRAM). The submittal also proposes to implement editorial corrections and administrative changes that do not alter the meaning or intent of the requirements.

Date of Issuance: April 3, 2000.

Effective date: As of the date of issuance, and shall be implemented within 90 days.

Amendment No.: 186.

Facility Operating License No. DPR–28: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** October 20, 1999 (64 FR 56535).

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated April 3, 2000.

No significant hazards consideration comments received: No

Dated at Rockville, Maryland, this 12th day of April 2000.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–9680 Filed 4–18–00; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Requests, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:
Rule 489 and Form F–N, SEC File No. 270–361, OMB Control No. 3235–0411
Form 24F–2, SEC. File No. 270–399, OMB Control No. 3235–0456

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 ("Act") [44 U.S.C. 3501 *et seq.*], the Securities and Exchange Commission ('Commission") is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Rule 489 under the Securities Act of 1993, Filing of Form by Foreign Banks and Certain of their Holding Companies and Finance Subsidiaries; and Form F–N, Appointment of Agent for Service of Process by Foreign Banks and Foreign Insurance Companies and Certain of Their Holding Companies and Finance Subsidiaries Making Public Offerings of Securities in the United States.

Rule 489 under the Securities Act of 1933 [17 CFR 230.489] requires foreign banks and insurance companies and holding companies and finance subsidiaries of foreign banks and foreign insurance companies that are excepted from the definition of "investment company" by virtue of Rules 3a–1, 3a–5, and 3a–6 under the Investment Company Act of 1940 to file Form F–N to appoint an agent for service of process in the United States when making a public offering of securities. Approximately seven entities are required by Rule 489 to file Form F–N, which is estimated to require an average of one hour to complete. The estimated annual burden of complying with the rule's filing requirement is approximately eight hours, as one of the entities has submitted multiple filings.

Under 17 CFR 270.24f–2, any open-end management companies ("mutual funds"), unit investment trusts ("UITs") or face-amount certificate companies (collectively, "funds") that are deemed to have registered an indefinite amount of securities must, not later than 90 days after the end of any fiscal year in which it has publicly offered such securities, file Form 24F–2 with the Commission. Form 24F–2 is the annual notice of securities sold by funds that accompanies the payment of registration fees with respect to the securities sold during the fiscal year.

The Commission estimates that 8,203 funds file Form 24F–2 on the required annual basis. The average annual burden per respondent for Form 24F–2 is estimated to be one hour. The total annual burden for all respondents to Form 24F–2 is estimated to be 8,203 hours.

Compliance with the collection of information required by Form 24F–2 is mandatory. The Form 24F–2 filing that must be made to the Commission is available to the public.

The estimates of average burden hours are made solely for the purposes of the PRA and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms. 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.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC. 20549.

Dated: April 11, 2000.

Jonathan G. Katz,

Secretary.

[FR Doc. 00–9788 Filed 4–18–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42685; File No. 4–430]

Order Staying the Deadlines for Decimal Implementation and Notice of Request for Comment on Revised Decimal Implementation Schedules

April 13, 2000.

On January 28, 2000, the Securities and Exchange Commission ("Commission") issued an order (the "Decimals Order") [1] requiring the American Stock Exchange LLC ("AMEX"), the Boston Stock Exchange, Inc. ("BSE"), the Chicago Board Options Exchange, Inc. ("CBOE"), the Chicago Stock Exchange, Inc. ("CHX"), the Cincinnati Stock Exchange, Inc. ("CSE"), the National Association of Securities Dealers, Inc. ("NASD"), the New York Stock Exchange, Inc. ("NYSE"), the Pacific Exchange, Inc. ("PCX"), and the Philadelphia Stock Exchange, Inc. ("PHLX") (collectively the "Participants") [2] to facilitate an orderly transition to decimal pricing in the United States securities markets. The Decimals Order prescribed a timetable for the Participants to begin trading some equity securities (and options on those equity securities) in decimals by July 3, 2000, and all equities and options by January 3, 2001.

On March 6, 2000, despite previous assurances of readiness, the NASD announced that The Nasdaq Stock Market Inc. ("Nasdaq") would not have sufficient capacity to meet the target dates for implementation. [3] The NASD also expressed concerns regarding overall industry readiness and requested that the Commission work with the industry and the markets to determine an appropriate time frame that would not impose unnecessary risks on investors. [4]

[1] *See* Securities Exchange Act Release No. 42360 (Jan. 28, 2000), 65 FR 5004 (Feb. 2, 2000) ("Decimals Order").

[2] Since the date of the Decimals Order, the Commission approved the registration of the International Securities Exchange ("ISE") as a national securities exchange. *See* Securities Exchange Act Release No. 42455 (Feb. 24, 2000), 65 FR 11388 (March 2, 2000). On March 10, 2000, the Commission included the ISE within the term "Participants" for purposes of the Decimals Order. *See* Securities Exchange Act Release No. 42516 (March 10, 2000), 65 FR14637 (March 17, 2000) ("Extension Order").

[3] *See* Letters from Frank G. Zarb, Chairman and Chief Executive Officer, NASD, to Arthur Levitt, Chairman, Commission, dated March 6, 2000 and March 21, 2000.

[4] Nasdaq has committed to stepping up its efforts (including, at the Commission's request, hiring an independent consultant to advise on capacity issues) to help ensure that it manages its growth responsibly. The Commission expects, and has been assured, that Nasdaq will dedicate substantial

The Commission remains committed to implementing decimal pricing an expeditiously as possible. Decimal pricing could benefit investors by enhancing investor comprehension, facilitating globlization of our markets, and potentially reducing transaction costs. At the same time, however, the Commission believes that decimal pricing must be implemented in a manner that does not have a negative inpact on the order routing, trading, and settlement systems of the markets and the securities industry, and that does not result in investor confusion.

In light of the NASD's announcement that it is unable to meet the original planned implementation schedule for decimalization, and subsequent communications with the Participants, the industry, and others, the Commission hereby suspends the deadlines in the Decimals Order.[5] The Commission also requests comment on two alternatives for initiating decimal trading in exchange-listed equity securities this year.

I. Alternative Schedules To Implement Decimal Pricing

Since the NASD's announcement, the Commission, Participants, and other members of the securities industry have continued to discuss industry readiness and the feasibility and advisability of proceeding with the timetable set forth in the Decimals Order and the Extension Order without, or with the limited participation of, Nasdaq.[6] Based on these discussions, it appears that decimal pricing in at least some exchange-listed securities may be feasible this year. Specifically, the securities exchanges have indicated that their individual systems are prepared to convert to decimal pricing by July 3, 2000.[7] The NASD has also asserted that Nasdaq has sufficient capacity to implement decimal pricing for exchange-listed securities (*i.e.* the third market) by September 4, 2000,[8] with full implementation of decimal pricing by March 31, 2001.[9] Two electronic communications networks stated that they are prepared for decimals, and that trading exchange-listed securities in decimals should not be delayed because of Nasdaq's inability to meet the July 3rd target date.[10]

The vast majority of the Participants and securities firms, however, believe that it would not be advisable to implement widespread trading of exchange-listed securities in decimals while trading of Nasdaq securities remains in fractions, due to concerns about investor confusion and systems implications.[11]

On April 6, 2000, Chairman Levitt received a letter from Congressmen Thomas Bliley, Michael Oxley, and Edward Markey, urging the Commission to order the markets to begin decimal pricing in all exchange-listed securities by September 4, 2000,[12] even though Nasdaq securities would continue to be quoted in fractions.

In response to the changed circumstances resulting from the NASD's announcement, the Commerce Committee Letter, and industry comments, the Commission is soliciting public comment on two alternative proposals. First, the Commission requests comment on beginning trading in all exchange-listed securities in decimals (in nickel or penny increments) by September 4, 2000. Second, if commenters believe that this implementation date for full decimalization of exchange-listed securities is not feasible, the Commission requests comment on phasing in decimal pricing in certain exchange-listed securities on a pilot basis ("Decimals Pilot"). The Decimals Pilot could begin by September 4, 2000, and would initially include a small number of exchange-listed securities, and options on those securities, selected by the Participants. The selected exchange-listed securities could be quoted on increments of a penny. The Decimals Pilot would expand to all listed stocks on March 31, 2001, at which time all exchange-listed securities and options on those securities would be traded in decimals. Nasdaq may add selected Nasdaq securities to the Decimals Pilot if it is feasible and would not delay Nasdaq's overall readiness for decimals. In any event, the Commission fully expects Nasdaq to be ready to initiate decimal pricing in Nasdaq securities by the termination of the Decimals Pilot on March 31, 2001.

II. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning both of the proposals discussed above. In particular, the Commission seeks comment on the following issues, particularly as they relate to the feasibility of simultaneously pricing exchange-listed securities in decimals and Nasdaq securities in fractions ("Dual Pricing"):

1. Is it feasible to begin Dual Pricing by September 4, 2000? If it is feasible, should trading in all exchange-listed securities be in nickel or penny increments? If it is not feasible to begin Dual Pricing by September 4, 2000, why not?

2. What, if any, systems changes or other steps would be necessary to implement Dual Pricing by this

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resources and the attention of senior management to the conversion to decimal pricing. The Commission is monitoring Nasdaq's efforts closely.

[5] The two earliest deadlines set by the Decimals Order required the Participants to submit jointly by March 13, 2000 a decimals implementation plan, and each Participant to submit by March 28, 2000 proposed rule changes necessary to implement the decimals implementation plan. These deadlines were extended (to April 14, 2000 and April 28, 2000, respectively) as a result of the NASD announcing that it would be unable to begin implementing decimal pricing on July 3, 2000. *See* Extension Order, *supra* note 2.

[6] For example, Chairman Levitt recently wrote to each Participant asking for their views regarding, in part, the feasibility and advisability of trading simultaneously exchange-listed securities in decimals and Nasdaq securities in fractions, *See* Letter from Arthur Levitt, Chairman, Commission, to Participants, dated March 10, 2000.

[7] *See* Letters to Arthur Levitt, Chairman, Commission, from Richard A. Grasso, Chairman and Chief Executive Officer, NYSE, dated March 22, 2000; Philip D. DeFeo, Chairman and Chief Executive Officer, PCX, dated March 21, 2000; Charles J. Henry, President and Chief Operating Officer, CBOE, dated March 21, 2000; David Krell, President and Chief Executive Officer, ISE, dated March 21, 2000; William G. Morton, Jr., Chairman and Chief Executive Officer, BSE, dated March 21, 2000; Salvatore F. Sodano, Chairman and Chief Executive Officer, AMEX, dated March 21, 2000; Robert H. Forney, President and Chief Executive Officer, CHX, dated March 20, 2000; Meyer S. Frucher, Chairman and Chief Executive Officer, PHLX, dated March 20, 2000; and David Colker, President and Chief Operating Officer, CSE, dated March 17, 2000 ("March 2000 Letters to Arthur Levitt").

[8] *See* Letter from Richard Ketchum, President, NASD, to Annette Nazareth, Director, Division of Market Regulation ("Division"), and Robert L.D. Colby, Deputy Director, Division, Commission, dated April 12, 2000.

[9] *Id.*

[10] *See* Letter from Douglas Atkin, President and Chief Executive Officer, Instinet Corporation, to Annette Nazareth, Director, Division, Commission, dated March 21, 2000; *see also* Letter from Cameron Smith, General Counsel, Island ECN, to Annette Nazareth, Director, Commission, dated April 10, 2000

[11] The Participants also noted that systems and applications software would have to be modified to handle a mix of decimal and fractional prices for a large number of securities over an extended period of time. *See* March 2000 Letters to Arthur Levitt, *supra* note 7. Order receiving, routing and processing systems at brokerage firms and service bureaus would have to create and maintain a table containing price formats for each security to perform price format checking. *Id.* The Participants and securities firms were generally concerned that bifurcating the markets without systems changes and testing could increase error and corresponding rejection rates. *Id.*

[12] *See* Letter from Chairman Thomas Bliley, Committee on Commerce, U.S. House of Representatives; Chairman Michael G. Oxley, Subcommittee on Finance and Hazardous Materials, U.S. House of Representatives; and Congressman Edward J. Markey, Ranking Member, Subcommittee on Telecommunications, Trade, and Consumer Protection, U.S. House of Representatives; to Arthur Levitt, Chairman, Commission, dated April 4, 2000 ("Commerce Committee Letter").

September 4, 2000 deadline? What type of changes would need to be made to the systems of securities firms, investment companies, and vendors? What would be the impact on systems capacity? In light of your answers to the foregoing questions, what changes would need to be made to the current decimals testing schedule?

3. Is the risk of customer confusion because of Dual Pricing Significant, and if so, how should it be addressed?

4. If commenters believe that implementing Dual Pricing by September 4, 2000 is not feasible, what date(s) is(are) feasible to implement Dual Pricing? Commenters should include a discussion of the systems changes and testing schedules that would be needed for their alternative implementation date(s).

5. In addition, if commenters believe that implementing Dual Pricing by September 4, 2000 is not feasible, is the alternative Decimals Pilot proposal feasible or preferable? If commenters believe that the Decimals Pilot is feasible, what, if any, systems changes or other steps would be necessary to facilitate this schedule? In particular, what changes would need to be made to the current decimals testing schedule? What type of changes would need to be made to the systems of securities firms, investment companies, and vendors? What would be the impact on systems capacity? Is there a risk of customer confusion, and if so, how should it be addressed?

6. If commenters believe that the Decimals Pilot is not feasible, what alternative would expedite the implementation of decimal pricing in exchange-listed and Nasdaq securities? Commenters should include a discussion of the systems changes and testing schedules that would be needed for their alternative, including implementation date(s).

7. Commenters are requested to offer specific views on the optional schedule for implementing decimal pricing in options based on exchange-listed and Nasdaq stocks subject to decimal pricing.

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments also may be submitted electronically at the following E-mail address: *rule-comments@sec.gov*. All submissions should refer to File No. 4–430 and should be submitted by May 10, 2000. Comment letters received will be available for public inspection and copying in the Commission's Public Reference Room. Electronically submitted comment letters will be posted on the Commission's Internet web site (http://ww.sec.gov).

III. Conclusion

Because Nasdaq is unable to meet the implementation schedules set forth in the Decimals Order and the Commission is seeking comments on alternative proposals for implementing decimal pricing, the Commission believes that it is in the public interest in maintaining fair and orderly markets and to protect investors to suspend the deadlines in the Decimal Order and the Extension Order.

Accordingly, it is hereby ordered that all deadlines in the Decimals Order and the Extension Order be suspended. After reviewing any comments received, the Commission intends to issue an order for the implementation of decimal pricing.

It is hereby further ordered that the Participants continue to discuss the implementation of decimal pricing collectively and with interested market participants, and work together and with others in developing an implementation plan in anticipation of decimal pricing. The Decimals Order directed the Participants to act jointly in discussing a plan to implement decimal pricing in the equities and options markets, and to discuss that plan with other interested market participants. While this order suspends all deadlines in the Decimals Order, the Order otherwise remains in effect.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 00–9789 Filed 4–18–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42668, File No. 4–431]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Notice of Filing of the Plan for Allocation of Regulatory Responsibilities Between the International Securities Exchange LLC and the National Association of Securities Dealers, Inc.

April 11, 2000.

Pursuant to section 17(d) of the Securities Exchange Act of 1934 ("Act"),[1] Rule 17d–2 thereunder,[2] notice is hereby given that on April 3, 2000, the International Securities Exchange LLC ("ISE") and the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission" a plan for the allocation of regulatory responsibilities.

I. Introduction

Section 19(g)(1) of the Act[3] among other things, require every national securities exchange and registered securities association ("SRO") to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to section 17(d) or 19(g)(2)[4] of the Act. Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO ("common members"). This regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[5] With respect to a common member. Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[6] Rule 17d–1, adopted on April 20, 1976,[7] authorizes the Commission to name a single SRO as the designated examining authority ("DEA") to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules. When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with applicable financial responsibility rules.

On its face, Rule 17d–1 deals only with an SRO's obligations to enforce

[1] 15 U.S.C. 78q(d).

[2] 17 CFR 240.17d–2.

[3] 15 U.S.C. 78s(g)(1).

[4] 15 U.S.C. 78s(g)(2).

[5] Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session. 32 (1975).

[6] 17 CFR 240.17d–1 and 17 CFR 240.17d–2.

[7] Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18809 (May 3, 1976).

broker-dealers' compliance with the financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices, and trading activities and practices.

To address regulatory duplication in these other areas, on October 28, 1976, the Commission adopted Rule 17d-2 under the Act.[8] This rule permits SROs to propose joint plans allocating regulatory responsibilities with respect to common members. Under paragraph (c) of Rule 17d-2, the Commission may declare such a plan effective if, after providing for notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among the SROs, to remove impediments to and foster the development of a national market system and a national clearance and settlement system, and in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d-2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

II. The Plan

The ISE and the NASD filed with the Commission a plan for allocating regulatory responsibilities pursuant to Rule 17d-2. The plan is intended to reduce regulatory duplication for firms that are common members of the ISE and the NASD. Included in the plan is an attachment ("ISE Certification") that clearly delineates regulatory responsibilities with respect to ISE rules. The ISE Certification lists every ISE rule that, under the plan, the NASD would bear responsibility for overseeing and enforcing with respect to common members.

The text of the proposed 17d-2 plan is as follows:

Agreement Among the National Association of Securities Dealers, Inc., NASD Regulation, Inc. and The International Securities Exchange LLC; Pursuant to Section 17(d) and Rule 17d-2

This agreement (*Agreement*) pursuant to Section 17(d) and Rule 17d-2 of the Securities Exchange Act of 1934 (Act) is by and among the National Association of Securities Dealers, Inc. (*NASD*), a Delaware Corporation registered as a registered securities association subject to regulation by the Securities and Exchange Commission (*SEC*) under the Securities Exchange Act of 1934 (the Act), whose principal offices are located at 1735 K Street, NW., Washington, DC 20006, NASD Regulation, Inc. (*NASDR*), a wholly-owned subsidiary of NASD, whose principal offices are located at 1735 K Street, NW., Washington, DC 20006, and the International Securities Exchange LLC, a New York limited liability company registered as a national securities exchange subject to regulation by the SEC under the Act, whose principal offices are located at 60 Broad Street, New York, New York 10004 (hereafter referred to as *Exchange*) (NASD, NASDR, and Exchange hereafter may be referred to collectively as the *parties* or individually as a *party*).

In consideration of the mutual covenants contained hereafter, and in consideration of other valuable consideration, NASD, NASDR, and the Exchange hereby agrees as follows:

1. *Term.* This Agreement shall be effective on the date the SEC approves this Agreement under Section 17(d) (*Effective Date*).

2. *Entities.* The Exchange is a registered securities exchange, as defined in Section 6 of the Act, and a self-regulatory organization, as defined in Section 3(a)(26) of the Act (*SRO*). The NASD is a registered securities association, as defined in Section 15A of the Act and an SRO. Both parties are responsible for fulfilling certain regulatory obligations and performing certain regulatory functions under the Act. Under the Plan of Allocation and Delegation of Functions By NASD to Subsidiaries (*Delegation Plan*), Section II., A., NASD has delegated certain of those regulatory obligations and functions to NASDR, including the regulatory obligations and functions that are the subject of this agreement. For the purposes of this agreement, NASDR shall be considered the entity responsible for fulfilling the NASD's regulatory obligations and performing the NASD's regulatory functions.

3. *Members.* The parties that are SROs have brokers or dealers as their members, and some of the brokers or dealers are members of both such parties (hereinafter, members of both such parties and persons associated with such members are referred to collectively as *Common Members*). Each party that is an SRO has regulatory obligations under the Act and the rules of the party for Common Members.

4. *Structure.*

(a) *Rule 17d–1.* Under Rule 17d–1, the SEC shall designate by written notice to one of the parties the regulatory obligation for assuring that a Common Member, who is also a member of Securities Investor Protection Corporation, complies with applicable financial responsibility rules, as defined in Section 3(a)(40) of the Act. The parties are not requesting that the SEC change the existing designated examining authority (*DEA*) under Rule 17d–1 of any Common Members. Going forward, the parties shall request the SEC to designate the NASD as the DEA under Rule 17d–1 for such members or persons who are solely members of the NASD and that become Common Members. Unless the NASD is designated the DEA for a Common Member, NASDR specifically excludes from this Agreement any undertaking to exercise regulatory responsibility for, or supervision of, Common Members to assess such Common Members' conduct under applicable financial responsibility rules, including examining for, receiving reports relating to, and enforcing compliance with, such rules.

(b) *Rule 17d–2.* Under Rule 17d–2, the parties may agree, in a plan or agreement, to provide for coordinated, non-duplicative regulation and enforcement, and to service other purposes of the Act: (a) to allocate certain regulatory responsibilities that both parties have to one of the parties; (b) to relieve a party of its regulatory responsibility and obligations for a certain function under the Act if the other party agrees to exercise such responsibility and undertake such obligation for the specified function on behalf of the other party; and, (c) to provide for the allocation of expenses reasonably incurred by the party agreeing to exercise the responsibility and undertake the obligation for the specified function in the plan or agreement.

(1) Pursuant thereto, the Exchange has exclusive regulatory responsibility for identifying, in a certification, as amended by the Exchange from time to time, and attached hereto and made a part of this Agreement (*ISE Certification*), the rules of the Exchange that are identical or substantially similar to NASD rules and, therefore, are the subject of this Agreement.

5. *Services.* NASDR agrees to provide the following services (*Services*) as it relates to Common Members:

(a) *Membership Activities.*

(1) NASDR will receive and process in the Central Registration Depository (*CRD*) applications, reports, information, filings, fingerprint cards, and notices generally relating to: (a) a broker's or dealer's application for membership or participation in the Exchange, (b) associated person status, (c) registration as a principal of any type, a representative of any type, or any other type of employee required to register or required to pass a qualification examination.

(2) NASDR will receive and process in the CRD documentation of notice of the passage of the appropriate qualification examination for such principal, registered representative, or other employee required to qualify by examination and, subsequently, forward such information to the Exchange.

(3) NASDR will advise the Exchange daily of any changes in the rights or status of members (including officer and partner changes), associated persons, registered personnel, and other persons.

(4) *Forwarding Fees.* NASDR shall collect and forward monthly to the Exchange, any applicable fees for the account of the Exchange. NASDR agrees to provide the Exchange with an accounting of such fees in January of each year. The Exchange will reimburse NASDR for reasonable expenses incurred for performing both accounting functions.

(5) Common Members will be required to send to NASDR all letters, termination notices or other material relating to their associated persons.

(6) *Exclusions.*

(a) NASDR will not review the membership application, reports, filings, fingerprint cards,

[8] Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49093 (November 8, 1976).

notices, or other writings filed to determine if such documentation submitted by a broker or dealer, or a person associated with a broker or a dealer, or other persons required to register or qualify by examination: (a) meets the Exchange requirements for general membership or for specified categories of membership or participation in the Exchange, such as (i) Primary Market Maker Membership (*PMM*); (ii) Competitive Market Maker Membership (*CMM*); or (iii) Electronic Access Membership (*EAM*) (or any similar type of exchange membership or participation that is created after this agreement is executed); or (b) meets the Exchange requirements to be associated with, or employed by, an Exchange member or participant in any capacity, such as a Designated Trading Representative (*DTR*) (or any similar type of participation, employment category or title, or associated-person category or class that is created after this agreement is executed).

(b) NASDR will not review applications or other documentation filed to requires a change in the rights or status described in paragraph 6(a) above, including termination or limitation on activities, of a member or a participant of the Exchange, or a person associated with, or requesting association with, a member or a participant of the Exchange.

(c) When, as a result of processing letters, termination notices, or other material relating to their associated persons, NASDR becomes aware of a statutory disqualification with respect to a Common Member, NASDR shall determine, pursuant to Section 15A(g) or Section 6(c) of the Act, the acceptability or continued acceptability of the person to whom such statutory disqualification applies, but will not make a determination regarding Exchange membership or participation, or association of a person with an Exchange member. NASDR shall advise the Exchange in writing of its actions in this regard. The Exchange shall, within 30 days of receiving such information from NASDR, determine whether to permit a statutorily disqualified Common Member to become or to remain an Exchange member or a participant, or a person associated with a member. The Exchange will advise NASDR of its decision. The Exchange will reimburse NASDR for reasonable expenses incurred for notifying the Exchange of the NASD's decision regarding a statutory disqualification under Section 15A(g) or Section 6(c) of the Act.

(b) *Branch Office Activities.* NASDR will receive and process notices, filings, or registrations received regarding a Common Member's branch offices, including notices, filings, or registrations to designate offices of supervisory jurisdiction, and agrees to provide notice to the Exchange of such filings. The Exchange will reimburse NASDR for reasonable expenses incurred for providing the Exchange notification.

(c) *Examinations.* NASDR will perform routine, cycle, cause, and special examinations of Exchange members, and will provide copies of the examination reports to the Exchange. The Exchange will reimburse NASDR for reasonable expenses incurred for providing examination reports to the Exchange.

(1) This undertaking is limited to examining Common Members for compliance with: (a) the federal securities laws and the rules and regulations thereunder, except that it does not include examining any Common Member for compliance with financial responsibility rules on behalf of the Exchange (unless the SEC has designated NASD as the *DEA* for the Common Member under Rules 17d–1); (b) other applicable federal laws, rules and regulations, including the rules of the Municipal Securities Rulemaking Board (*MSRB*); and (c) the rules of the Exchange that are identical or substantially similar to NASD rules because they have been certified by the Exchange as such, or, when applied to the Common Member's conduct or activities conducted on the Exchange or in connection or in relation to the Exchange, the rules are identical or substantially similar in that the rule's application to the Common Member's conduct or activities on the Exchange, in connection with, or in relation to, the Exchange would not require an examiner to develop one or more new examination standards, modules, procedures, or criteria in order to analyze the application of the rule, or a Common Member's activity, conduct, or output in relation to the rule.

(2) This undertaking specifically excludes any obligation or responsibility for NASDR to examine Common Members for compliance with Exchange rules for which regulatory responsibility is allocated to an SRO under the multilateral Rule 17d-2 agreement relating to options sales practices, as amended from time to time (the *Options Rule 17d-2 Agreement*).

(3) This undertaking specifically excludes any obligation or responsibility for NASDR to examine Common Members for compliance with Exchange rules that are: (i) related to administrative or housekeeping Exchange functions; or (ii) related to the trading in and operation of the Exchange market (*Exchange market rules*).

(d) *Violations.*

(1) If NASDR discovers an apparent violation of a federal statute or regulation or an Exchange rule listed above in paragraph 5.(c)(1) for which NASDR agrees to examine a Common Member for compliance, NASDR shall investigate the apparent violation, notify the Exchange of the results of the investigation and provide a copy of any written report, determine if additional regulatory action is required, take any disciplinary or other regulatory action required, and provide notice to the Exchange at the termination of the matter by enforcement or other action. If a disciplinary proceeding is conducted by NASDR, NASDR will apply the NASD Code of Procedure (the Rule 9000 Series) and other applicable NASD procedural rules. The Exchange will reimburse NASDR for reasonable expenses incurred for providing any information, notices, or reports contemplated under this provision.

(2) If NASDR discovers an apparent violation of an Exchange Rule not within the examination responsibility of NASDR as described above in paragraph 5.(c)(1), NASDR shall notify the Exchange and refer the matter to the Exchange for further examination, investigation, or enforcement or regulatory action, as determined by the Exchange.

(e) *Advertising Materials.* NASDR will review advertising materials and other communications with customers for compliance with then applicable NASD rules and interpretations. This undertaking specifically excludes any obligation or responsibility for NASDR to review advertising materials and other communications with customers for compliance with Exchange rules that are unique to the Exchange, or, when applied to the member's conduct or activities regarding advertising or other communications with customers, are unique in that the rule's application to the member's conduct or activities would require a reviewer or examiner to develop one or more new reviewing or examination standards, modules, procedures, or criteria in order to analyze the application of the rule to the member's advertising materials or other communications with customers.

6. *Information Sharing.* The parties agree to provide each other with the following information:

(a) *General.* A party shall promptly furnish to the other party any information which the party determines indicates possible financial, operational, or other problems of any Common Member, including but not limited to early warning indications of potential problems resulting from unusual accumulations or concentrations of securities positions or market fluctuations.

(b) *Special Surveillance Categories.* The parties shall inform each other of any special surveillance categories utilized by the other party in its surveillance of a Common Member. As the DEA under Rule 17d-1 for a Common Member, NASDR shall furnish the Exchange with a description of the financial or operational factors that would cause a Common Member to be placed in one or another of such categories, and, if the NASDR takes subsequent action against the Common Member, NASDR shall inform the Exchange. The Exchange will reimburse NASDR for reasonable expenses incurred for providing such information and notices contemplated under this provision.

(c) *Common Member Special Surveillance.* As the DEA under rule 17d-1 for a Common Member, NASDR shall give the Exchange immediate oral notice of (i) the placing of a Common Member in a Securities Investor Protection Act of 1970 Section 5(a) surveillance category, along with the particular factors that caused such member to be so placed in such category; (ii) any change in such Section 5(a) surveillance category in which any Common Member has been placed and the reasons for such change; and (iii) the removal of any Common Member from the surveillance category and the reasons therefor. NASDR shall confirm such notice in writing at the earliest practicable time. The term "Immediate Notice" shall mean (i) notice by NASDR to the Exchange under this Agreement that is provided at the same time that NASDR provides notice to the SEC; or (ii) where notification to the SEC is not required, at the earliest practicable time. The Exchange will reimburse NASDR for reasonable expenses incurred for providing

any information or notices contemplated under this provision.

(d) *Operotionol or Other Restrictions.* As the DEA under Rule 17d-1 for a Common Member, NASDR shall give the Exchange prompt oral notice of (i) any decision to suspend, or to place other operational or financial restrictions upon, any Common Member (other than new members) and (ii) of any event that requires notice to either the SEC or the Securities Investor Protection Corporation ("SIPC") in connection with Rule 17a-11 under the Act. NASDR shall confirm such notice in writing at the earliest practicable time. The Exchange will reimburse NASDR for reasonable expenses incurred for providing any information and notices contemplated under this provision.

(e) *Reports.* Upon reasonable request, a party will make available promptly to a requesting party any financial, operational, or related report filed with the party by a Common Member, files, information on customer complaints, termination notices, copies of an examination report, investigative material, or other documents involving compliance with the federal securities laws and regulations and the rules of the parties by the Common Member, or other documents in the possession of the party receiving the request relating to the Common Member as necessary to assist the other party in fulfilling the self-regulatory responsibilities, obligations, and functions allocated under this Agreement. The parties agree that a party will make available promptly to the requesting party witnesses as necessary to assist the other party in fulfilling the self-regulatory responsibilities allocated under this Agreement. The non-requesting party will pay all reasonable travel and other expenses incurred by its employees to the extent that the requesting party requires such employees to serve as a witness, and provide information or other assistance pursuant to the Agreement.

(f) *Customer Complaints.* If a party receives a copy of a customer complaint relating to a Common Member's activity or conduct, and the activity or conduct is not the regulatory responsibility of the party receiving such customer complaint, the party will forward to the other party, on recognition, copies of such customer complaints.

(g) *Disciplinary Actions.* Upon reasonable request of a party, the other party shall use reasonable efforts to furnish the requesting party information on informal or formal disciplinary actions involving a Common Member. The requesting party will reimburse the other party for reasonable expenses incurred for providing such information.

(h) *Informotion-Miscelloneous.* Where not otherwise provided, in consideration for NASDR assuming any of the above referenced regulatory responsibilities and obligations of the Exchange with respect to Common Members and thereafter providing information to the Exchange in any form that is necessary or desirable to the Exchange in order for the Exchange to fulfill its regulatory obligations under the Act or in order for the Exchange to remain informed of the actions of its members and associated persons, the Exchange will reimburse NASDR for all reasonable expenses incurred in order to provide such information.

7. *Speciol or Cause Exominotions.* Nothing in this Agreement shall restrict or in any way encumber the right of a party to conduct special or cause examinations of Common Members as either party, in its sole discretion, shall deem appropriate or necessary.

8. *Confidentiol Informotion.* The parties are subject to the Confidentiality and Non-Disclosure Agreement entered into by the parties on September 21, 1999 (*Confidentiolity Agreement*), the provisions of which are attached hereto in their entirety and made a part of this Agreement.

9. *Fees.* NASDR will provide the Exchange with ninety (90) days advance written notice in the event that NASDR decides to charge the Exchange for any expenses incurred or services performed under this Agreement not otherwise set forth above. The Exchange will have thirty (30) days from the date of such notification to inform the NASDR that the Exchange will perform for itself the applicable regulatory responsibilities allocated NASDR under the Agreement or enter into an agreement pursuant to applicable rules of the SEC with another SRO with respect to the performance of such responsibilities.

10. *Indemnificotion.* Neither party, including respective directors, governors, officers, employees and agents, will be liable to the other party and its directors, governors, officers, employees and agents for any liability, loss or damage resulting from any delays, inaccuracies, errors or omissions with respect to its performing or failing to perform regulatory responsibilities, obligations, or functions, except as otherwise provided for under the Act or in instances of gross negligence, willful misconduct or reckless disregard, or breach of confidentiality. Both parties understand and agree with each other that the regulatory responsibilities are being performed on a good faith and best effort basis and no warranties, express or implied, are made by either party to the other party with respect to any of the responsibilities to be performed by either of these parties hereunder.

11. *Arbitrotion.* Any claim, dispute, controversy or other matter in question with regard to the Agreement that cannot be resolved by negotiation between the parties shall be submitted to arbitration in accordance with the rules and regulations of the American Arbitration Association; provided, however, that (1) submission of any such claim, dispute, controversy or other matter in question to the American Arbitration Association shall not be required if the parties agree upon another arbitration forum, (2) the foregoing shall not preclude either party from pursuing all available administrative, judicial or other remedies for infringement of a registered patent, trademark, service mark or copyright, (3) the parties shall not submit claims for punitive damages, and do hereby waive any right to the same, and (4) the arbitrators shall not be authorized to award punitive damages.

12. *SEC Approval.*

(a) The parties agree to promptly file this Agreement with the SEC for its review and approval.

(b) If approved by the SEC, the Exchange will notify Common Members of the general terms of the Agreement and its impact on members. The notice will be sent on behalf of both parties and prior to being sent, NASDR will review and approve the notice.

13. *Definitions.* Unless otherwise defined in this Agreement, or unless the context otherwise requires, the terms used in this Agreement shall have the same meaning as they have under the Act and the rules and regulations thereunder.

14. *Subsequent Porties; Limited Relationship.* This Agreement shall insure to the benefit of and shall be binding upon the parties hereto and their respective legal representatives, successors, and assigns. Nothing is this Agreement, expressed or implied, is intended or shall (i) confer on any person other than the parties hereto, or their respective legal representatives, successors, and assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement, (ii) constitute the parties hereto partners or participants in a joint venture, or (iii) appoint one party the agent of the other.

15. *Assignment.* Neither party may assign the Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed, *provided, however,* that either party may assign the Agreement to a corporation controlling, controlled by or under common control with the assigning party without the prior written consent of the other party.

16. *Severobility.* Any term or provision of this Agreement which is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction.

17. *Termination.*

(a) *Termination for Cause.* Either party may terminate the Agreement due to breach by the other party. The party aggrieved by the breach shall give written notice to the other party that the Agreement shall be terminated not earlier than sixty (60) calendar days form receipt of the notice, and such notice shall state with specificity the grounds for termination. If the breach is curable, the party in breach will have the right to cure such breach prior to the date stated for termination, and, should the breach be cured and written notice of such cure served on the aggrieved party prior to the date stated for termination, such notice shall vacate the notice to terminate.

(b) *Terminotion for Convenience.* Either party may terminate the Agreement for any other reason by giving written notice to the other party that the Agreement will terminate not less than ninety (90) days from receipt of the notice. The notice will specify the basis for termination. The Exchange will pay NASDR the amount due for authorized work and expenses incurred in completion of such authorized work as of the effective date of termination.

18. *Generol.* The parties agree to perform all acts and execute all supplementary instruments or documents that may be

reasonably necessary or desirable to carry out the provisions of this Agreement.

19. *Liaison and Notices.* All questions regarding the implementation of this Agreement shall be directed to the persons identified in subsections (*a*) *and* (*b*), as applicable, below. All notices and other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given upon (i) actual receipt by the notified party or (ii) constructive receipt (as of the date marked on the return receipt) if sent by certified or registered mail, return receipt requested, to the following addresses:

(a) If to NASDR: NASD Regulation, Inc., Office of General Counsel, 1735 K Street, N.W., Washington, D.C. 20006, Attn: Alden S. Adkins.

With, if a notice of breach or default, a required copy to: National Association of Securities Dealers, Inc., 1735 K Street, NW., Washington, D.C. 20006, Attn: Office of General Counsel—Contracts Group.

(b) If to the Exchange:

International Securities Exchange LLC, Senior Vice President, Chief Regulatory Officer & General Counsel, 60 Broad Street, New York, New York 10004, Attn: Michael J. Simon.

With, if a notice of breach or default, a required copy to: Same address as above.

20. *Regulatory Responsibility.* Pursuant to Section 17(d)(1)(A) of the Act, and Rules 17d–2 thereunder, NASDR and the Exchange jointly request the SEC, upon its approval of this Agreement, to relieve the Exchange of any and all responsibilities with respect to the matters allocated to NASDR pursuant to this Agreement for purposes of Section 17(d) and 19(g) of the Act, provided however that the Exchange will continue to have exclusive regulatory responsibility for ensuring the continued validity of the certifications made under Section 5.(c)(1) herein.

21. *Governing Law.* This Agreement shall be deemed to have been made in the State of New York, and shall be construed and enforced in accordance with the law of the State of New York, without reference to principles of conflicts of laws thereof. Each of the parties hereby consents to submit to the jurisdiction of the courts by or for the State of New York in connection with any action or proceeding relating to this Agreement.

22. *Survival of Provisions.* Provisions intended by their terms or context to survive and continue notwithstanding delivery of the Services by NASDR, the payment of the price by the Exchange, and any expiration of this Agreement shall survive and continue, including but not limited to, the items referred to in Sections 8, 9, and 10.

ISE Certification—ISE Rules Certification for 17d–2 Agreement With NASD

The ISE hereby certifies that the requirements contained in the ISE rules listed below are identical to, or substantially similar to, NASD rules.

ISE Rule 403 (Nominal Employment)
ISE Rule 408 (Prevention of the Misuse of Material Nonpublic Information)
ISE Rule 409 (Disciplinary Action of Other Organizations)
ISE Rule 601 (Registration of Options Principals)
ISE Rule 602 (Registration of Representatives)
ISE Rule 603 (Termination of Registered Persons)
ISE Rule 604 (Continuing Education for Registered Persons)
ISE Rule 605 (Other Affiliations of Registered Persons)
ISE Rule 607 (Branch Offices)
ISE Rule 613 (Statements of Accounts to Customers)
ISE Rule 614 (Statements of Financial Condition to Customers)
ISE Rule 615 (Addressing of Communications to Customers)
ISE Rule 617 (Restrictions on Pledge and Lending of Customers' Securities)
ISE Rule 619 (Guarantees)
ISE Rule 620 (Profit Sharing)
ISE Rule 621 (Assuming Losses)
ISE Rule 622 (Transfer of Accounts)
ISE Rule 623 (Communications to Customers)
ISE Rule 624 (Brokers' Blanket Bond)
ISE Rule 626 (Telephone Solicitation)
ISE Rule 1202 (Margin Requirements)
ISE Rule 1203 (Meeting Margin Calls by Liquidation Prohibited)
ISE Rule 1400 (Maintenance, Retention and Furnishing of Books, Records and Other Information)
ISE Rule 1407 (Market Maker Hedge Exemption from Nasdaq Short Sale Rule)

III. Solicitation of Comments

In order to assist the Commission in determining whether to approve this plan and to relieve the ISE of those responsibilities designated to the NASD, interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed plan that are filed with the Commission, and all written communications relating to the proposed plan between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. 4–431 and should be submitted by May 10, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Jonathan G. Katz,

Secretary.

[FR Doc. 00–9791 Filed 4–18–00; 8:45 am]
BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42660; File No. SR–PCX–00–11]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc., Rescinding the Exchange's Off-Board Trading Rules

April 10, 2000.

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 March 26, 2000, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The Exchange's proposed rule change raises issues similar to those raised by the New York Stock Exchange's ("NYSE" proposal to repeal NYSE Rule 390, which rule generally prohibits NYSE members and their affiliates from effecting transactions in certain NYSE-listed securities away from a national securities exchange. The Commission recently issued the notice of filing for the NYSE's proposal ("NYSE Notice") and solicited comment on a number of important issues that have broad implications for the structure of the U.S. securities markets.[3] Specifically, the Commission requested comment on market fragmentation—the trading of orders in multiple locations without interaction among those orders—and on

[9] 17 CFR 200.30–3(a)(34).

[1] 15 U.S.C. &78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 42450 (Feb. 23, 2000), 65 FR 10577 (Feb. 28, 2000) File No. SR–NYSE–99–48). The Commission notes that similar proposals have been filed by the American Stock Exchange, Securities Exchange Act Release No. 42460 (February 25, 2000), 65 FR 11618 (March 3, 2000) (File No. SR–Amex–00–05); the Cbicago Stock Exchange, Securities Exchange Act Release No. 42459 (Feb. 25, 2000), 65 FR 11619 (Marcb 3, 2000) (File No. SR–CHX–99–28); the Philadelphia Stock Exchange, Securities Excbange Act Release No. 42458 (Feb. 25, 2000), 65 FR 11628 (March 3, 2000) (File No. SR–Phlx–00–12); and the Boston Stock Exchange, SR–BSE–00–02.

several options for addressing market fragmentation. To promote a comprehensive discussion of off-board trading restrictions and related market fragmentation issues, the Commission requests that persons interested in the Exchange's proposal refer to the NYSE Notice and submit comments that respond to the questions presented in the NYSE Notice.[4]

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to eliminate Rules 5.43–5.49 and to modify Rule 5.5(b) which relate to off-board trading restrictions.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to eliminate Rules 5.43–5.49 and to modify Rule 5.5(b) which relate to off-board trading restrictions. The Exchange believes that once the Commission approves the NYSE's proposal to rescind its off-board trading restrictions, the Exchange's off-board trading restrictions will no longer be necessary or appropriate.[5]

2. Statutory Basis

The proposed rule changes are consistent with Section 6(b) of the Act[6] in general and furthers the objectives of Section 6(b)(5)[7] in particular in that they are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furthermore of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

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. The Commission also invites interested persons to submit written data, views, and arguments on the market fragmentation issues presented in the NYSE Notice.[8] Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–PCX–00–11 and should be submitted by May 10, 2000. Comments responding to the Commission's request for comment on market fragmentation issues should refer to File No. SR–NYSE–99–48 and should be submitted by April 28, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Jonathan G. Katz,

Secretary.

[FR Doc. 00–9790 Filed 4–18–00; 8:45 am]

BILLING CODE 8010–01–M

[4] The Commission notes that the NYSE Notice is available on the Commission's website at: <http://www.sec.gov/rules/sros/ny9948n.htm.>

[5] Telephone conversation between Michael D. Pierson, Senior Attorney, Regulatory Policy, Exchange, and Rebekah Liu, Special Counsel, Division of Market Regulation, Commission, dated April 3, 2000.

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(5).

[8] *See supra* notes 3 and 4.

[9] 17 CFR 200.30–3(a)(12).

SELECTIVE SERVICE SYSTEM

Form Submitted to the Office of Management and Budget for Extension of Clearance

The form described below has been modified and has been submitted to the Office of Management and Budget (OMB) for extension of clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35):

SSS Form 22

Title: Claim Documentation Form—Conscientious Objector.

Purpose: It is used to document a claim for classification as a conscientious objector.

Respondents: Registrants who claim to be conscientious objectors.

Frequency: One-time.

Burden: The reporting burden is one hour per individual.

Copies of the above identified form can be obtained upon written request to the Selective Service System, Reports Clearance Officer, Arlington, Virginia, 22209–2425.

Written comments and recommendations for the proposed extension of clearance of the form should be sent within 30 days of publication of this notice to the Selective Service System, Reports Clearance Officer, Arlington, Virginia, 22209–2425.

A copy of the comments should be sent to Office of Information and Regulatory Affairs. Attention: Desk Officer, Selective Service System, Office

of Management and Budget, New Executive Office Building, Room 3235, Washington, DC 20435.

Dated: April 12, 2000.

Gil Coronado,

Director.

[FR Doc. 00–9813 Filed 4–18–00; 8:45 am]

BILLING CODE 8015–01–M

DEPARTMENT OF STATE

[Public Notice Number 3265]

International Telecommunication Advisory Committee; Notice of Charter Renewal

The Department of State announces that it has renewed the charter of the International Telecommunication Advisory Committee (ITAC), a committee under the Federal Advisory Committee Act (FACA), Public Law 92–463. The purpose of the ITAC is to advise the Department of State and provide strategic planning recommendations on telecommunications and information policy matters related to United States participation in the work of international telecommunication treaty organizations. The ITAC is composed of three Sectors—Radiocommunication, Telecommunication Development, and Telecommunication Standardization.

Members of the general public may attend ITAC meetings. Entrance to the Department of State is controlled; people intending to attend any of the ITAC meetings should notify the Department by fax at (202) 647–7407 not later than 24 hours before the meeting. One of the following valid photo identifications will be required for admission: U.S. driver's license, passport, U.S. Government identification card. Enter from the C Street Lobby; in view of escorting requirements, non-Government attendees should plan to arrive not less than 15 minutes before the meeting begins. Actual room assignments may be determined at the lobby or by calling the Secretariat at 202 647–0965/2592.

Attendees may join in the discussions, subject to the instructions of the Chair. Admission of members will be limited to seating available.

Dated: April 12, 2000.

Julian Minard,

Executive Secretary, Multilateral Trade Affairs, U.S. Department of State.

[FR Doc. 00–9799 Filed 4–18–00; 8:45 am]

BILLING CODE 4710–45–P

DEPARTMENT OF STATE

[Public Notice 3291]

Revocation of December 21, 1999 Determination under Section 2(b)(1)(B) of the Export-Import Bank Act of 1945, as Amended

Pursuant to section 2(b)(1)(B) of the Export-Import Bank Act of 1945, as amended, and Executive Order 12166 of October 19, 1979, the determination dated December 21, 1999, with respect to Export-Import Bank financing in connection with cases APO70202XX and APO67280XX is hereby revoked.

This determination shall be published in the **Federal Register**.

Dated: March 31, 2000.

Madeleine K. Albright,

Secretary of State, U.S. Department of State.

[FR Doc. 00–9730 Filed 4–18–00; 8:45 am]

BILLING CODE 4710–23–P

DEPARTMENT OF STATE

Bureau for International Narcotics and Law Enforcement Affairs; Anti-Crime Training and Technical Assistance Program (ACTTA)

[Public Notice 3292]

AGENCY: Office of Europe, NIS, and Training; Bureau for International Narcotics and Law Enforcement Affairs, State.

ACTION: Notice.

SUMMARY: State Department's Bureau for International Narcotics and Law Enforcement Affairs (INL) developed the Anti-Crime Training and Technical Assistance program (ACTTA) in 1994 to bring U.S. Federal law enforcement agencies together to provide training and technical assistance in consultation with their counterparts throughout the world. Training continues to focus on combating transnational organized crime, financial crimes, and narcotics trafficking. The goal of the program is to increase the professionalism and develop the technical capabilities of foreign law enforcement institutions to combat organized crime and to ensure that through international law enforcement cooperation, U.S. agencies and their foreign counterparts succeed in intercepting the movement of transnational organized criminal elements in the United States.

The ACTTA program continues to include the participation of non-Federal agencies (e.g., universities, non-profit organizations) in the design and implementation of scientific evaluations of these programs. This non-Federal component of the ACTTA program has a timeframe of 2000–2002.

DATES: Strict deadlines for submission to the FY 2000 process are: A full proposal must be received at INL no later than Wednesday, May 31. A letter of intent will not be required. We anticipate that review of full proposals will occur during June 2000 and funding should begin during September 2000 for most approved projects.

September 1, 2000 should be used as the proposed start date on the proposal, unless otherwise directed by a program manager. Applicants should be notified of their status within 3 months of submission deadline. The proposal must be submitted in accordance with the guidelines below. Failure to heed these guidelines may result in the proposal being returned without review.

ADDRESSES: The proposal may be submitted to: U.S. Department of State, Bureau of International Narcotics and Law Enforcement Affairs, Navy Hill South, 2430 E Street NW, Washington, DC 20520, Attn: Linda Gower.

FOR FURTHER INFORMATION CONTACT: Linda Gower at above address, TEL: 202–776–8774, FAX: 202–776–8775, or Thom Browne at above address, TEL: 202–736–4662, FAX: 202–647–6962.

Once the RFA deadline has passed, DOS staff may not discuss competition in any way with applicants until the proposal review process has been completed.

SUPPLEMENTARY INFORMATION:

Funding Availability

This Program Announcement is for one project to be conducted by agencies/programs outside the Federal government, over a period of up to two years. The actual funding level will depend upon availability of funds. Current plans are for up to a total of $800,000 to be available for one new ACTTA award. The funding instrument for this award will be a grant or a cooperative agreement. Funding for non-U.S. institutions and contractual arrangements for services and products for delivery to INL are not available under this announcement. Matching share, though encouraged, is not required by this program. No proposal should exceed a total cost of $800,000.

Program Authority

Authority: Section 635(b) of the Foreign Assistance Act of 1961, as amended.

Program Objectives

The goal of the ACTTA program is to increase the technical capabilities of foreign country law enforcement institutions to control organized crime,

combat corruption, institute democratic practices, and to ensure that through international law enforcement cooperation, U.S. agencies succeed in intercepting the movement of transnational organized criminal elements into the U.S. and throughout the world.

The program objectives of the ACTTA program are: (1) Combat the growing threat to U.S. national security posed by the broad range of organized crime activities, (2) help emerging democracies strengthen their national and law enforcement institutions to counter illegal criminal activities, (3) help emerging democracies develop laws and prosecutorial frameworks to counter organized crime activities, and (4) provide foreign law enforcement institutions with the skills to detect, arrest, and prosecute major transnational criminal offenders.

Program Priorities

The FY 2000 ACTTA Program Announcement invites program evaluation design proposals for the following program priority:

(1) Program evaluation (process and impact) of USG-funded international law enforcement training academies.

For the purpose of this announcement, the International Law Enforcement Academy in Bangkok, Thailand will be the focus of the program evaluation. Applicants should propose technical designs (measurements and comparisons) to be used in evaluating the training academy and test those designs by collecting data on the program's performance. Applicants should identify and apply the appropriate evaluation methodologies and research designs, construct and field test/validate a survey instrument, compile written survey protocols, train interviewers as necessary, perform extensive survey related tasks and perform the appropriate survey follow up, analyze raw data for significance, and develop a final report of results and recommendations.

Any grant applicants who will be working with counterpart research institutions/universities to implement the proposed assessment or evaluation programs may sub-grant or sub-contract services to assist in fulfilling program objectives.

Eligibility

Eligibility is limited to non-Federal agencies and organizations. Proposers are urged to seek collaboration with counterpart research institutions/universities either in the U.S. or overseas. Experience of U.S. evaluators related to conducting criminal justice evaluations in international settings is required. Universities and non-profit organizations are included among entities eligible for funding under this announcement. Direct funding for non-U.S. institutions is not available under this announcement.

Evaluation Criteria

Consideration for financial assistance will be given to those proposals which address the Program Priority identified above and meet the following evaluation criteria:

(1) Relevance (15%): Importance and relevance to the goal and objectives of the ACTTA program identified above.

(2) Methodology (25%): Adequacy of the proposed approach and activities, including development of relevant experimental evaluation designs, project milestones, and final products.

(3) Readiness (25%): Relevant history and experience in conducting program evaluations of training-related programs (primarily in an international setting), strength of proposed evaluation teams, past performance record of proposers.

(4) Linkages (20%): Connections to existing law enforcement agencies and/or counterpart research institutions/universities in the target country outlined in the Program Priority above.

(5) Costs (15%): Adequacy/efficiency of the proposed resources; appropriate share of total available resources.

Selection Procedures

All proposals will be evaluated and ranked in accordance with the assigned weights of the above evaluation criteria by independent peer panel review composed of INL and other Federal USG agency experts. The panel's recommendations and evaluations will be considered by the program manager in the final selection. Those ranked by the panel and program manager as not recommended for funding will not be given further consideration and will be notified of non-selection. For the proposals rated for possible funding, the program manager will: (a) Ascertain which proposals meet the objectives and fit the criteria posted; (b) select the proposal to be funded; (c) determine the total duration of funding for the proposal; and (d) determine the amount of funds available for the proposal.

Unsatisfactory performance by a recipient under prior Federal awards may result in an application not being considered for funding.

Proposal Submission

The guidelines for proposal preparation provided below are mandatory. Failure to heed these guidelines may result in proposals being returned without review.

(a) Full Proposals

(1) Proposals submitted to INL must include the original and three unbound copies of the proposal. (2) Program descriptions must be limited to 20 pages (numbered), not including budget, personal vitae, letters of support and all appendices, and should be limited to funding requests for one to two years duration. Federally mandated forms are not included within the page count. (3) Proposals should be sent to INL at the above address. (4) Facsimile transmissions of full proposals will not be accepted.

(b) Required Elements

(1) *Signed title page:* The title page should be signed by the Project Director (PD) and the institutional representative. The PD and institutional representative should be identified by full name, title, organization, telephone number and address. The total amount of Federal funds being requested should be listed for each budget period.

(2) *Abstract:* An abstract must be included and should contain an introduction of the problem, rationale and a brief summary of work to be completed. The abstract should appear as a separate page, headed with the proposal title, institution(s) name, investigator(s), total proposed cost and budget period.

(3) *Prior program evaluation experience:* A summary of prior evaluation experience (especially those related to training programs) should be described, including evaluations related to program priorities identified above and/or conducted in foreign countries. Reference to each prior program evaluation award should include the title, agency, award number, period of award and total award. The section should be a brief summary and should not exceed two pages total.

(4) *Statement of work:* The proposed project must be completely described, including identification of the problem, project objectives, proposed evaluation methodology, relevance to the goal and objectives of the ACTTA program, and the program priority listed above. Benefits of the proposed project to U.S. anti-crime efforts should be discussed. A year-by-year summary of proposed work must be included clearly indicating that each year's proposed work is severable and can easily be separated into annual increments of meaningful work. The statement of work, including figures and other visual materials, must not exceed 20 pages of length.

(5) *Budget:* Applicants must submit a Standard form 424 (4–92) "Application for Federal Assistance," including a detailed budget using the Standard Form 424a (4–92), "Budget Information—Non-Construction Programs." The proposal must include total and annual budgets corresponding with the descriptions provided in the statement of work.

Additional text to justify expenses should be included (i.e., salaries and benefits by each proposed staff person; direct costs such as travel (airfare, per diem, miscellaneous travel costs); equipment, supplies, contractual, and indirect costs). Indicate if indirect rates are DCAA or other Federal agency approved or proposed rates and provide a copy of the current rate agreement. In addition, furnish the same level of information regarding sub-grantee costs, if applicable, and submit a copy of your most recent A–110 audit report.

(6) Vitae: Abbreviated curriculum vitae are sought with each proposal. Vitae for each project staff person should not exceed three pages in length.

(c) Other Requirements

Primary Applicant Certification—All primary applicants must submit a completed Form CD–511, "Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying." Applicants are also hereby notified of the following:

1. Non procurement Debarment and Suspension—Prospective participants (as defined at 15 CFR Part 26, section 105) are subject to 15 CFR Part 26, "Non-procurement Debarment and Suspension," and the related section of the certification form prescribed above applies;

2. Drug Free Workplace—Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR Part 26, Subpart F, "Government wide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

3. Anti-Lobbying—Persons (as defined at 15 CFR Part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation 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 of more than $100,000; and

4. Anti-Lobbying Disclosures—Any applicant that has paid or will pay for lobbying using any funds must submit SFLLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, appendix B.

Lower Tier Certifications

(1) Recipients must require applicants/bidders for sub-grants or 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 recipients and should not be transmitted to Department of State (DOS). SF–LLL submitted by any tier recipient or sub-recipient should be submitted to DOS in accordance with the instructions contained in the award document.

(2) Recipients and sub-recipients are subject to all applicable Federal laws and Federal and Department of State policies, regulations, and procedures applicable to Federal financial assistance awards.

(3) Pre-award 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 assurance that may have been received, there is no obligation to the applicant on the part of Department of State to cover pre-award-costs.

(4) This program is subject to the requirements of OMB Circular No. A–110, "Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," OMB Circular No. A–133, "Audits of Institutions of Higher Education and Other Non-Profit Institutions," and 15 CFR Part 24, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," as applicable. Applications under this program are not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

(5) All non-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associate 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.

(6) 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.

(7) 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 the Department of State are made.

(8) Buy American-Made Equipment or Products—Applicants are reminded that any equipment or products authorized to be purchased with funding provided under this program must be American-made to the maximum extent feasible.

(9) 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 cost dollar amount in the application, whichever is less.

(d) If an application is selected for funding, the Department of State 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 the Department of State.

(e) In accordance with Federal statutes and regulations, no person on grounds of race, color, age, sex, national origin or disability shall be excluded from participation in, denied benefits of or be subjected to discrimination under any program or activity receiving assistance from the INL IDR program.

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. The standard forms have been approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act under OMB approval number 0348–0043, 0348–0044, and 0348–0046.

Classification: This notice has been determined to be not significant for purposes of Executive Order 12866.

Dated: April 12, 2000.

Thomas M. Browne, Jr.,

Deputy Director, Office of Europe, NIS, and Training, Bureau of International Narcotics and Law Enforcement Affairs, U.S. Department of State.

[FR Doc. 00–9731 Filed 4–18–00; 8:45 am]

BILLING CODE 4710–17–U

DEPARTMENT OF STATE

[Public Notice 3294]

Bureau of Educational and Cultural Affairs, Armenia Connectivity 2000 Program; Request for Proposals

SUMMARY: The Office of Citizen Exchanges, Youth Programs Division, of the Bureau of Educational and Cultural Affairs announces an open competition for the Armenia Connectivity 2000 Program. Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c) may submit proposals to expand the educational opportunities available to secondary school students in Armenia by providing access to the Internet and a related curriculum to help promote civic education and economic reform. The maximum amount of the award will be $954,000.

Program Information

Overview

The Armenia Connectivity 2000 program has been designed to respond to the important need to introduce the youth of Armenia to a broad range of ideas about civil society.

Students and teachers at schools throughout the country need access to models of societal development through civic education. The Internet can provide a wealth of information about democratic societies and a vital forum for the exchange of views with U.S. students and teachers. Through this program Armenian schools will be able to incorporate civics into their curricula and improve general education with Internet resources and access to information under the guidance of specially trained teachers.

The goals of this program are (1) To provide Armenian students with the opportunity to learn democratic values while developing technical computer-based skills, (2) to improve and broaden the civic education curriculum in Armenian schools, (3) to provide access for schools in isolated areas to information about the United States and other democratic societies and about related Internet resources, and (4) to develop and promote linkages to schools in the United States and other countries.

The main components of this program are as follows:

- Selecting schools (Armenian and U.S.),
- Providing access to the Internet to the Armenian schools, including making sites suitable for a computer center, installing hardware and cabling, and ensuring connectivity,
- Connecting students and teachers at Armenian schools with their counterparts at U.S. schools in joint telecurriculum projects,
- Providing training for teacher-trainers who will in turn provide training to teachers and students in the selected schools and, later, to other community members,
- Developing an educational curriculum that utilizes the Internet and coordinating the use of curricula from other related programs.

Guidelines

This grant should begin on or about July 15, 2000, subject to availability of funds. The grant period should be two years.

The grant recipient will select schools in Armenia for the installation of a computer center, the provision of training, and the implementation of a civic education curriculum that emphasizes use of the Internet. The recommended minimum number of schools is 40. Proposals that can include up to or more than 70 schools through greater efficiencies and cost-sharing will be considered more competitive. These selected schools will be partnered, either one-to-one or in small groups, with U.S. schools so that Armenian students and faculty may work on joint projects with their American peers over the Internet in order to practice their newly-developed knowledge of using this tool for educational purposes.

The schools will be provided with computers, printers, and other items necessary to afford them Internet connectivity. This will be accompanied by improvements to the classrooms to ensure that the facilities are suitable and secure. Once established, a center will be staffed by a site monitor who will oversee its use.

At an early stage of the project, the grant recipient will train Armenians in order to develop a core group of teacher-trainers in Internet education, American Studies, English, civic education, curriculum development, and teaching methodologies. In addition to training at sites in Yerevan and other regions of Armenia, a limited number of exchanges—Armenian trainers to the United States and U.S. trainers to Armenia—will facilitate these training efforts and bring the new trainers in contact with teachers who are skilled in using the Internet in the classroom.

The regional teacher-trainers will be responsible for conducting local training at a certain number of schools in their region. Their training of teachers and students will focus on basic computer skills, use of electronic mail and bulletin boards, and use of the World Wide Web for research and for supplementing lesson plans. The regional trainers will also supervise the site monitors.

Once schools have access to the Internet and the students and teachers have acquired basic computer and Internet skills, the program focus will turn to the development of the content of Internet activities, an essential component. The primary goal of this program is for students and teachers to use the Internet to learn about civil society, including the basics of democracy, volunteerism, conflict resolution, good citizenship, and civic responsibility, such as voting. A secondary goal is for students and teachers to use the Internet for English and American Studies topics, such as literature, history, government, and geography, and for the improvement of teaching of such subjects as economics and social studies researching the riches of the Internet and learning to use them in the normal curriculum. The development of a curriculum with these purposes will be a key responsibility of the grant recipient.

Programs must comply with J–1 visa regulations. Please refer to Solicitation Package for further information.

Budget Guidelines

The grant award may not exceed $954,000. Organizations with less than four years of experience in conducting international exchange programs are not eligible for this grant.

Applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants should provide separate sub-budgets for each program component, phase, location, or activity to provide clarification. Administrative costs, including indirect rates, should be kept to a minimum and cost-shared as possible.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Announcement Title and Number: All correspondence with the Bureau concerning this RFP should reference the above title and number ECA/PE/C–00–49.

FOR FURTHER INFORMATION CONTACT: The Youth Programs Division, Office of Citizen Exchanges, ECA/PE/C/PY, Room 568, U.S. Department of State, 301 4th Street, SW, Washington, DC 20547, (202) 619–6299; Fax: (202) 619–5311; E-mail: clantz@pd.state.gov to request a Solicitation Package. The Solicitation Package contains detailed award criteria, required application forms,

specific budget instructions, and standard guidelines for proposal preparation. Please specify Bureau Program Officer Carolyn Lantz on all other inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from the Bureau's website at http://exchanges.state.gov/education/rfps. Please read all information before downloading.

Deadline for Proposals

All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, DC, time on Friday, June 2, 2000. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and eight copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C–00–49, Program Management, ECA/EX/PM, Room 336, 301 4th Street, SW, Washington, DC 20547.

Applicants must also submit the "Executive Summary" and "Proposal Narrative" sections of the proposal on a 3.5″ diskette, formatted for DOS. These documents must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. The Bureau will transmit these files electronically to the Public Affairs section at the U.S. Embassy for its review, with the goal of reducing the time it takes to get embassy comments for the Bureau's grants review process.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," the Bureau "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Proposals should reflect advancement of this goal in their program contents, to the full extent deemed feasible.

Year 2000 Compliance Requirement (Y2K Requirement)

The Year 2000 (Y2K) issue is a broad operational and accounting problem that could potentially prohibit organizations from processing information in accordance with Federal management and program specific requirements including data exchange with the Bureau. The inability to process information in accordance with Federal requirements could result in grantees' being required to return funds that have not been accounted for properly.

The Bureau therefore requires all organizations use Y2K compliant systems including hardware, software, and firmware. Systems must accurately process data and dates (calculating, comparing and sequencing) both before and after the beginning of the year 2000 and correctly adjust for leap years.

Additional information addressing the Y2K issue may be found at the General Services Administration's Office of Information Technology website at http://www.itpolicy.gsa.gov.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program above is provided through the FREEDOM Support Act of 1992.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: April 10, 2000.

Evelyn S. Lieberman,

Under Secretary for Public Diplomacy and Public Affairs, U.S. Department of State.

[FR Doc. 00–9801 Filed 4–18–00; 8:45 am]

BILLING CODE 4710–11–P

DEPARTMENT OF STATE

[Public Notice 3295]

Bureau of Educational and Cultural Affairs Offices of the Fulbright Representative: Moscow, Russia and Kyiv, Ukraine; Notice: Request for Proposals

SUMMARY: The Office of Academic Exchange Programs of the Bureau of Educational and Cultural Affairs (ECA) announces an open competition for organizations to serve as the fiscal disbursing agent for the Offices of the Fulbright Representative in Moscow, Russia and in Kyiv, Ukraine. Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c) may submit proposals to provide fiscal disbursing services to one or both Offices (Moscow and/or Kyiv). A separate proposal must be submitted for each country's office, i.e., organizations that apply as the disbursing agent for both the Moscow and Kyiv Offices must submit two distinct proposals addressing the particular budgetary guidelines and any other country-specific requirements for each Office as outlined in the RFP.

Program Information

Overview

The Offices of the Fulbright Representative are responsible for the overseas management of the Fulbright Program and the Junior Faculty Development Program (JFDP), both of which are ECA educational exchange programs, in the Russian Federation and Ukraine. ECA and the Public Affairs Section (PAS) of the U.S. Embassy have full authority over all program operations, policy issues, and management concerns, including the selection and supervision of the Directors of the Fulbright Offices (who are U.S. citizens) and their staffs. The staffs of the Offices of the Fulbright Representative are responsible for all program operations of the Fulbright Program and the JFDP in their respective country and report first and foremost to the PAS and ECA.

Due to legal constraints and logistical obstacles, the U.S. Government is unable to provide operating funds directly to the Offices of the Fulbright Representative in Russia and Ukraine. Thus, through this RFP, ECA requests the services of a recipient organization to be responsible solely for disbursing U.S. Government funds in support of the activities of the Offices of the Fulbright Representative. These services hinge on the organization's ability to maintain a legal status in Russia and/or Ukraine in order to serve as a fiscal agent capable of disbursing, on a timely and consistent basis, funds for the programmatic and administrative operations of the Offices. The specific duties of the ECA recipient organization requested in this RFP are outlined below.

Guidelines

The ECA recipient organization will be responsible for the following:

1. Performing all legal requirements necessary to maintain the office space, staffing, and program activities of the Fulbright Offices in Moscow and/or Kyiv.

2. Demonstrating the ability, in terms of an accounting staff knowledgeable in Russian and/or Ukrainian law, to provide the Fulbright Offices with cash (dollars and/or rubles and/or hryvna) and/or pay bills directly.

3. Providing proof of legal status/registration, as well as evidence of the ability to handle a wide range of payments.

4. Advancing budget funds to the Fulbright Offices in Moscow and/or Kyiv to conduct all activities, programmatic as well as administrative.

5. Payment of salaries and benefits—including housing allowance—for the Directors of the Fulbright Offices in Moscow and/or Kyiv. Actual salaries will be determined by the PAS.

6. Payment of salaries and benefits for local staff—including meal allowance for Moscow staff only. Actual salaries will be determined by the PAS.

7. Assisting the PAS in the recruitment of Fulbright Offices staff when vacancies occur. Final selection will be made by the PAS.

8. Consulting and cooperating, on administrative matters, with the U.S.-based organizations responsible for the administration of the Fulbright Program and the JFDP in the United States.

Programs must comply with J–1 visa regulations. Please refer to Solicitation Package for further information.

Please note: The following information is provided as background only and should not be misconstrued as the objectives of this RFP.

The Fulbright Program offers research and lecture opportunities at universities in the United States to leading scholars from Russia and Ukraine, whereas the JFDP supports the training of young university faculty from Russia and Ukraine to audit courses and work closely with faculty mentors at U.S. universities in order to upgrade their teaching skills and develop new curricula in designated fields of study. The Offices of the Fulbright Representative ensure the successful and open competition for both Fulbright and JFDP grants, and provide logistical assistance to program participants while they are in Russia or Ukraine. In addition, the Offices of the Fulbright Representative are responsible for supporting U.S. Fulbright scholars in Russia and Ukraine, in order to ensure their well being, and the well being of their dependents while overseas.

Budget Guidelines

Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000.

Applicants must submit comprehensive budgets with each proposal. Awards may not exceed $308,000 for the Moscow Office and $210,000 for the Kyiv Office. The total of any administrative pass through charges, including indirect costs, may not exceed 15% of the total budget for each Office. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

In order to propose accurate budget figures, applicants are encouraged to contact ECA directly and request an information sheet detailing actual Fulbright Office costs.

Allowable costs include, but are not limited to:

(1) Staff salaries and benefits.

(2) Rent and utilities for the Moscow and/or Kyiv Offices.

(3) Necessary office supplies and equipment.

(4) Shipment of program materials from Russia and/or Ukraine to the United States.

(5) Maintenance of a reliable communications system (telephone, fax, and e-mail).

(6) Recruitment and any other necessary travel by program staff, including per diem.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Announcement Title and Number

All correspondence with the Bureau concerning this RFP should reference the above title and number *ECA/A/E/EUR 00–07.*

FOR FURTHER INFORMATION CONTACT: The Office of Academic Exchange Programs, ECA/A/E/EUR, SA–44, Room 246, U.S. Department of State, 301 4th Street, S.W., Washington, D.C. 20547, telephone: 202–205–0525; fax: 202–260–7985, or E-mail: nsargent@usia.gov to request a Solicitation Package. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify Bureau Program Officer Nadine Asef-Sargent on all inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download a Solicitation Package via Internet

The entire Solicitation Package may be downloaded from the Bureau's website at http://exchanges.state.gov/education/rfps. Please read all information before downloading.

Deadline for Proposals

All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5:00 p.m. Washington, DC time on Thursday, May 25, 2000. Faxed documents will not be

accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that its proposal(s) is/are received by the above deadline. There are no exceptions to this deadline.

Applicants must follow all instructions in the Solicitation Package. The original and nine (9) unbound copies of the proposal(s) should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: *ECA/A/E/EUR–00–07*, Program Management, ECA/EX/PM, Room 336, 301 4th Street, SW, Washington, DC 20547.

Applicants must also submit the "Executive Summary" and "Proposal Narrative" sections of the proposal on a 3.5" diskette, formatted for DOS. These documents must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. The Bureau will transmit these files electronically to the Public Affairs Section at the US Embassy for its review; with the goal of reducing the time it takes to receive embassy comments for the Bureau's grants review process.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the "Support for Diversity" section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," the Bureau "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Proposals should reflect advancement of this goal in their program contents, to the full extent deemed feasible.

Year 2000 Compliance Requirement (Y2K Requirement)

The Year 2000 (Y2K) issue is a broad operational and accounting problem that could potentially prohibit organizations from processing information in accordance with Federal management and program specific requirements including data exchange with the Bureau. The inability to process information in accordance with Federal requirements could result in grantees' being required to return funds that have not been accounted for properly.

ECA therefore requires all organizations use Y2K compliant systems including hardware, software, and firmware. Systems must accurately process data and dates (calculating, comparing and sequencing) both before and after the beginning of the year 2000 and correctly adjust for leap years.

Additional information addressing the Y2K issue may be found at the General Services Administration's Office of Information Technology website at http://www.itpolicy.gsa.gov.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package.

The program office, as well as the Public Affairs Section overseas, where appropriate will review all eligible proposals. Eligible proposals will be forwarded to panels of Bureau officers for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Bureau elements. Final funding decisions are at the discretion of the Department of State's Under Secretary for Public Diplomacy and Public Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. Program Management: Proposals should exhibit substance, precision, innovation, and relevance to the Bureau's mission. Objectives should be reasonable, feasible, and flexible. Proposals should demonstrate the organization's ability to cooperate with a variety of entities, including the U.S. Government, non-profit organizations, foreign banking institutions, and others. Relevant work plan should demonstrate substantive undertakings and logistical capacity. Work plan should adhere to the program overview and guidelines described above.

2. Support of Diversity: Proposals should demonstrate substantive support of the Bureau's policy on diversity.

3. Institution's Record/Ability: Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's goals. Proposals should demonstrate an institutional record of successful exchange program administration, particularly responsible fiscal management and full compliance with all reporting requirements for any past Bureau grants as determined by Bureau Grant Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

4. Cost-effectiveness/Cost-sharing: The overhead and administrative components of the proposal, including salaries, should be kept as low as possible. All other items should be necessary and appropriate.

5. Project evaluation: Proposals should include a plan to evaluate the success of the fiduciary arrangement and make recommendations for improving the process in the future.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries . . .; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations. * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program above is provided through legislation.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Bureau reserves the

right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: April 13, 2000.

Evelyn S. Lieberman,

Under Secretary for Public Diplomacy and Public Affairs, U.S. Department of State.

[FR Doc. 00–9802 Filed 4–18–00; 8:45 am]

BILLING CODE 4710–11–P

DEPARTMENT OF STATE

[Public Notice 3293]

Bureau of Educational and Cultural Affairs; Program Title: Small Grants Competition; Grassroots Citizen Participation in Democracy; Request for Proposals

SUMMARY: The Office of Citizen Exchanges, Bureau of Educational and Cultural Affairs of the U.S. Department of State, announces a small grants competition on Citizen Participation in Democracy. U.S. public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c) may submit proposals to develop exchanges and training programs in the below mentioned countries of Sub-Saharan Africa, the Middle East or Latin America (countries listed under guidelines.)

Program Information

Overview

The Office of Citizen Exchanges, Bureau of Educational and Cultural Affairs of the U.S. Department of State, announces an FY2000 small grants competition for local community-based organizations interested in internationalizing their educational, professional and cultural efforts or gaining support for ongoing international exchange programs. This competition is aimed at local-level grassroots organizations that have not received prior funding directly from the Bureau. Creative and innovative ideas are sought.

One goal of this initiative is to encourage smaller organizations or local units of national groups to expand the scope of their work by building linkages with counterparts in certain other countries. This may be accomplished by providing professional experience and exposure to American life and culture through internships, workshops and other learning-sharing experiences hosted by local institutions and home stays with members of the community. The experiences also will provide Americans the opportunity to learn about different cultures. Travel under these grants may constitute a two-way exchange or provide only for foreigners to visit the United States. The program is not academic in nature; it is designed to provide practical, hands-on experience in U.S. public/private sector settings that may be adapted to an individual's institution upon return home. Proposals may combine elements of professional enrichment, job shadowing and internships appropriate to the language ability and interests of the participants.

Exchanges and training programs supported by the institutional grants from the Bureau should operate at two levels: they should enhance partnerships, and they should offer practical information to individuals and groups to assist them with their professional and volunteer responsibilities. Viable proposals usually have the following characteristics:

- A strong existing partnership between a U.S. organization and an in-country institution;
- A proven track record of working in the proposed issue area;
- Cost-sharing from U.S. and/or in-country sources, including donations of air fares, hotel and/or housing costs, ground transportation, interpreters, etc.;
- Experienced staff with language facility; a clear, convincing plan showing how long-term results will be accomplished as a result of the activity funded by the grant;
- A follow-on plan beyond the scope of the Bureau grant.

The Bureau wants to see tangible forms of time and money contributed to the project by the prospective grantee institution, as well as funding from third party sources. If proposals received are of equal strength, preference will go to those with higher cost-sharing.

Exchanges should be two-to-three weeks in length. It is anticipated that programs will be conducted between September 2000 and August 2001. Successful projects will enhance the participants' skills in leadership, participatory democracy, NGO development, and open the potential for longer-term partnerships.

Applicants should identify the local organizations and individuals in the counterpart country with whom they are proposing to collaborate and describe in detail previous cooperative programming and/or contacts. Specific information about the counterpart organizations' activities and accomplishments is required and should be included in the section on Institutional Capacity.

This year the small grants competition will be focused on one over-all theme of Grassroots Citizen Participation in Democracy. Under this theme, consideration will be given to related priority topics. Suggestions are listed below.

Grassroots Citizen Participation in Democracy

Democracy takes root and flourishes where there is grass-roots participation in decision-making and citizen participation is valued and practiced. Since most civic activities are concerned with community-based issues that directly affect individuals' lives, local issues and institutions should be the focus of the exchange program. Single-country activities should be built around a specific theme or target audience. Target audiences may include, but are not limited to: women in business, NGO leaders, professional women, special interest groups (*i.e.* ethnic minorities, people with disabilities, economically disadvantaged persons). The Bureau is looking for programs that will result in the creation of a sustainable professional association or coalition with activities continuing after the grant period.

Priority Topics

Strengthening Grassroots Democracy: Training NGO leadership and addressing organizational governance issues; building coalitions; networking; lobbying elected officials; media strategies; fund raising; volunteerism; addressing civic values; NGO roles in mediating conflict in the community.

Equal Treatment of Women Under the Law: Educating women about existing anti-discriminatory laws, including domestic violence legislation; understanding legal rights and options; addressing attitudes of the judiciary; building community support to combat violence against women, including trafficking in Women and children.

Women and Political Leadership: running for elective office and/or managing electoral campaigns; developing a media strategy; public speaking/communication skills; meeting challenges and responsibilities of public office once elected.

Local Governance: strengthening local governments and making them more responsive to local needs; local

government administration, including budget development, financial management; tax policies and mechanisms; election practices; management of municipal services; committee and staff structures; drafting of legislation and relationships with regional and national governments.

Guidelines

All projects should focus on one country, promote local community contacts with that country and address one or more of the priority topics described above. Since most civic activities are concerned with community-based issues that directly affect individuals? lives, local issues and institutions should be the focus of proposed exchange programs. Target audiences may include, but are not limited to: NGO leaders, women in business, professional women, special interest groups (*i.e.* ethnic minorities, those with disabilities or economically disadvantaged). Applicants should carefully note the following restrictions for proposals in these specific geographic areas:

Africa

Only proposals for Kenya, Madagascar, Malawi, Tanzania, Uganda, and Zambia will be considered. Contact for African programs: Orna Blum, 202/260–2754; E-Mail {oblum@usia.gov}

Middle East

Only proposals for Kuwait, Oman, Qatar, the United Arab Emirates and Yemen will be considered. Contact for Middle East programs: Tom Johnston, 202/619–5325; E-Mail {tjohnsto@usia.gov}

Latin America

Only proposals for Colombia, Venezuela and Chile will be considered. Contact for Latin American programs: Laverne Johnson, 202/619–5337; E-Mail {ljohnson@usia.gov}

Budget Guidelines

The grant-making process will be specifically streamlined to accommodate first-time applicants. Priority will be given to grant proposals with budgets ranging from $15,000 to $40,000. No proposal above $50,000 will be eligible. Contingent on budget uncertainties, approximately, two hundred and fifty-thousand dollars has been allotted for this competition. Awards will be announced around August 1, 2000.

Allowable costs include the following:

(1) Program Expenses.

(2) Administrative Expenses including indirect costs.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Announcement Title and Number: All correspondence with the Bureau concerning this RFP should reference the above title and number ECA/PE/C–00–47.

FOR FURTHER INFORMATION, CONTACT: The Office of Citizen Exchanges, ECA/PE/C, Room 224, U.S. Department of State, 301 4th Street, S.W., Washington, D.C. 20547, telephone number 202/619–5348 and fax number 202/260–0440 , Internet address to request a Solicitation Package (see above regional contacts). The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify Bureau Program Officer listed above on all other inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download a Solicitation Package via Internet

The entire Solicitation Package may be downloaded from the Bureau's website at http://exchanges.state.gov/education/rfps. Please read all information before downloading.

Deadline for Proposals

All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, D.C. time on Friday, June 2, 2000. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and ten copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C–00–47, Program Management, ECA/EX/PM, Room 336, 301 4th Street, SW, Washington, DC 20547.

Applicants must also submit the "Executive Summary" and "Proposal Narrative" sections of the proposal on a 3.5" diskette, formatted for DOS. These documents must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. The Bureau will transmit these files electronically to the Public Affairs section at the US Embassy for its review, with the goal of reducing the time it takes to get embassy comments for the Bureau's grants review process.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," the Bureau "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Proposals should reflect advancement of this goal in their program contents, to the full extent deemed feasible.

Year 2000 Compliance Requirement (Y2K Requirement)

The Year 2000 (Y2K) issue is a broad operational and accounting problem that could potentially prohibit organizations from processing information in accordance with Federal management and program specific requirements including data exchange with the Bureau. The inability to process information in accordance with Federal requirements could result in grantees' being required to return funds that have not been accounted for properly.

The Bureau therefore requires all organizations use Y2K compliant systems including hardware, software, and firmware. Systems must accurately process data and dates (calculating, comparing and sequencing) both before and after the beginning of the year 2000 and correctly adjust for leap years.

Additional information addressing the Y2K issue may be found at the General Services Administration's Office of Information Technology website at http://www.itpolicy.gsa.gov.

Review Process

In support of first-time applicants, the grant proposal, budget and review process has been modified for this competition. The proposal narrative should not exceed six pages double-spaced and be developed around the review criteria below. Budget should be contained on one page. Please follow the enclosed Request for Proposal(RFP) Proposal Submission Instructions(PSI). Proposals will be reviewed in two tiers. First, all proposals will be read and reviewed by a qualified staff team from the Office of Citizen Exchanges and the respective Department of State regional bureaus. Second, the most competitive will be forwarded to embassies overseas and to panels of Bureau-wide State Department officers for formal advisory review. Non-finalists will be advised at this point in the process. Final funding decisions will be made at the discretion of the Under Secretary of State for Public Diplomacy and Public Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the Citizen Exchanges Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of program idea and ability to achieve objectives:* Program objectives should be clearly and precisely stated. Applications should respond to priorities in this announcement and articulate the organization's ability to successfully carry out objectives. Staff and participant responsibilities and timetable should be clearly designated.

2. *Cost effectiveness and Cost sharing:* Administrative costs should be kept low. Proposals should maximize cost-sharing through support and in-kind contributions.

3. *Monitoring/Reporting:* Proposals should provide a brief plan for submitting written reports midway through the program and at the end. Reports should include accomplishments, problems encountered, and impact on American and overseas communities.

4. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

5. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionannaire or other technique plus description of a methodology to use to link outcomes to original project objectives is recommended. Successful applicants will be expected to submit intermediate reports after each project component is concluded or quarterly, whichever is less frequent.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries* * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations...and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program above is provided through legislation.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government.

The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: April 10, 2000.

Evelyn S. Lieberman,

Under Secretary for Public Diplomacy and Public Affairs, U.S. Department of State.

[FR Doc. 00–9800 Filed 4–18–00; 8:45 am]

BILLING CODE 4710–11–P

DEPARTMENT OF STATE

[Public Notice #3277]

Shipping Coordinating Committee Maritime Safety Committee; Notice of Meeting

The Shipping Coordinating Committee will conduct an open meeting at 9:30 a.m. on Thursday, May 11, 2000, in Room 2415, at U.S. Coast Guard Headquarters, 2100 2nd Street, SW, Washington, DC. The purpose of this meeting will be to finalize preparations for the 72nd Session of the Maritime Safety Committee, and associated bodies of the International Maritime Organization (IMO), which is scheduled for May 17–26, 2000, at IMO Headquarters in London. At this meeting, papers received and the draft U.S. positions will be discussed.

Among other things, the items of particular interest are:

a. Bulk carrier safety;

b. Role of the human element;

c. Formal safety assessment;

d. Piracy and armed robbery against ships;

e. Reports of seven subcommittees—Training and watchkeeping; Flag State implementation; Bulk liquids and gases; Radiocommunications and search and rescue; Safety of navigation; Dangerous goods, solid cargoes and containers; Fire protection; and, Ship design and equipment;

Members of the public may attend this meeting up to the seating capacity of the room. Interested persons may seek information by writing to Mr. Joseph J. Angelo, Commandant (G–MS), U.S. Coast Guard, 2100 2nd Street, SW, Room 1218, Washington, DC 20593–0001 or by calling (202) 267–2970.

Dated: April 6, 2000

Stephen M. Miller,

Executive Secretary, Shipping Coordinating Committee, U.S. Department of State.

[FR Doc. 00–9729 Filed 4–18–00; 8:45 am]

BILLING CODE 4710–17–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular; Bird Ingestion Certification Standards

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of proposed advisory circular and request for comments.

SUMMARY: This notice announces the availability of proposed Advisory Circular (AC) No. 33.76–1, Bird Ingestion Certification Standards.

DATES: Comments must be received on or before June 19, 2000.

ADDRESSES: Send all comments on the proposed AC to the Federal Aviation Administration, Attn: Engine and Propeller Standards Staff, ANE–110, Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, MA, 01803–5299.

FOR FURTHER INFORMATION CONTACT: Marc Bouthillier, Engine and Propeller Standards Staff, ANE–110, at the above address, telephone (781) 238–7120, fax (781) 238–7199. A copy of the subject AC may also be obtained electronically by writing to the following Internet address: "marc.bouthillier@faa.gov". Additionally, you may obtain a copy of the draft AC directly from the internet at the following address http://www.faa.gov/avr/air/acs/draftach.htm.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the subject AC may be obtained by contacting the person named above under **FOR FURTHER INFORMATION CONTACT**. Interested persons are invited to comment on the proposed AC, and to submit such written data, views, or arguments as they desire. Commenters must identify the subject of the AC, and subject comments in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Engine and Propeller Directorate, Aircraft Certification Service, before issuance of the final AC.

Background

This draft advisory circular (AC) provides guidance and acceptable methods, but not the only methods, that may be used to demonstrate compliance with the bird ingestion requirements of § 33.76 of the Federal Regulations, Title 14 of the Code of Federal Regulations once that regulation becomes final. A proposal to amend the Federal Aviation Regulations by adding a new section, § 33.76, was published in the **Federal Register** on December 11, 1998 (64 FR 68635). Although this draft AC does refer to regulatory requirements that would be mandatory, this draft AC is not, in itself, mandatory. This AC would neither change any regulatory requirements nor authorizes changes in or deviations from the regulatory requirements.

This effort was adopted as a part 33 and Joint Aviation Regulations for engines (JAR–E) harmonization project and was selected as an Aviation Rulemaking Advisory Committee (ARAC) project. This draft AC provides information and guidance that addresses Federal Aviation Administration (FAA) type certification standards for aircraft turbine engines with regard to bird ingestion. The requirements under § 33.76 reflect recent analysis of the bird threat encountered in service by turbine engine powered aircraft.

This advisory circular, published under the authority granted to the Administrator by 49 U.S.C. 106(g), 40113, 44701–44702, 44704, provides guidance for these proposed requirements.

Issued in Burlington, Massachusetts, on April 12, 2000.

Thomas A. Boudreau,

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

[FR Doc. 00–9839 Filed 4–18–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2000–7246]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel PUFFIN.

SUMMARY: As authorized by Public Law 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S. build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub.L. 105–383 and MARAD's regulations at 46 CFR 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before May 19, 2000.

ADDRESSES: Comments should refer to docket number MARAD–2000–7246. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW, Washington, DC 20590–0001. You may also send comments electronically via the Internet at http://dmses.dot.gov/submit/. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR 832 Room 7201, 400 Seventh Street, SW, Washington, DC 20590. Telephone 202–366–0760.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (less than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commentor's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR 388.

Vessel Proposed for Waiver of the U.S.-build Requirement

(1) Name of vessel and owner for which waiver is requested: Name of vessel: Sailing Vessel PUFFIN. U.S. Documentation Number 697029. Owner: Thomas B. Brener.

(2) Size, capacity and tonnage of vessel: According to the Applicant "PUFFIN is a fractional sloop rigged sailing vessel 35.8 feet in length with a gross registered tonnage of 9 tons pursuant to 46 U.S.C. 14502. She has a 4.8′ draft with a steadying and stable wing keel and a flush deck. She would carry no more than 6 paying passengers."

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: "My own approach to the teaching of sailing and exploration is specific and is not offered by any other organization or individual in the intended use areas in U.S. East Coast waters from Delaware Bay to Rhode Island and in the Atlantic Waters of South-Central Florida. A day or week aboard "PUFFIN" will be an experience that combines the discovery of new places, fish, plants, animals and birds with the sense of sailing and the feel of the elements. It is my hope to be able to open up new vistas for anyone, including the physically challenged, the deaf and the blind. This particular vessel is an ideal vessel for the purposes of teaching sailing through feel and touch. She is a non-polluting, stable, small, shallow draft sailing platform capable of a long run offshore for those who may want to see a bird migration from a perch in the near coastal Atlantic Ocean. The cost for such an excursion would be about $300 a day including the captain."

(4) Date and place of construction and (if applicable) rebuilding. Date of construction: 1985, place of construction: Alkmaar, Holland.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: "My own approach to the teaching of sailing and exploration is specific and is not offered by any other organization or individual in the intended use areas in U.S. East Coast waters from Delaware Bay to Rhode Island and in the Atlantic Waters of South-Central Florida."

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: "Given that this will be a small private enterprise working, at times, in conjunction with not-for-profit concerns that would be performing a service that historically provides a very small financial return; there will be no impact on U.S. shipyards. U.S. production shipyards to not manufacture a vessel such as "PUFFIN" and the market for such a vessel is very small, possibly non-existent. The cost to build a similarly equipped vessel based on the attached survey would be $190,000. Given that the estimated return would net less than $15,000 per year after expenses, there is clearly no economic justification to construct a new vessel for this purpose."

By Order of the Maritime Administrator.

Dated: April 14, 2000.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 00–9804 Filed 4–18–00; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TREASURY

Internal Revenue Service

Open Meeting of the Information Reporting Program Advisory Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Open Meeting of the Information Reporting Program Advisory Committee.

SUMMARY: In 1991 the IRS established the Information Reporting Program Advisory Committee (IRPAC) in response to a recommendation made by the United States Congress. The primary purpose of IRPAC is to provide an organized public forum for discussion of relevant information reporting issues between the officials of the IRS and representatives of the payer/practitioner community. IRPAC offers constructive observations about current or proposed policies, programs, and procedures and, when necessary, suggests ways to improve the operation of the Information Reporting Program (IRP).

There will be a meeting of IRPAC on Thursday, May 11, 2000. The meeting will be held in Room 3313 of the Internal Revenue Service Main Building, which is located at 1111 Constitution Avenue, NW., Washington, DC. A summarized version of the agenda along with a list of topics that are planned to be discussed are listed below.

Summarized Agenda for Meeting

9:00 Meeting Opens
11:30 Break for Lunch
1:00 Meeting Resumes
4:00 Meeting Adjourns

The topics that are planned to be covered are as follows:

(1) IRPAC Paper on Electronic Payee Statements
(2) IRPAC Paper on the Threshold for Reporting Interest on Canadian Deposit Accounts
(3) IRPAC Paper on Reporting Cancellation of Indebtedness Income
(4) IRS Update on the New Section 1441 Regulation
(5) IRPAC Paper on Expanding the Combined Federal/State Information Return Filing Program
(6) IRPAC Paper on Tax Certifications for Disregarded Entities
(7) IRPAC Update on IRPAC's Articles in the "SSA/IRS Reporter"
(8) IRS Update on Proposed Changes to Form W–2, Form 1099–DIV, and Form 1099–MISC
(9) IRS Update on Proposed Changes to the Form SS–8
(10) IRPAC Paper on Reporting the Revocation of a Roth IRA
(11) IRPAC Paper on Reporting Recharacterizations and Reconversions
(12) IRS Update on the Proposed Taxpayer Identification Number (TIN) Matching System
(13) IRS Update on the IRS/SSA Magnetic Media/Electronic Filing Seminars for 2000

Note: Last minute changes to these topics are possible and could prevent advance notice.

SUPPLEMENTARY INFORMATION: IRPAC currently reports to the National Director, Office of Specialty Taxes, who is the executive responsible for information reporting payer compliance. IRPAC is instrumental in providing advice to enhance the IRP Program. Increasing participation by external stakeholders in the planning and improvement of the tax system will help achieve the goals of increasing voluntary compliance, reducing burden, and improving customer service.

IRPAC is currently comprised of representatives from various segments of the information reporting payer/practitioner community. IRPAC members are not paid for their time or services, but consistent with Federal regulations, they are reimbursed for their travel and lodging expenses to attend two public meetings each year.

DATES: The meeting will be open to the public, and will be in a room that accommodates approximately 80 people, including members of IRPAC and IRS officials. Seats are available to members of the public on a first-come, first-served basis. In order to get your name on the building access list, *notification of intent to attend this meeting must be made with Ms. Thomasine Matthews no later than Monday, May 8, 2000.* Ms. Matthews can be reached by e-mail at thomasine.matthews@irs.gov, or by telephone at 202–622–4214. Notification of intent to attend should include your name, organization and phone number. If you leave this information for Ms. Matthews in a voice-mail message, please spell out all names.

A draft of the agenda will be available via e-mail or facsimile transmission the week prior to the meeting. Please call or

e-mail Ms. Thomasine Matthews on or after Wednesday, May 3, 2000, to have a copy of the agenda faxed or e-mailed to you. Please note that a draft agenda will not be available until that date.

ADDRESSES: If you would like to have IRPAC consider a written statement at a future IRPAC meeting (not this upcoming meeting), please write to Ms. Kate LaBuda at the IRS, Office of Payer Compliance, OP:EX:ST:PC, Room 2013, 1111 Constitution Avenue, NW., Washington, DC 20224, or e-mail her at kate.labuda@irs.gov.

FOR FURTHER INFORMATION CONTACT: To get on the access list to attend this meeting, or to have a copy of the agenda faxed to you on or after May 3, 2000, please e-mail Ms. Thomasine Matthews at thomasine.matthews@irs.gov, or call her at 202–622–4214. For general information about IRPAC, please e-mail Ms. Kate LaBuda at kate.labuda@irs.gov or call her at 202–622–3404.

Dated: April 12, 2000.

Gwen Glaize,

Director, Office of Payer Compliance, Office of Examination.

[FR Doc. 00–9700 Filed 4–18–00; 8:45 am]

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Federal Register

Wednesday,
April 19, 2000

Part II

Department of Labor

Pension and Welfare Benefits Administration

29 CFR Part 2520

Annual Reporting and Disclosure Requirements; Final Rule

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

29 CFR Part 2520

RIN 1210–AA52

Annual Reporting and Disclosure Requirements

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Final rule.

SUMMARY: This document contains amendments to Department of Labor (Department) regulations relating to the annual reporting and disclosure requirements under part 1 of Title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA or the Act). The amendments contained in this document are necessary to conform the regulations to revisions to the annual return/report forms (Form 5500 Series) intended to streamline the annual report required to be filed by administrators of employee pension and welfare benefit plans under part 1 of Title I of ERISA. The regulatory amendments, in conjunction with the revisions to the Form 5500 Series, which were published in the **Federal Register** on February 2, 2000, 65 FR 5026, are intended to reduce the annual reporting burdens on employee benefit plans while ensuring that the Department has access to the information it needs to carry out its administrative and enforcement responsibilities under ERISA and that participants and beneficiaries have access to the information they need to protect their rights and benefits under ERISA. Other amendments contained in this document modify the reporting requirements for certain group insurance arrangements. The remaining amendments are technical in nature and are designed to clarify existing reporting regulations. The amendments will affect the financial and other information required to be reported and disclosed by employee benefit plans filing Form 5500 Series reports under part 1 of Title I of ERISA.

DATES: *Effective Date:* This regulation is effective on May 19, 2000. The amendments generally apply to employee benefit plan years beginning on or after January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Eric A. Raps, Office of Regulations and Interpretations, Pension and Welfare Benefits Administration (PWBA), (202) 219–8515 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

A. Background

Under Titles I and IV of ERISA, and the Internal Revenue Code, as amended, pension and other employee benefit plans are generally required to file annual return/reports concerning, among other things, the financial condition and operations of the plan. These annual reporting requirements generally can be satisfied by filing the Form 5500 Series in accordance with its instructions and related regulations. The Form 5500 Series is the primary source of information concerning the operation, funding, assets and investments of pension and other employee benefit plans. In addition to being an important disclosure document for plan participants and beneficiaries, the Form 5500 Series is a compliance and research tool for the Department, and a source of information and data for use by other federal agencies, Congress, and the private sector in assessing employee benefit, tax, and economic trends and policies.

On September 3, 1997, the Department in conjunction with the Internal Revenue Service and Pension Benefit Guaranty Corporation (the Agencies) published in the **Federal Register** (62 FR 46556) proposed changes to the Form 5500 Series. The Agencies received over 60 public comments and received oral testimony from employer groups, employee representatives, financial institutions, service organizations and others on the form streamlining proposal. In response to public comments, the Agencies made various adjustments to the proposed forms and instructions. Those comments and the changes in the forms and instructions are discussed in the notice of adoption of revised forms published separately on February 2, 2000, in the **Federal Register** (65 FR 5026).

As part of the development of the revised Form 5500 Series, the Department published in the **Federal Register** (63 FR 68370), on December 10, 1998, proposed amendments to the annual reporting regulations (Part 2520 of Chapter XXV of Title 29 of the Code of Federal Regulations) which were necessary to implement certain of the proposed changes to the Form 5500 Series. A number of technical amendments to the regulations were also proposed in order to update certain of the reporting and disclosure regulations. In the December 10, 1998 notice, the Department stated that the public comments submitted in response to the September 3, 1997 Notice of proposed forms revisions would be treated as part of the public record for the Notice of proposed rulemaking, and, to the extent those comments included information relevant to the proposed regulatory amendments, the Department would treat those comments as comments on the Notice of proposed rulemaking to avoid the need to submit duplicate public comments. The Department received four comments in response to the December 10, 1998 notice.

The Department has decided, after reviewing the relevant comments on the proposed amendments and proposed form revisions, to adopt the proposed regulatory amendments largely as proposed with certain technical or clarifying changes.

B. Discussion of the Final Regulation and Comments

1. Section 2520.103–1

Section 2520.103–1 generally describes the content of the Form 5500 Series as a limited exemption and alternative method of compliance. One of the central changes announced in the September 3, 1997 Notice of proposed forms revisions for improving the Form 5500 Series was the development of one Form 5500 for use by both "large plan" filers (plans that previously could file the Form 5500) and "small plan" filers (plans that previously could file the Form 5500–C/R. The new Form 5500 was structured along the lines of tax returns familiar to individual and corporate taxpayers—a simple main form with basic information necessary to identify the plan for which the report is filed that guides each filer to those schedules applicable to the filer's specific type of plan. Although the Form 5500–C/R was eliminated, limited financial reporting options for small plans has been preserved.[1] To accommodate these form changes, the regulatory amendments to § 2520.103–1 update the references to the annual report in that section to reflect the new structure and components of the Form 5500 Series.[2]

2. Section 2520.103–2

Welfare plans participating in a group insurance arrangement (GIA) are exempt from filing individual annual reports under conditions set forth in

[1] For example, plans eligible to file as small plans that take advantage of the simplified reporting rules will continue to be exempt from the annual audit requirements contained in ERISA section 103 and will continue to be relieved of the obligation to file certain schedules required for large plan filers (*e.g.*, Schedule C—Service Provider Information).

[2] The amendments also delete the cross-reference to obsolete § 2520.103–7. This provision was removed from the Code of Federal Regulations on July 1, 1996 (61 FR 33847).

§ 2520.104–43 provided that the trust, trade association, or other entity which holds the insurance contracts and acts as a conduit for the payment of insurance premiums files an annual report for the entire arrangement. Section 2520.103–2 prescribes the contents of the annual report for GIAs in order for the participating plans to be eligible for the exemption described in § 2520.104–43. The annual report required to be filed under § 2520.103–2 must contain a completed Form 5500, any required schedules and attachments, a report by an independent qualified public accountant (IQPA), and separate financial statements if prepared by the IQPA in order to form the opinion required by § 2520.103–2(b)(5). As with the changes adopted in § 2520.103–1, the regulatory amendments update the references in § 2520.103–2 to the annual report to reflect the new structure and components of the Form 5500 Series. The regulatory amendments also conform § 2520.103–2 to the amendments of §§ 2520.104–21 and 2520.104–43 (described in section B.7 of this preamble). Of particular note for GIAs is the addition of a new Schedule D (DFE/Participating Plan Information) to the Form 5500 Series. The Schedule D, which is described in more detail below, is primarily intended to serve as a multipurpose schedule for reporting certain information on relationships between plans and entities, including GIAs, that are classified as "direct filing entities" or DFEs.

3. Sections 2520.103–3, 2520.103–4, 2520.103–9, 2520.103–12 and 2520.103–1(e)

(a) Common/Collective Trusts (CCTs) and Pooled Separate Accounts (PSAs)

Section 2520.103–3 provides an exemption from certain annual reporting requirements for plan assets held in a CCT maintained by a bank, trust company or similar institution. Section 2520.103–4 provides a similar exemption for plan assets held in a PSA maintained by an insurance carrier. Pursuant to §§ 2520.103–3 and 2520.103–4, a plan investing in these entities generally is not required to include information regarding the individual transactions of the entity in the plan's annual report. Rather, the plan must include in its annual report certain information regarding: (i) the current value of the plan's units of participation in the CCT or PSA, (ii) transactions involving the acquisition and disposition of units of participation in the CCT or PSA, and (iii) a statement of the assets and liabilities of the CCT or PSA. Further, the Department, pursuant to §§ 2520.103–3(c)(3) and 2520.103–4(c)(3), exempts plans and GIAs from filing a statement of the assets and liabilities of the CCT and/or PSA as part of their annual report if the bank, trust company, similar institution or insurance carrier sponsoring the CCT or PSA files directly with the Department a statement of assets and liabilities for the fiscal year of the CCT or PSA ending with or within the plan year for which the information is being filed, and a list of participating plans identified by employer identification number (EIN), plan number and name of plan sponsor. In such a case, the bank, trust company, similar institution or insurance carrier sponsoring the CCT or PSA that files a statement of assets and liabilities directly with the Department must, within 120 days after the end of the plan year of the participating plan, transmit and certify the information needed by the plan administrator to file the annual report including, among other things, the CCT's or PSA's annual statement of assets and liabilities. See §§ 2520.103–5 and 2520.103–9(b)(3)(ii). In addition, the bank, trust company or insurance carrier sponsoring the CCT or PSA must furnish to the plan administrator a certification that a copy of its statement of assets and liabilities has been timely filed with the Department.

The absence of a standardized report for CCTs and PSAs to use in filing information directly with the Department has made it virtually impossible for the Department to correlate and effectively use the data regarding the plan assets held for investment by CCTs and PSAs. Further, the value of plan assets invested in CCTs and PSAs increased between 1990 and 1996, the latest year for which information is available, from $113.9 billion to $280 billion. The Department, accordingly, has concluded that a change in the current reporting rules is needed to enable it to continue to satisfy its research, disclosure and enforcement responsibilities.

Under the new Form 5500 Series and revised annual reporting regulations, as under the current Form 5500 Series and regulations, CCTs and PSAs may still elect to file information on behalf of their participating plans. Also, all CCTs and PSAs must notify participating plans within 120 days after the end of the plan year whether it intends to file a Form 5500 as a DFE, and furnish the plan administrator with the CCT's or PSA's statement of assets and liabilities as well as additional information about the assets held by such CCT or PSA needed by the plan administrator to satisfy its reporting obligations under Title I of ERISA.

The major change in this area is the new requirement that CCTs and PSAs electing to file as DFEs must report information on the Form 5500 as the standardized reporting format for all filers. In the case of a CCT or PSA that elects to file as a DFE, the CCT or PSA must complete: (i) applicable items on the revised Form 5500; (ii) a Schedule D to list all participating plans at any time during the year and all CCTs, PSAs, or investment entities described in § 2520.103–12 (103–12 IEs) that such CCT or PSA invested in during the year; and (iii) a Schedule H (Financial Information) (formerly referred to as the Schedule FIN in the September 3, 1997 **Federal Register** Notice of proposed forms revisions).

A large plan investing in one or more CCTs or PSAs that elect to file as a DFE may continue to include in its annual report, pursuant to revised §§ 2520.103–3 and 2520.103–4, the current value of its interest in these entities as a single entry on the appropriate lines in the plan's Schedule H (Financial Information) as of the beginning and end of the plan year. A large plan investing in a CCT or PSA which files as a DFE also reports on the plan's Schedule H income and expense statement the net investment gain/loss for each class of DFE as a single entry for each class of DFE. Schedule D (DFE/Participating Plan Information) must be attached to the plan's Form 5500 to report information about the plan's participation in all CCTs and PSAs, regardless of whether they file as DFEs.

In the case of small plans with CCT or PSA investments, regardless of whether the CCT or PSA files as a DFE, the small plan must file a Schedule D, but will report total assets and total income, respectively, on single line items of the small plan Schedule I financial statements without separate Schedule I financial statement reporting on CCT or PSA investments.

Thus, the reporting for large plans investing in CCTs and PSAs that elect to file as DFEs and for small plan filers has not changed significantly from the current reporting requirements. Similarly, except for the addition of Schedule H (Part II), generally the information that must be filed by a CCT or PSA that elects to file as a DFE would be substantially the same as the current reporting requirements.

Under revised §§ 2520.103–3 and 2520.103–4, if a CCT or PSA does not file a Form 5500 as a DFE, large employee benefit plans must break out their percentage interest in the underlying assets of the CCT or PSA and

report that interest as a dollar value in the appropriate categories on the asset and liability statement contained in Schedule H (Financial Information). The failure by a large plan to break out its allocated interest in a CCT or PSA on the asset and liability statement contained in Schedule H when the CCT or PSA does not file as a DFE will be considered a failure by the plan administrator to file a complete Form 5500. The Department does not envision this as imposing a substantial additional burden on large plan filers because there is only a small number of general investment categories on the Schedule H (for example, interest bearing cash; U.S. government securities; corporate debt instruments; corporate stock; partnership/joint venture interests; real estate; loans; registered investment companies; other assets; and employer securities) such that the currently required asset and liability statement of the CCT or PSA should provide for many filers most of the detail needed to break the assets and liabilities into these categories. Also, large plan filers investing in CCTs and PSAs that do not file as DFEs may still report the net investment gain/loss with respect to their participation in a CCT or PSA as part of single entries on Part II of the Schedule H (income and expense statement) and will continue to report their interest in a CCT or PSA on the Form 5500 financial schedules (other than Part I of Schedule H) in the same general manner as under current rules (e.g., current value of the units of participation in CCTs and PSAs will be reported on the schedule of assets held for investment and the Schedule D).

The Department believes that these changes to the reporting requirements for plans investing in CCTs and PSAs is the best available alternative for effectively capturing the information needed to carry out the Department's oversight responsibilities about the substantial amount of plan assets held by CCTs and PSAs, while ensuring that there is adequate disclosure regarding those plan investments to plan participants and beneficiaries. The Department, therefore, is exercising its regulatory authority under sections 103(b)(4), 104(a)(3), 110 and 505 to modify the reporting requirements with respect to plans that participate in CCTs and PSAs.

Some commentators stated that substantial lead time would be needed by CCTs and PSAs to prepare for the new reporting requirements and suggested delaying the implementation year. As discussed in the Notice of Adoption of Revised Forms published separately on February 2, 2000, in the **Federal Register** (65 FR 5026), to facilitate the transition to the new reporting rules for DFEs, the Department is clarifying the due date for Form 5500 DFE filings and adopting a transitional reporting rule for DFEs, other than GIAs, and for plans participating in DFEs, other than GIAs. First, as to the due date, inasmuch as the DFE filing continues to be considered an integral part of the annual report of each participating plan, the plan's annual report will continue to be treated as not complete unless the DFE information is filed within the prescribed time. The regulatory amendments clarify that, as with the current rule for statements of assets and liabilities, the DFE Form 5500 filing should pertain to the DFE fiscal year ending with or within the plan year. For example, if a DFE fiscal year begins on July 1 and ends on June 30, and the plan year begins on January 1 and ends on December 31, the DFE's 1999 Form 5500 filing should be for the fiscal year of the DFE ending on June 30, 1999. The regulatory amendments also establish the filing due date for all DFEs, other than GIAs, as no later than 9½ months after the end of the DFE's fiscal year.[3] This structure is intended to provide a simple and predictable filing deadline for DFEs while also ensuring that all DFE filings will be due on or before the latest possible due date for the annual report of any participating plan.

Second, the transitional rule applies to plans participating in CCTs or PSAs which do not elect to file as a DFE for their fiscal year ending in 1999. The transitional rule waives for the 1999 plan year the requirement that large plan filers break out their percentage interest in the underlying assets of the CCT or PSA that do not file as DFEs as dollar value entries in the appropriate categories on the asset and liability statement contained in Schedule H (Financial Information). Rather, for the 1999 plan year, plans may report their interest in the CCT or PSA on the aggregate amount lines of the plan's asset and liability statement (i.e., lines 1c(9) and 1c(10) of Schedule H) as of the beginning and end of the plan year even if the CCT or PSA does not file a Form 5500 as a DFE. Plans participating in a CCT or PSA also are not required to attach the CCT's or PSA's statement of assets and liabilities to its 1999 filing.

[3] The Department did not extend the filing due date for GIAs (i.e., due no later than the last day of the seventh calendar month after the end of the GIA fiscal year) because the GIA filing is in lieu of the plan's filing rather than supplementing the plan's filing (as is the case of filings made by CCTs, PSAs, master trusts and 103–12IEs). GIAs, however, are able to obtain the filing extension that is available to plans (i.e., 2½ months by timely filing an IRS Form 5558).

(b) Master Trusts and 103–12 Investment Entities

Section 2520.103–1(e) provides for special reporting rules for plans that participate in master trusts. In general, a master trust is a trust maintained by a bank, trust company or similar regulated financial institution to hold the assets of more than one plan sponsored by a single employer or by a group of employers under common control. Such plans must report the value of their interest in the master trusts as a single asset category in the plan's statement of assets and liabilities. The plan's share of master trust earnings, and realized and unrealized gains and losses is reported in the plan's statement of income, expenses and changes in net assets for the plan year. Under current rules, a separate annual report for each master trust is required to include certain information such as the statement of assets and liabilities, income and expense statement, service provider information, five percent reportable transactions schedule and schedule of assets held for investment, all of which are required to be separately reported for each master trust investment account. The amendments to § 2520.103–1(e) generally do not change the information required to be reported regarding the master trust and the related master trust investment accounts, but rather establish the Form 5500 Series as the standardized annual reporting format for each master trust investment account.

Section 2520.103–12 provides an exemption and alternative method of reporting for plans investing in certain investment entities the assets of which are deemed to include plan assets under § 2510.3–101. Specifically, if the 103–12 IE files certain information directly with the Department, the plan administrator is not required to include in the plan's annual report information regarding the underlying assets and individual transactions of the 103–12 IE. Instead, the administrator may report regarding the plan's investment or units of participation in the investment entity. The amendments to § 2520.103–12(b) do not change the information required to be reported by the 103–12 IE, but rather establish the Form 5500 Series as the standardized reporting format.

4. Section 2520.103–5

Section 2520.103–5 implements for certain annual reporting purposes the requirement in section 103(a)(2) of the Act under which insurance carriers or other organizations which provide some

or all of the benefits under a plan or hold plan assets, banks or similar institutions which hold plan assets, and plan sponsors [4] must transmit and certify to the accuracy and completeness of such information as is needed by the plan administrator to comply with the requirements of Title I of the Act. Because the filing requirements for employee benefit plans participating in a CCT or PSA generally will be affected by whether such CCT or PSA directly files as a DFE, § 2520.103–5 has been amended to clarify the notice and information obligations CCT and PSA sponsors have to plan administrators.

In the case of a CCT or PSA, the amendments require that such CCT or PSA notify its participating plans whether it intends to file a Form 5500 as a DFE, and to furnish the plan administrator with the information about the assets held by such CCT or PSA, respectively, needed by the plan administrator to satisfy its obligations under Title I of ERISA. The notification must be provided within the same period of time already required by § 2520.103–5 (i.e., 120 days after the close of each participating plan's plan year). Revised § 2520.103–5 does not contain detailed rules relating to the manner of the exchange of information between the plan and the CCT or PSA. Rather, plan administrators should develop with the sponsors of the CCT or PSA a suitable procedure whereby the plan administrator can establish to his or her satisfaction that the administrator and the Department will receive all of the required information in a timely fashion. The plan administrator, however, continues to be responsible for monitoring the conduct of the CCT or PSA sponsor and ultimately may be subject to Title I annual reporting penalties if the plan's annual report is rejected because the CCT or PSA failed to meet its commitment to file a DFE Form 5500 or because of defects in the DFE information filed by the CCT or PSA.

5. Section 2520.103–6 and Section 2520.103–11

Section 2520.103–6 sets forth the definition of reportable (5%) transactions for the Form 5500, and section 2520.103–11 provides rules for preparing the schedule of assets held for investment purposes and the schedule of assets held for investment purposes that were both acquired and disposed of within the same plan year (hereinafter collectively referred to as the schedules of assets held for investment purposes). The proposed regulations would have amended the reportable transactions rules to no longer require that participant directed transactions under an individual account plan be reported on the schedule of reportable transactions. Similarly, the proposed amendments to § 2520.103–11 would have eliminated for such participant directed assets the requirement to prepare the "historical cost" entry on the schedules of assets held for investment purposes. The amendments would not have relieved the administrator from including in the schedules of assets held for investment purposes descriptions and current values for assets held at a participant's or beneficiary's direction. The amendments are being adopted largely as proposed.

Sections 2520.103–6 and 2520.103–11, as amended, provide that, solely for purposes of the reporting relief for participant directed transactions, a transaction will be considered "directed" by a participant or beneficiary if it has been authorized by such participant or beneficiary. The Department in the final rule has modified the definition of the term "directed" by eliminating the requirement that the participant or beneficiary "affirmatively" authorize the transaction. The purpose of this change is to clarify that the term "directed" encompasses investments authorized through automatic enrollments, negative investment elections or default investment options under the terms of the plan instrument or instruments. This modification is intended to respond to comments that indicated the proposed reporting relief under §§ 2520.103–6 and 2520.103–11 would be ineffective if plan administrators were required to segregate such authorized transactions made without an "affirmative" direction from a participant or beneficiary. The Department notes, however, that these amendments do not affect the conditions for the fiduciary liability relief prescribed by § 2550.404c–1 which applies to a narrower class of transactions.

The Department is also amending § 2520.103–6 to include a special rule for the reportable transaction schedule for initial plan years. Section 2520.103–6(b)(1) currently requires calculation of the 5% thresholds for reportable transactions to be calculated using current value of assets as of the beginning of the plan year. Concerns have been expressed by filers that in the case of an initial plan year the current rule results in virtually all investment transactions during such plan year as being reportable transactions under § 2520.103–6. The Department does not believe that this result was intended under ERISA inasmuch as the purpose of the reportable transaction rules is to identify transactions relating to a significant portion of the plan's assets because these transactions are likely to pose the greatest financial risk to a plan. Accordingly, the Department is amending § 2520.103–6 to provide that the current value of plan assets as of the end of the plan year can be used for preparing the schedule of reportable transactions for the initial plan year.

Although the schedule of reportable transactions and schedules of assets held for investment purposes continue to be required as part of the annual report, filers are allowed to continue to use the format prescribed by the instructions to the Form 5500 or a similar format for preparing the schedules as long as the content requirements of §§ 2520.103–6 and 2520.103–11 are met and the same size paper as the Form 5500 is used.

6. Section 2520.103–10

Section 2520.103–10 identifies the separate financial schedules that are required to be included in the annual report filed for a plan under § 2520.103–1(a)(2) or a GIA under § 2520.103–2. The Department is amending § 2520.103–10 to update references to the annual report financial schedules to the schedules associated with the new Form 5500. Further, § 2520.103–10 is being amended to reflect the fact that under the new Form 5500 the use of the revised Schedule G is mandatory for large plans, master trust investment accounts, 103–12 IEs and GIAs required to report a schedule of party in interest transactions, a schedule of loans and fixed income obligations in default, and/or a schedule of leases in default. These schedules, through the 1998 plan year, could be filed on the Schedule G or by using a similar format and using the same size paper as the current Schedule G.

7. Section 2520.104–21 and Section 2520.104–43

Sections 2520.104–21 and 2520.104–43 provide an exemption from certain Title I reporting and disclosure requirements for welfare plans that are part of a GIA, as defined in paragraph (b) of section 2520.104–21, if the GIA files a Form 5500 Series annual report on behalf of all the participating plans. The annual reporting exemption is available if the arrangement, among other things, uses a trust (or other entity such as a trade association) as the

[4] Neither the new Form 5500 nor these regulatory amendments change the plan sponsors' obligations described in § 2520.103–5.

holder of the insurance contracts and the conduit for payment of premiums to an insurance company. See §§ 2520.104–21(b)(3) and 2520.104–43. The amendments to §§ 2520.104–21 and 2520.104–43 provide that the reporting exemption is available only in those cases in which the GIA utilizes a trust as the conduit for the payment of the premiums. The amendments also modify the examples in paragraph (d) of § 2520.104–21 to reflect that change. In the Department's view, clarifying the trust requirement in the reporting exemption for GIAs conforms it with section 403 of ERISA and § 2550.403a–1, which do not provide a trust exception for GIAs.[5] The Department does not envision that the amendments will create administrative burdens for GIAs or result in increased costs for participating plans because the plan assets already must be separately accounted for and subjected to an annual audit by an IQPA. However, the Department has adopted a delayed applicability date to allow a transition period for GIAs that currently do not use a trust. Specifically, the requirement that GIAs must use a trust as the conduit for the payment of all insurance premiums to the insurance company, for purposes of the reporting exemption described in §§ 2520.104–21 and 2520.104–43, applies beginning with the first reporting year commencing on or after January 1, 2001.

8. Sections 2520.104–41 and 2520.104–46

Section 2520.104–41 provides a simplified method of annual reporting for plans with fewer than 100 participants and § 2520.104–46 waives the IQPA requirement for such small plans. In general, small plans eligible to file simplified reports are currently required to file the Form 5500–C every third plan year and the Form 5500–R (an abbreviated version of the Form 5500–C) for the two intervening plan years. As indicated previously, the Agencies are replacing the Form 5500 and the Form 5500–C/R with a single Form 5500 for use by all filers, with simplified reporting options for small plans being incorporated into the structure and components of the new Form 5500. The final rule amends §§ 2520.104–41 and 2520.104–46 to conform the terms used in the regulations to the new Form 5500.

9. Section 2520.104–44

Section 2520.104–44 contains a limited exemption and alternative method of compliance for annual reporting by certain unfunded and insured plans. The current Form 5500 Series instructions provide for limited reporting for pension plans exclusively using a tax deferred annuity arrangement under Internal Revenue Code section 403(b)(1) and/or a custodial account for regulated investment company stock under Internal Revenue Code section 403(b)(7). The Department has previously expressed its view that such plans are not subject to the IQPA audit requirements as part of their annual reporting obligations under Title I of ERISA. The Department is adopting a technical amendment to § 2520.104–44 to clarify the availability of this exemption.

10. Section 2520.104b–10

Section 2520.104b–10 sets forth the requirements for the summary annual report (SAR) and prescribes formats for such reports. The amendments to section 2520.104b–10 conform the SAR requirements to the new Form 5500 Series. For example, the amendments restate the information listed in §§ 2520.104b–10(d)(3) and 2520.104b–10(d)(4) that is available to participants and beneficiaries under the heading "Your Rights to Additional Information" so that it is consistent with the new Form 5500 Series.

The amendments also address the elimination of the Form 5500–R. Under current SAR rules, administrators of small plans are not required to prepare and furnish a SAR for those plan years in which a Form 5500–R is filed if one of the two following methods of compliance is met. Under the first method of compliance, plans must furnish participants (and beneficiaries receiving benefits under a pension plan) with a copy of the filed Form 5500–R as a substitute for furnishing the SAR. Under the second method, plans are required to notify participants and such beneficiaries in writing of their right upon written request to receive free-of-charge a copy of the Form 5500–R filed by the plan. Under the second method of compliance, § 2520.104b–10(b)(2)(ii) permits active participants to be notified by posting the notice at worksite locations in a manner reasonably calculated to ensure disclosure of the information. The Form 5500–R furnished under either method of compliance must be accompanied by a prescribed notice. Because the Form 5500–R has been eliminated, small plans will be required to furnish a SAR every year.

In order to facilitate compliance with the SAR requirement, the Department also updated its cross-reference guide to correspond to the line items of the SAR to the relevant line items on the new Form 5500 and/or schedules. The cross-reference guide, as before, continues to be an appendix to § 2520.104b–10.

C. Findings Regarding the New Form 5500 as a Limited Exemption and Alternative Method of Compliance

Section 104(a)(2)(A) of the Act authorizes the Secretary of Labor (Secretary) to prescribe by regulation simplified reporting for pension plans that cover fewer than 100 participants. Section 104(a)(3) authorizes the Secretary to exempt any welfare plan from all or part of the reporting and disclosure requirements of Title I of ERISA or to provide simplified reporting and disclosure, if the Secretary finds that such requirements are inappropriate as applied to such plans. Section 110 permits the Secretary to prescribe for pension plans alternative methods of complying with any of the reporting and disclosure requirements if the Secretary finds that: (1) The use of the alternative method is consistent with the purposes of ERISA and it provides adequate disclosure to plan participants and beneficiaries, and adequate reporting to the Secretary; (2) application of the statutory reporting and disclosure requirements would increase costs to the plan or impose unreasonable administrative burdens with respect to the operation of the plan; and (3) the application of the statutory reporting and disclosure requirements would be adverse to the interests of plan participants in the aggregate.

For purposes of Title I of ERISA, the filing of a completed Form 5500 (including any required statements, schedules, and IQPA report) generally constitutes compliance with the limited exemption and alternative method of compliance in 29 CFR 2520.103–1(b). The findings required under ERISA sections 104(a)(3) and 110 relating to the use of the Form 5500, as revised, as an alternative method of compliance and limited exemption from the reporting and disclosure requirements of part 1 of Title I of ERISA are addressed below.

1. General Findings

In adopting revisions to the Form 5500 Series and the amendments in this final rule, the Department attempted to

[5] ERISA Technical Release 92–01 (57 FR 23272 and 58 FR 45359) announced interim relief from the trust and certain reporting requirements of ERISA for certain contributory welfare plans. Cafeteria plans of the individual employers participating in a GIA may continue to rely on the trust relief in Technical Release 92–01. Technical Release 92–01, however, is not available to GIAs or to participant contributions after they have been segregated from an employer's general assets and transmitted to the GIA.

balance the needs of participants, beneficiaries and the Department to obtain information necessary to protect ERISA rights and interests with the needs of administrators to minimize costs attendant with the reporting of information to the federal government. The Department makes the following findings under sections 104(a)(3) and 110 of the Act with regard to the utilization of the revised Form 5500 (and revised statements and schedules required to be attached to the Form 5500) as an alternative method of compliance and limited exemption pursuant to 29 CFR 2520.103–1(b).

The use of the revised Form 5500 as an alternative method of compliance is consistent with the purposes of Title I of ERISA and provides adequate disclosure to participants and beneficiaries and adequate reporting to the Secretary. While the information required to be reported on or in connection with the revised Form 5500 deviates, in some respects, from that delineated in section 103 of the Act, the information essential to ensuring adequate disclosure and reporting under Title I is required to be included on or as part of the Form 5500, as revised.

The use of Form 5500 as an alternative method of compliance relieves plans subject to the annual reporting requirements from increased costs and unreasonable administrative burdens by providing a standardized format which facilitates reporting, eliminates duplicative reporting requirements, and simplifies the content of the annual report in general. The Form 5500, as revised, is intended to further reduce the administrative burdens and costs attributable to compliance with the annual reporting requirements.

Taking into account the above, the Department has determined that application of the statutory annual reporting and disclosure requirements without the availability of the Form 5500 would be adverse to the interests of participants in the aggregate. The revised Form 5500 provides for the reporting and disclosure of basic financial and other plan information described in section 103 in a uniform, efficient, and understandable manner, thereby facilitating the disclosure of such information to plan participants.

Finally, the Department has determined under section 104(a)(3) that a strict application of the statutory reporting requirements, without taking into account the revisions to the Form 5500, would be inappropriate in the context of welfare plans for the same reasons discussed in this section C (the streamlined form reduces filing burdens without impairing enforcement, research and policy needs while at the same time providing adequate disclosure to participants and beneficiaries).

2. Special Findings

(a) Schedule A (Insurance Information)

Schedule A must be attached to the annual report if any benefits under a plan that is subject to Title I of ERISA are provided by an insurance company, insurance service or other similar organization. Although most of the Schedule A data has been retained substantially unchanged, certain changes were made to conform the Schedule A to recent accounting industry changes on "current value" financial reporting of investment-type contracts with insurance companies,[6] and to collect: (i) better identifying information on the type of insurance contracts and type of insured benefits being reported and (ii) the insurer's employer identification number and National Association of Insurance Commissioners' (NAIC) code.

In the interest of the efficient administration of ERISA, the Department has attempted to align the reporting and disclosure requirements, where possible and to the extent consistent with the interests of plan participants, with generally accepted accounting principles (GAAP). The Schedule A changes adopted by the Department are intended to be consistent with the Financial Accounting Standards Board Statement of Financial Accounting Standards No. 110 (FAS 110) and No. 126 (FAS 126) and American Institute of Certified Public Accountants Statement of Position 94–4 (SOP 94–4), which generally require the disclosure of the fair value of investment contracts with insurance companies (except for certain investment contracts held by defined benefit pension plans and "fully benefit responsive" contracts held by defined contribution pension and welfare plans with assets of $100 million or less). Because it is the Department's view that the Schedule A reporting requirements generally should be the same for small and large plans, the revised Form 5500 does not provide different Schedule A reporting standards depending on the size of the plan.

The Department also believes that the additional information required to be reported on the Schedule A (i.e., reporting fees and commissions paid to persons other than agents and brokers, improved identification of the types of insurance products, the NAIC code, and the EIN of the insurance company (or similar organization)) is useful to the Department in accomplishing its oversight responsibilities, and should not be burdensome to plans inasmuch as it can be provided to plans at the same time the insurance company (or similar organization) furnishes the other information required by section 103(a)(2) and the related annual reporting regulations.

(b) Schedule C (Service Provider Information)

Schedule C must be attached to the Form 5500 filed by large plan filers if any person received, directly or indirectly, $5,000 or more in compensation from the plan for all services rendered to the plan during the plan year. The major changes to the Schedule C involve eliminating the requirement to annually identify plan trustees, limiting the current requirement to explain certain service provider terminations to terminations of accountants and enrolled actuaries, and limiting the number of plan service providers required to be individually reported to the forty top paid service providers at or above the $5,000 threshold. The Department notes that trustee information already must be disclosed in the summary plan description (SPD), and changes in trustees must be disclosed in a summary of material modification (SMM). SPDs and SMMs must be furnished automatically, whereas the Form 5500 is required to be disclosed only on request. Further, although the reason for the termination will not be required to be reported in the case of other service provider terminations that previously were required to be reported, to the extent a service provider receives $5,000 or more in compensation from the plan, comparing the list of service providers on Schedule Cs from year to year will allow a participant or beneficiary to determine whether a particular service provider (such as an investment manager, trustee, or custodian) was terminated. With respect to limiting of the Schedule C list of service providers to the forty top paid providers receiving $5,000 or more in compensation, only 54 employee benefit plans filing the 1996 Form 5500 listed 40 or more service providers on their Schedule Cs. Those 54 filings constituted less than one percent of the Form 5500 filings received. These Schedule C changes will not, in the Department's view,

[6] ERISA § 3(26) defines "current value" as "fair market value where available and otherwise the fair value as determined in good faith by a trustee or named fiduciary * * * pursuant to the terms of the plan and in accordance with the regulations of the Secretary, assuming an orderly liquidation at the time of such determination."

result in inadequate disclosure to participants and beneficiaries in large plans. Because Schedule C is not required to be filed by small plans, the Schedule C changes described herein would not affect the annual reports of those plans.

(c) Schedule D (DFE/Participating Plan Schedule)

As indicated previously, the new DFE reporting rules were developed in an effort to improve the reporting requirements for plans participating in CCTs, PSAs, master trusts, 103–12 IEs and GIAs. With the exception of the new requirement for small plans on the Schedule D to report year-end dollar value of interests in individual CCTs, PSAs, master trusts and 103–12 IEs, substantially all of the information that would be required to be reported by employee benefit plans under the new DFE reporting regime is currently required to be reported. Similarly, substantially all of the information that is required to be reported by DFEs is currently required to be filed by CCTs and PSAs that elect to file as DFEs as well as master trusts, 103–12 IEs and GIAs. Thus, the Department believes that the major change in reporting with respect to DFEs is that information must be reported in a standardized format using the Form 5500 and associated schedules.[7] The Department does not believe that the new DFE rules should result in material cost increases or administrative burdens for plans. Further, direct reporting by CCTs, PSAs, 103–12 IEs and GIAs continues to be optional. To the extent there are cost or burden increases being passed through to the plan by the entity, plans can evaluate those annual reporting implications when deciding whether to participate in a CCT, PSA, 103–12 IE or GIA. The information that is available to be disclosed to participants and beneficiaries under the current annual reporting regime would not be reduced under the new Form 5500. Finally, as indicated previously, continuation of the current rules would result in inadequate reporting to the Department, would mean that the Department would continue to be unable to correlate and effectively use the data regarding the more than $2 trillion in plan assets invested by plans in DFEs or entities eligible to file as DFEs, and, therefore, in the Department's view, would be adverse to the interests of participants and beneficiaries in the aggregate.

(d) Schedule of Reportable Transactions and Schedules of Assets Held for Investment Purposes

A major underlying purpose for the schedule of reportable transactions is to identify significant transactions that may reveal fiduciary misconduct. Information on the schedule of reportable transactions regarding participant directed transactions is not generally relevant to that purpose. Similarly, historical cost information on the schedules of assets held for investment purposes is intended to provide information on the investment gain/loss performance of the specific assets or classes of assets. The plan's aggregate gain or loss on a class of assets held as a result of collective participant direction generally does not provide meaningful information on the gain or loss to a particular participant's account resulting from individually directed transactions. In light of the purposes underlying the reporting requirements and the additional costs and administrative burdens to plans from having to include this participant directed transaction information in these schedules, the Department believes that the revisions to these schedules are in the interest of participants and beneficiaries, will provide adequate disclosure to plan participants and beneficiaries, and will provide adequate reporting to the Department.

Other Supplementary Information

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA), imposes certain requirements with respect to Federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) and likely to have a significant economic impact on a substantial number of small entities. If an agency determines that a final rule is likely to have a significant economic impact on a substantial number of small entities, section 604 of the RFA requires the agency to present a final regulatory flexibility analysis at the time of the publication of the notice of final rulemaking describing the impact of the rule on small entities. Small entities include small businesses, organizations, and governmental jurisdictions.

For purposes of analysis under the RFA, the Pension and Welfare Benefits Administration (PWBA) considers a small entity to be an employee benefit plan with fewer than 100 participants. The basis for this definition is found in section 104(a)(2) of ERISA, which permits the Secretary to prescribe simplified annual reports for pension plans which cover fewer than 100 participants. Under section 104(a)(3), the Secretary may also provide for simplified annual reporting and disclosure if the statutory requirements of part 1 of Title I of ERISA would otherwise be inappropriate for welfare benefit plans. Pursuant to the authority of sections 104(a)(2) and 104(a)(3), the Department has previously issued certain simplified reporting provisions and limited exemptions from reporting and disclosure requirements for small plans, including unfunded or insured welfare plans covering fewer than 100 participants and which satisfy certain other requirements.

The definition of small entity used for the purpose of regulatory flexibility analysis differs from a definition of small business based on size standards promulgated by the Small Business Administration (SBA) (13 CFR 121.201) pursuant to the Small Business Act (5 U.S.C. 631 *et seq.*). Because of this, PWBA consulted with the SBA's Office of Advocacy on the use of its definition for purposes of the RFA analysis, and sought comments on the size standard used for purposes of its analysis and the estimated impact of the proposal on small entities. No comments were received which addressed the size standard under the RFA or the estimated impact on small entities.

PWBA has conducted a final regulatory flexibility analysis which takes into account both the general and specific findings specified in section C of this preamble as well as the public comments on the September 3, 1997 Notice of proposed forms revisions and the December 10, 1998 Notice of proposed rulemaking. This analysis is summarized below.

(1) The Department is promulgating this rule to amend the regulations relating to the annual reporting and disclosure requirements of section 103 of ERISA to conform existing regulations to revisions to the annual return/report forms (Form 5500). The extensive revision of the Form 5500 was undertaken for the purpose of streamlining and simplifying the form, and facilitating the implementation of an updated and efficient electronic processing system for Form 5500 filings.

[7] In the case of GIAs, the current rules require use of a Form 5500. For master trusts and 103–12 IEs, the Form 5500 instructions already require the filer either use the Form 5500 and schedules or report information in the same format using the same categories as those specified in the Form 5500. In the case of CCTs and PSAs, the Department does not believe imposing similar formatting requirements should involve any significant additional burden. The Department also believes that there will be minimal additional burden in requiring CCTs and PSAs that elect to file as a DFE to report income and expenses on Schedule H (Part II).

(2) Section 103 of ERISA requires every employee benefit plan covered under part 1 of Title I of ERISA to publish and file an annual report concerning, among other things, the financial conditions and operations of the plan. Section 109 of ERISA authorizes the Secretary to prescribe forms for the reporting of information that is required to be submitted as part of the annual report.

The Secretary may also prescribe alternative methods of complying with reporting and disclosure requirements if the Secretary finds that: (a) the use of the alternative method is consistent with the purposes of ERISA and provides adequate disclosure to participants and beneficiaries and adequate reporting to the Secretary, (b) application of the statutory reporting and disclosure requirements would increase costs to the plan or impose unreasonable administrative burdens with respect to the operation of the plan, and (c) the application of the statutory reporting and disclosure requirements would be adverse to the interests of plan participants in the aggregate.

The Department finds that use of the Form 5500 as revised constitutes an alternative method of compliance which is consistent with these conditions. Generally, the Department believes that use of the revised Form 5500 will relieve plans of all sizes from increased costs and unreasonable burdens that would otherwise arise by providing a standard format which facilitates reporting required by the statute, eliminates duplicative reporting requirements, and streamlines the content of the annual report.

(3) The Department, in conjunction with the IRS and PBGC, made a number of changes to the existing Form 5500 Series in an effort to reduce paperwork burdens and costs and enhance the utility of the annual report forms generally. The regulatory amendments adopted herein are designed to ease the burden of plans, both large and small, in complying with the reporting and disclosure requirements of ERISA. The regulatory amendments do not directly affect the number of small plans required to comply with the annual reporting requirements or change existing small plan limited exemptions from reporting requirements. Thus, for example, under the final rule small plans will continue to be exempt from reporting service provider information and supplying the report of an independent qualified public accountant. In addition, the conforming rules generally preserve the more limited reporting for small plans which is presently in effect.

(4) The 1995 Form 5500 filings indicate that there are approximately 662,000 small pension and welfare benefit plans required to file Form 5500 under Title I of ERISA. Because a significant number of insured or unfunded welfare plans with fewer than 100 participants are currently exempt from Form 5500 filing requirements and will continue to be exempt under the proposed revisions to the Form 5500 Series, other data sources must be consulted in order to assess the number of small plans impacted by the regulation in the context of a credible universe estimate. The 1996 Medical Expenditure Panel Survey, as tabulated by the Agency for Health Care Policy and Research, indicates the number of establishments offering health and other welfare plans. Using 1995 Census Bureau data on the ratio of firms to establishments. this establishment-based plan count can be converted to the number of welfare plans offered by firms. Adjusting this number to allow for multiemployer plans (in which two or more firms participate in a given plan), and for the number of welfare plans with 100 or more participants, yields an estimate of 6 million small welfare plans. The final rule, therefore, will impact only 662,000, or 11 percent of 6 million small plans.

(5) The revisions to the Form 5500 are expected to result in aggregate savings of $64 million per year for all plans completing and filing the form. Of this total, savings of $59 million (an 11 percent reduction) is attributable to large plans, and saving of $5 million (a 3 percent reduction) is attributable to small plans. While the revision of the form is expected to be beneficial to all plans, the savings by small plans is smaller relative to the large plan savings for two principal reasons. First, the reporting requirements for small plans are generally more limited under existing regulations. This is illustrated by the fact that 81 percent of all filers are small plans, while these small plans represent only 23 percent of total burden cost. As a consequence, current annual reporting requirements for small plans included fewer elements that might have been considered for revision or elimination.

In addition, although burden is expected to be reduced in the aggregate for all small plan filers, under certain circumstances the revisions of the form will result in the reporting of additional information by some small plan filers, offsetting to some degree the aggregate reduction in burden. Under the filing requirements in effect prior to implementation of this final rule, small plans were required to file a Form 5500–C at least once every three years, and the less detailed Form 5500–R in the two intervening years. While the ratio of Form 5500–R to Form 5500–C filings has varied from year to year, on average about 55% of all annual small plan filings have been on the Form 5500–R (45% on the Form 5500–C) because many small plans elected to file the Form 5500–C each year. Under this final rule, the more limited reporting for small plans is generally maintained, but the Form 5500–C/R is eliminated, increasing to some extent the burden for those who would have filed Form 5500–R for two of every three years, and offsetting the burden decrease for Form 5500–C filers. These changes for small plan filers are taken into account in the aggregate cost estimates.

(6) Costs for revisions to automated systems are not expected to impact small plans because it is assumed that small plans generally do not develop software to be used for preparation and filing of Form 5500. Although sma l plans seek the assistance of service providers for preparation and filing of the Form 5500, as noted below, the Department assumes that those service providers will not pass on to the small plans their development costs, or the fees they pay for software support if they purchase software from other developers.

(7) Completion of the Form 5500 requires a mixture of professional and clerical skills. As noted below, the burden estimate study indicated that about 90% of filers purchase services of service providers to file Form 5500, although filer resources are normally required to prepare documents for the service providers, review information submitted, and sign the form even when service providers maintain records and prepare the form. Both provider fees and filer time are included in the cost estimates presented here, based on information reported in the survey. It is assumed that these practices will not change as a result of the revisions to the Form 5500 Series.

(8) No significant alternatives to the final rule which would minimize the impact on small entities have been identified, although the review and proposed revision of the Form 5500 Series were undertaken to reduce paperwork burden for all filers while maintaining the more limited reporting for small plans. The Department believes it has minimized the economic impact of the forms revision and conforming rules on small plans to the extent possible while recognizing plan participants' and the Department's need

for information to protect participant rights under Title I of ERISA, and needs of other interested parties for timely statistical information on employee benefit plans.

Executive Order 12866 Statement

Under Executive Order 12866, the Department must determine whether the regulatory action is "significant" and therefore subject to the requirements of the Executive Order and subject to review by the Office of Management and Budget (OMB). Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of the Executive Order, it has been determined that this regulatory action creates a novel method of statutory compliance consistent with the President's priorities that will reduce paperwork and regulatory compliance burdens on businesses, including small businesses and organizations, and make better use of scarce federal resources, consistent with the mandates of the Paperwork Reduction Act (PRA) and the President's priorities. Therefore, this notice is "significant" and subject to OMB review under Executive Order 12866(3)(f)(4). Accordingly, the Department has undertaken an assessment of the costs and benefits of this regulatory action. This analysis follows the description of ERISA's annual reporting requirements and the development of the new Form 5500.

Background

Under part 1 of Title I of ERISA, administrators of pension and welfare benefit plans (collectively referred to as employee benefit plans) are required to file annual returns/reports concerning their financial condition and operations. ERISA section 104(a)(2)(A) authorizes the Secretary to prescribe by regulation simplified reporting for pension plans that cover fewer than 100 participants. Section 104(a)(3) authorizes the Secretary to exempt any welfare plan from all or part of the reporting and disclosure requirements of Title I or to provide simplified reporting and disclosure if the Secretary finds that such requirements are inappropriate as applied to such plans. Section 110 permits the Secretary to prescribe for pension plans alternative methods of complying with any of the reporting and disclosure requirements if the Secretary finds that: (1) The use of the alternative method is consistent with the purposes of ERISA and provides adequate disclosure to plan participants and beneficiaries and adequate reporting to the Secretary; (2) application of the statutory reporting and disclosure requirements would increase costs to the plan or impose unreasonable administrative burdens with respect to the operation of the plan; and (3) the application of the statutory reporting and disclosure requirements would be adverse to the interests of plan participants in the aggregate.

For purposes of Title I of ERISA, the filing of a completed Form 5500 (including any required statements, schedules, and the report of an independent qualified public accountant) generally constitutes compliance with the limited exemption and alternative method of compliance set forth by regulation in § 2520.103–1(b). As stated in this preamble, the Department has made the determination that application of the statutory annual reporting and disclosure requirements without the availability of the Form 5500 as revised would be adverse to the interests of participants in the aggregate. The use of the new Form 5500 as an alternative method of compliance would relieve plans subject to the annual reporting requirements from increased costs and unreasonable administrative burdens by providing a standardized format which facilitates reporting, eliminates duplicative reporting requirements, and simplifies the content of the annual report in general.

The Form 5500 Series serves as the primary source of information concerning the operation, funding, assets and investments of pension and other employee benefit plans. The Form 5500 is not only an important disclosure document for participants and beneficiaries, but also a compliance and research tool for the Department and a source of information and data for use by other federal agencies, Congress, and the private sector in assessing employee benefit, tax, and economic trends and policies.

The Pension and Welfare Benefits Administration, the Internal Revenue Service, and the Pension Benefit Guaranty Corporation have conducted an extensive review of the Form 5500 Series in an effort to streamline the information required to be reported and the methods by which the information is filed and processed. A proposed revision of the Form 5500 Series was published in the **Federal Register** on September 3, 1997 (62 FR 46556). The proposal was designed to lower the administrative burdens and costs incurred by the more than 800,000 employee benefit plans that annually file the Form 5500 Series. A public hearing on the proposed revision was held on November 17, 1997, and written comments on the proposal were received until the public record was closed on December 3, 1997. On February 4, 1998, the Department announced that, in response to public comments, the implementation of the new Form 5500 would be delayed until the 1999 plan year.

The Form 5500 as revised by the Agencies in response to comments received on the proposal and information presented at the public hearing, was submitted to the Office of Management and Budget (OMB) for approval under the PRA and a Notice was published in the **Federal Register** on June 24, 1998 (63 FR 34493) which provided a 30-day opportunity to submit comments to OMB on the new Form 5500. At the same time, a draft version of the new Form 5500 was also made available on PWBA's Internet site (http://www.dol.gov/dol/pwba) as part of the Agencies' commitment to make information about the new forms available to plans and their service providers at the earliest opportunity. Following its PRA review, OMB gave conditional PRA approval to the new Form 5500 on August 26, 1998. The approval was conditioned on the Agencies making minor technical adjustments to the form [8] and soliciting

[8] The OMB conditions were published in the **Federal Register** on December 10, 1998 (63 FR 68370) in the preamble to the proposed amendments to the Department of Labor reporting regulations that would conform them to the previously published proposed form changes. The conditions, as stated in footnote number 1 to that preamble, involved (i) consolidating the separate reporting of long-term and short-term corporate debt instruments into one line item for all corporate debt instruments on the Schedule H (Income and Expense Statement), (ii) adding a clarifying instructional statement to the text on line 5 of Schedule R, (iii) bolding instructional text on line 3 of Schedule T, (iv) adding a statement to the Schedule C instructions that trades and businesses (whether or not incorporated) are "persons" required to be reported as service providers, and (v) clarifying the instructions for line 3b(2) of Schedule

public comments on computer scannable versions of the new form. On June 28, 1999, the Agencies published a **Federal Register** notice (64 FR 34686) soliciting public comments on the draft computer scannable versions of the new form developed by two vendors who were competing for the contract to install the ERISA Filing Acceptance System (EFAST). Contracts were initially awarded to two national computer firms to competitively develop this system and the computer scannable versions of the new Form 5500. The Agencies subsequently selected the vendor to process the final scannable version of the new Form 5500. Although the reformatting of the form approved by OMB on August 26, 1998 to a computer scannable form affects the appearance and length of the new form, the data elements have not been affected. See the EFAST Internet site at www.efast.dol.gov and the Notice of Adoption of Revised Forms (published separately on February 2, 2000 in the **Federal Register** (65 FR 5026)) for information on filing the 1999 Form 5500.[9]

The final Form 5500 to be used for 1999 and later plan years incorporates the new structure as proposed (i.e., a short form that serves both as a simple registration statement and a checklist that guides each filer to the more detailed schedules that are applicable to the filer's specific type of plan). The new structure allows filers to assemble and file a "customized" report, and also allows the Agencies to maintain a less costly and more efficient processing system.[10] Because information reported to the Department is also subject to ERISA's disclosure provisions, the Department in this final rule has attempted to balance the needs of participants, beneficiaries and the Department to obtain information necessary to protect ERISA rights and interests with the needs of administrators to minimize costs attendant with the reporting of information to the federal government.

The Department believes that the current action conforming rules related to annual reporting obligations for employee benefit plan administrators to the new Form 5500 Series is consistent with the principles set forth in the Executive Order in that it will reduce costs and paperwork burdens over the life of the forms while enhancing the ability to protect benefits with timely and accurate information.

Overview of Costs and Benefits of the Regulation

This regulation conforms the reporting and disclosure regulations of Title I of ERISA to the revisions made to the Form 5500 for the purpose of streamlining and simplifying the form, and reduces burdens while ensuring that both the Department and participants have sufficient information to protect participant rights under ERISA. The Department has assessed the costs and benefits of the final regulation relative to the costs of annual reporting in the current environment. The benefits and costs of the statutory annual reporting requirements and current practices are included in the baseline and are, therefore, not considered benefits or costs of the final regulation.

The baseline net costs of the annual reporting requirements include the benefits which arise from the use of a standardized reporting form, the costs of maintaining certain records, communicating with professional service providers, and completing and mailing the form each time it is required to be filed. The unit cost of completing and filing the form is known to be highly variable due to the very large number of filer types (e.g., defined benefit and defined contribution pension plans, fully insured and trust-funded welfare plans, small and large plans, etc.) with differing data requirements. In addition, assessment of a baseline cost was further complicated by differing methodologies used by the Department and by the Internal Revenue Service for estimating the burden of the Form 5500 for PRA purposes. The PRA burden is relevant because it is assumed that the baseline cost of the annual reporting requirement is the total cost of the PRA burden prior to the revision of the form. The cost of the regulation is assumed to be the estimated cost of the PRA burden for preparing and filing the Form 5500 as revised, plus the estimated cost of any automated system changes for filers and service providers to implement the revisions to the Form 5500, less the baseline PRA cost.

The Agencies solicited comments on the burden estimates of the proposed changes to the Form 5500 in September of 1997. The comments indicated that the burden estimates were too low. In order to address these comments, and in an effort to develop a consistent approach to the estimation of the burden of the form, the Agencies undertook an evaluation of their burden estimation methodologies for the purpose of developing a revised and uniform methodology. The Agencies have subsequently adopted the methodological approach developed in the course of this study.

The results of the study, which involved the input of employee benefits professionals and a survey of actual plan sponsor and service provider filers of the Form 5500,[11] supply the basis of both the baseline cost shown here, as well as the estimated cost of completing and filing the revised Form 5500 for those portions attributable to the Department under Title I of ERISA. The additional economic cost of automated system change was estimated based on a separate consultation with a small number of entities which either develop, purchase, or offer automated systems for annual reporting by employee benefit plans. The burden methodology study addressed the time required by filers and service providers to maintain necessary records and complete the form, but did not address the potential cost of adjustments which may be required for automated systems to alter output format for consistency with the changes made to the organization of the information on the form. While these costs would not necessarily be borne by plans or by respondents to the information collection provisions of the regulation, costs of this nature are expected to be incurred and are appropriately accounted for in the analysis of the

H regarding the inapplicability of the "short plan year" provisions of 29 CFR 2520.104–50 to Direct Filing Entity Form 5500s filed for GIAs and 103–12 IEs.

[9] To allow filers more time to transition to the new computer scannable formats for the Form 5500 Series and EFAST, the Agencies announced on March 22, 2000, that, for filers whose 1999 Form 5500 Series would be due on or before July 31, 2000, the deadline for filing has been extended to October 16, 2000. See PWBA News Release USDL 00–16, dated March 22, 2000, for details on the transition-year automatic extension.

[10] There are 13 schedules as part of the new Form 5500 package—five pension schedules, seven financial schedules, and one fringe benefit schedule. The pension Schedules are: Schedule B (Actuarial Information), Schedule E (ESOP Annual Information), Schedule R (Retirement Plan Information), Schedule T (Qualified Pension Plan Coverage Information), and Schedule SSA (Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits). The financial Schedules are: Schedule A (Insurance Information), Schedule C (Service Provider Information), Schedule D (DFE/Participating Plan Information); Schedule G (Financial Transaction Schedules), Schedule H (Financial Information), Schedule I (Financial Information-Small Plan) and Schedule P (Annual Return of Fiduciary of Employee Benefit Trust). The fringe benefit schedule is Schedule F (Fringe Benefit Plan Annual Information Return). The new schedules are Schedules D, H, I, R and T; the schedules that have been revised are Schedules A, C and G; and the schedules that have either not been revised or have undergone minimal changes are Schedules B, E, F, P and SSA.

[11] The survey was designed and conducted by a survey research organization and received prior approval by OMB under control number 1210–0109 based on the Department's submission of the information collection request.

impact of this final regulation. The findings of these surveys are discussed in greater detail in the discussion of costs below.

The principal benefit of the regulation arises from the streamlining of the form, the elimination and clarification, where possible, of elements known to contribute to errors or confusion, and the improved organization of the form, which are expected to result in direct savings for filers. Other benefits less readily quantifiable include the availability of more complete information on the large volume of assets held by DFEs, and support of a simplified and expedited system for processing the Form 5500 that provides better and faster enforcement as well as better and faster disclosure.

The net benefits of the revisions of the Form 5500 attributable to the Department are estimated at approximately $59 million in the first year of implementation, and approximately $64 million in each subsequent year. The savings figure is somewhat lower in the first year due to the costs of automated system modifications, which are expected to amount to approximately $5 million. The total baseline cost of completion of the portions of the Form 5500 attributed to the Department is estimated at $717.8 million, while the cost of completion of the revised Form 5500 is estimated at $653.7 million. This estimate of savings does not yet take into account additional and potentially significant savings which may be realized in connection with the implementation of EFAST.

Benefits

The revision of the Form 5500 Series was undertaken in an effort to simplify and streamline the annual return/report, and reduce the reporting burden on filers. The new form is intended to reduce the total amount of information to be reported by many plans by eliminating information that is not useful for enforcement, disclosure to participants and beneficiaries, research, or other statutorily mandated missions. The revisions are also designed to eliminate redundant items and revise questions that have historically produced filing errors. The revisions also generally require welfare plans to complete fewer items than pension plans, and small plans to complete fewer items than large plans.

The revisions eliminate the Form 5500–C/R, but maintain limited financial reporting similar to the existing Form 5500–R for small plans. Plans currently exempt from filing a return/report (such as certain small unfunded/insured welfare plans and certain Simplified Employee Pensions (SEPs), or those eligible for limited reporting options (such as certain Internal Revenue Code section 403(b) plans) will continue to be eligible for that annual reporting relief.

The revisions restructure the Form 5500 along the lines familiar to individual and corporate taxpayers—a simple main form with basic information necessary to identify the plan for which the report is filed, along with a checklist of the schedules being filed which are applicable to the filer's plan type. The structure should aid filers by allowing them to assemble and file a return that is customized to their plan. Instructions to the form have been reorganized with the intention that they be easier to use due to grouping on the basis of the schedules to be attached. In other words, the revised instructions will allow filers to go directly to the instructions which apply to them, and bypass those which do not apply.

Based on the elimination of certain information and reformatting of the Form 5500 Series, the burden of preparing and filing the form is estimated to be reduced by almost 9 percent per year over the life of the form. As noted earlier, the savings is estimated to amount to $64 million per year, before adjustment for additional costs expected to be incurred for automated system changes.

The revisions also establish the Form 5500 as the standardized reporting format for DFEs. The DFE reporting rules were intended to simplify the annual reporting requirements for participating plans and eliminate confusion regarding the reporting obligations of plans which participate in DFEs. Standardization of the information reported by DFEs is expected to allow the Department to correlate asset information with plans and to use the DFE data more effectively for enforcement, disclosure and research purposes with respect to the approximately $2 trillion in plan assets presently held by DFEs or entities eligible to file as DFEs.[12] Improved data is expected to contribute to the meaningful analysis of the assets of pension plans because approximately 45 percent of private pension assets are held by DFEs or entities eligible to file as DFEs.

The revisions are also designed to support and facilitate EFAST, the processing system being developed to simplify and expedite the processing of the Form 5500. This new system will rely on electronic filing with automatic error detection, and optical scanning technology and optical character recognition to computerize the paper forms, resulting in increasing efficiencies in processing and corresponding reductions in the government's processing costs. Implementation of the single form with multiple schedules is also expected to reduce the government's costs to process the forms, due to the overall reduction in the information submitted.

Costs of the Regulation

The baseline costs of annual reporting consist of a number of elements such as the time and cost of maintaining records for the purpose of reporting on Form 5500, the time and cost of hiring service providers such as accountants and administrators to complete all or part of work necessary to maintain appropriate records and complete and file the form, time required to communicate with and review the work of service providers, and time required to complete and file the form manually or through automation. The variability of these elements is dependent upon choices made by filers as well as the nature and size of their plans.

In order to develop an accurate estimate of baseline cost to file Form 5500, among other reasons, the Agencies involved in the revision of the Form 5500 engaged a survey research firm to conduct a survey of filers. Because of the wide variation in filing behavior and requirements among sponsors and service providers, the survey included a sample intended to be reasonably representative of the filer universe, rather than a probability sample, which would have been substantial in size thereby resulting in a survey which would have been very costly to conduct. A very large sample was not considered likely to result in more reliable data in any event because neither sponsors nor service providers tend to maintain detailed records of the time required or costs of preparing and filing Form 5500.

The methodology for the survey was developed by the contractor with input from experts who are familiar with reporting requirements and who file Form 5500 professionally. Survey respondents were asked to report sponsor burden in hours, and service provider burden in actual dollars spent for purchased services. The survey showed that about 90 percent of filers employ service providers for the completion and filing of Form 5500. The baseline survey, which referred to the 1997 Form 5500 (the latest available at

[12] Estimate based on the total assets held by private pension plans in 1999 as reported by the Federal Reserve Board and the percentage of all plan assets reported to be invested in these entities in 1995 Form 5500 filings.

the time the survey was initiated) after application of actual responses across filer categories, indicated that 2,131,261 sponsor hours and $557,907,442 in fees were expended annually in the completion of the Department's elements of the Form 5500. The total cost of $717,752,000, which includes the cost represented by the sponsor hours, is calculated using an assumed average rate of $75 per burden hour.[13]

The change in burden for the 1999 Form 5500 was estimated by means of a second survey of the respondents which focused on the changes made to the form. The relationship between hours and costs was assumed to remain constant. After application of responses across filer categories, the second phase of the survey indicated a reduction from the baseline sponsor hours to 1,817,412 and a reduction from the baseline cost to $517,367,000. The total cost of filing the 1999 Form 5500 was therefore estimated at $653,673,000, including the hours at a rate of $75 per hour. It is the Department's view that these estimates, while somewhat different from those presented at the time of the proposal, represent reasonable current estimates of the cost of the baseline and regulation due to the design of the survey and its reliance on a representative group of actual filers.

As noted, however, filers who rely on automated recordkeeping and document production systems for completion of the Form 5500 may be expected to incur other costs to reconfigure output for consistency with the new organization of the form. Although maintenance of automated systems is not required, it is assumed that sponsors and service providers who currently make use of automated systems due to their improved efficiency will revise and continue to make use of such systems in the future. In order to establish a basis for the estimate of the cost of these revisions, the Department arranged for the conduct of a separate survey of a total of 9 software developers and service providers that either offer software to complete Form 5500 or services which incorporate a software package either developed internally or purchased from an outside software developer.

These respondents were asked to describe the nature of the changes that would be required, and either the magnitude and nature of their costs to make changes or the fees they would charge in order to recover their costs. Most respondents indicated that system updating is a relatively constant process, but that substantial additional work would be required for 1999 principally to modify system output. Developers indicated that they anticipated charging either a one-time fee to their system purchasers, or a percentage increase in the maintenance fees charged to system purchasers. Based on the information collected in the survey, those system purchasers are predominantly service providers to plans. Service provider responses to the survey appeared to indicate in general that additional fees charged to them for system programming and maintenance would not necessarily be passed on to plans.

This may be explained in several ways, including the fact that service providers may view the investment in software revision as an investment to be used for future earnings, that they may be in a position to spread such increases over many clients resulting in a small rate of profit reduction per client, that they may expect to readily recover the investment in efficiency gains arising from the streamlining of the form and electronic filing, and the fact that existing service provider fees are based on a complex set of factors not necessarily directly related to the service provider's direct cost of providing a specific service such as the completion of Form 5500.

Based on the ratios of the numbers of plans per automated system reported by respondent, reported estimates of charges to recover reprogramming costs, and the number of plans estimated to make use of service providers for the completion and filing of Form 5500, it is estimated that developers and providers will invest approximately $5 million in reprogramming efforts prior to implementation of the revised Form 5500.

Paperwork Reduction Act Statement

This final regulation imposes no new information collection requirements in addition to the information collection requirements associated with the submission of the Form 5500 Series (OMB control numbers 1210–0110 and 1210–0089) and the ERISA Summary Annual Report (OMB Control number 1210–0040).

Small Business Regulatory Enforcement Fairness Act

This final rule is subject to the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*) and is being transmitted to Congress and the Comptroller General for review. The final rule, however, is not a "major rule," as that term is defined in 5 U.S.C. 804, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, or federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), as well as Executive Order 12875, this final regulation does not include any Federal mandate that may result in expenditures by State, local or tribal governments, and would not impose an annual burden exceeding $100 million on the private sector.

Executive Order 13132 Statement

This final rule does not have federalism implications because it has no substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Section 514 of ERISA provides, with certain exceptions specifically enumerated, that the provisions of Titles I and IV of ERISA supercede any and all laws of the States as they relate to any employee benefit plan covered under ERISA. This final rule, therefore, does not affect the States or change the relationship or distribution of power between the national government and the States. Further, this final rule implements certain revisions to annual reporting and disclosure regulations which have been in effect in similar form for many years. The amendments incorporated in this final rule do not alter the fundamental requirements of the statute with respect to the reporting and disclosure requirements for employee benefit plans, and as such have no implications for the States or the relationship or distribution of power between the national government and the States.

Statutory Authority

This regulation is adopted pursuant to the authority in sections 101, 103, 104, 109, 110, 111, 504 and 505 of ERISA

[13] The average rate used for this estimate is based on average labor hour rates for lawyers, accountants, budget analysts and financial managers from the 1998 Employment Cost Index and the 1997 Occupational Employment Statistics Survey (Bureau of Labor Statistics) as adjusted for estimated overhead and profit margin.

and under Secretary of Labor's Order No. 1–87, 52 FR 13139, April 21, 1987.

List of Subjects in 29 CFR Part 2520

Accountants, Disclosure requirements, Employee benefit plans, Employee Retirement Income Security Act, Pension plans, Pension and welfare plans, Reporting and recordkeeping requirements, and Welfare benefit plans.

In view of the foregoing, Part 2520 of Chapter XXV of Title 29 of the Code of Federal Regulations is amended as set forth below:

PART 2520—RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

1. The authority citation for Part 2520 continues to read as follows:

Authority: Secs. 101, 102, 103, 104, 105, 109, 110, 111(b)(2), 111(c), and 505, Pub. L. 93–406, 88 Stat. 840–52 and 894 (29 U.S.C. 1021–1025, 1029–31, and 1135); Secretary of Labor's Order No. 27–74, 13–76, 1–87, and Labor Management Services Administration Order 2–6.

Sections 2520.102–3, 2520.104b–1 and 2520.104b–3 also are issued under sec. 101(a), (c) and (g)(4) of Pub. L. 104–191, 110 Stat. 1936, 1939, 1951 and 1955 and, sec. 603 of Pub. L. 104–204, 110 Stat. 2935 (29 U.S.C. 1185 and 1191c).

2. Section 2520.103–1 is amended by revising the phrase "section 104(a)(1)(A)" in paragraph (a) introductory text to read "section 104(a)(1)", revising the introductory text of paragraph (b), paragraph (b)(1), the first sentence of paragraph (b)(2)(i), paragraphs (b)(4), (c), (d) and the first sentence of paragraph (e) and by adding a paragraph (f) to read as follows:

§ 2520.103–1 Contents of the annual report.

* * * * *

(b) *Contents of the annual report for plans with 100 or more participants electing the limited exemption or alternative method of compliance.* Except as provided in paragraph (d) of this section and in §§ 2520.103–2 and 2520.104–44, the annual report of an employee benefit plan covering 100 or more participants at the beginning of the plan year which elects the limited exemption or alternative method of compliance described in paragraph (a)(2) of this section shall include:

(1) A Form 5500 "Annual Return/Report of Employee Benefit Plan" and any statements or schedules required to be attached to the form, completed in accordance with the instructions for the form, including Schedule A (Insurance Information), Schedule B (Actuarial Information), Schedule C (Service Provider Information), Schedule D (DFE/Participating Plan Information), Schedule G (Financial Transaction Schedules), Schedule H (Financial Information), Schedule R (Retirement Plan Information), and the other financial schedules described in § 2520.103–10. See the instructions for this form.

(2) * * *

(i) A statement of assets and liabilities at current value presented in comparative form for the beginning and end of the year. * * *

* * * * *

(4) In the case of a plan, some or all of the assets of which are held in a pooled separate account maintained by an insurance company, or a common or collective trust maintained by a bank or similar institution, a copy of the annual statement of assets and liabilities of such account or trust for the fiscal year of the account or trust which ends with or within the plan year for which the annual report is made as required to be furnished to the administrator by such account or trust under § 2520.103–5(c). Although the statement of assets and liabilities referred to in § 2520.103–5(c) shall be considered part of the plan's annual report, such statement of assets and liabilities need not be filed with the plan's annual report. See §§ 2520.103–3 and 2520.103–4 for reporting requirements for plans some or all of the assets of which are held in a pooled separate account maintained by an insurance company, or a common or collective trust maintained by a bank or similar institution.

* * * * *

(c) *Contents of the annual report for plans with fewer than 100 participants.* Except as provided in paragraph (d) of this section and in §§ 2520.104–43 and 2520.104a–6, the annual report of an employee benefit plan which covers fewer than 100 participants at the beginning of the plan year shall include a Form 5500 "Annual Return/Report of Employee Benefit Plan" and any statements or schedules required to be attached to the form, completed in accordance with the instructions for the form, including Schedule A (Insurance Information), Schedule B (Actuarial Information), Schedule D (DFE/Participating Plan Information), Schedule I (Financial Information—Small Plan), and Schedule R (Retirement Plan Information). See the instructions for this form.

(d) *Special rule.* If a plan has between 80 and 120 participants (inclusive) as of the beginning of the plan year, the plan administrator may elect to file the same category of annual report (i.e., the annual report for plans with 100 or more participants under paragraph (b) of this section or the annual report for plans with fewer than 100 participants under paragraph (c) of this section) that was filed for the previous plan year.

(e) *Plans which participate in a master trust.* The plan administrator of a plan which participates in a master trust shall file an annual report on Form 5500 in accordance with the instructions for the form relating to master trusts and master trust investment accounts. * * *

(f) *Electronic filing.* The Form 5500 "Annual Return/Report of Employee Benefit Plan" may be filed electronically or through other media in accordance with the instructions accompanying the form, provided the plan administrator maintains an original copy, with all required signatures, as part of the plan's records.

3.–4. Section 2520.103–2 is amended by revising paragraph (b)(1), the first sentence of paragraph (b)(2)(i) and paragraph (b)(4) and by adding paragraph (c) to read as follows:

§ 2520.103–2 Contents of the annual report for a group insurance arrangement.

* * * * *

(b) *Contents.* (1) A Form 5500 "Annual Return/Report of Employee Benefit Plan" and any statements or schedules required to be attached to the form, completed in accordance with the instructions for the form, including Schedule A (Insurance Information), Schedule C (Service Provider Information), Schedule D (DFE/Participating Plan Information), Schedule G (Financial Transaction Schedules), Schedule H (Financial Information), and the other financial schedules described in § 2520.103–10. See the instructions for this form.

(2) * * *

(i) A statement of all trust assets and liabilities at current value presented in comparative form for the beginning and end of the year. * * *

* * * * *

(4) In the case of a group insurance arrangement some or all of the assets of which are held in a pooled separate account maintained by an insurance carrier, or in a common or collective trust maintained by a bank, trust company or similar institution, a copy of the annual statement of assets and liabilities of such account or trust for the fiscal year of the account or trust which ends with or within the plan year for which the annual report is made as required to be furnished by such account or trust under § 2520.103–5(c). Although the statement of assets and

liabilities referred to in § 2520.103–5(c) shall be considered part of the group insurance arrangement's annual report, such statement of assets and liabilities need not be filed with its annual report. See §§ 2520.103–3 and 2520.103–4 for reporting requirements for plans some or all of the assets of which are held in a pooled separate account maintained by an insurance company, or a common or collective trust maintained by a bank or similar institution, and see § 2520.104–43(b)(2) for when the terms "group insurance arrangement" or "trust or other entity" shall be, respectively, used in place of the terms "plan" and "plan administrator."

* * * * *

(c) *Electronic filing.* The Form 5500 "Annual Return/Report of Employee Benefit Plan" may be filed electronically or through other media in accordance with the instructions accompanying the form, provided the trust or other entity described in § 2520.104–43(b) maintains an original copy, with all required signatures, as part of the trust's or entity's records.

5.–6. Section 2520.103–3 is amended by revising paragraphs (a) and (c) to read as follows:

§ 2520.103–3 Exemption from certain annual reporting requirements for assets held in a common or collective trust.

(a) *General.* Under the authority of sections 103(b)(3)(G), 103(b)(4), 104(a)(2)(B), 104(a)(3), 110 and 505 of the Act, a plan whose assets are held in whole or in part in a common or collective trust maintained by a bank, trust company, or similar institution which meets the requirements of paragraph (b) of this section shall include as part of the annual report required to be filed under §§ 2520.104a–5 or 2520.104a–6 the information described in paragraph (c) of this section. Such plan is not required to include in its annual report information concerning the individual transactions of the common or collective trust. This exemption has no application to assets not held in such trusts.

* * * * *

(c) *Contents.* (1) A plan which meets the requirements of paragraph (b) of this section, and which invests in a common or collective trust that files a Form 5500 report in accordance with § 2520.103–9, shall include in its annual report: information required by the instructions to Schedule H (Financial Information) or Schedule I (Financial Information—Small Plan) about the current value of and net investment gain or loss relating to the units of participation in the common or collective trust held by the plan; identifying information about the common or collective trust including its name, employer identification number, and any other information required by the instructions to the Schedule D (DFE/Participating Plan Information); and such other information as is required in the separate statements and schedules of the annual report about the value of the plan's units of participation in the common or collective trust and transactions involving the acquisition and disposition by the plan of units of participation in the common or collective trust.

(2) A plan which meets the requirements of paragraph (b) of this section, and which invests in a common or collective trust that does not file a Form 5500 report in accordance with § 2520.103–9, shall include in its annual report: information required by the instructions to Schedule H (Financial Information) or Schedule I (Financial Information—Small Plan) about the current value of the plan's allocable portion of the underlying assets and liabilities of the common or collective trust and the net investment gain or loss relating to the units of participation in the common or collective trust held by the plan; identifying information about the common or collective trust including its name, employer identification number, and any other information required by the instructions to the Schedule D (DFE/Participating Plan Information); and such other information as is required in the separate statements and schedules of the annual report about the value of the plan's units of participation in the common or collective trust and transactions involving the acquisition and disposition by the plan of units of participation in the common or collective trust.

7. Section 2520.103–4 is amended by revising paragraphs (a) and (c) to read as follows:

§ 2520.103–4 Exemption from certain annual reporting requirements for assets held in an insurance company pooled separate account.

(a) *General.* Under the authority of sections 103(b)(3)(G), 103(b)(4), 104(a)(2)(B), 104(a)(3), 110 and 505 of the Act, a plan whose assets are held in whole or in part in a pooled separate account of an insurance carrier which meets the requirements of paragraph (b) of this section shall include as part of the annual report required to be filed under § 2520.104a–5 or § 2520.104a–6 the information described in paragraph (c) of this section. Such plan is not required to include in its annual report information concerning the individual transactions of the pooled separate account. This exemption has no application to assets not held in such a pooled separate account.

* * * * *

(c) *Contents.* (1) A plan which meets the requirements of paragraph (b) of this section, and which invests in a pooled separate account that files a Form 5500 report in accordance with § 2520.103–9, shall include in its annual report: information required by the instructions to Schedule H (Financial Information) or Schedule I (Financial Information—Small Plan) about the current value of, and net investment gain or loss relating to, the units of participation in the pooled separate account held by the plan; identifying information about the pooled separate account including its name, employer identification number, and any other information required by the instructions to the Schedule D (DFE/Participating Plan Information); and such other information as is required in the separate statements and schedules of the annual report about the value of the plan's units of participation in the pooled separate accounts and transactions involving the acquisition and disposition by the plan of units of participation in the pooled separate account.

(2) A plan which meets the requirements of paragraph (b) of this section, and which invests in a pooled separate account that does not file a Form 5500 report in accordance with § 2520.103–9, shall include in its annual report: information required by the instructions to Schedule H (Financial Information) or Schedule I (Financial Information—Small Plan) about the current value of the plan's allocable portion of the underlying assets and liabilities of the pooled separate account and the net investment gain or loss relating to the units of participation in the pooled separate account held by the plan; identifying information about the pooled separate account including its name, employer identification number, and any other information required by the instructions to the Schedule D (DFE/Participating Plan Information); and such other information as is required in the separate statements and schedules of the annual report about the value of the plan's units of participation in the pooled separate account and transactions involving the acquisition and disposition by the plan of units of participation in the pooled separate account.

8. Section 2520.103–5 is amended by redesignating paragraph (c)(1)(iii) as paragraph (c)(1)(iv), redesignating paragraphs (c)(2)(ii) and (c)(2)(iii), as paragraphs (c)(2)(iii) and (c)(2)(iv),

revising all references in the section to the term "section 104(a)(1)(A)" to read "section 104(a)(1)", revising paragraphs (c)(1)(ii) and (c)(2)(i) and adding new paragraphs (c)(1)(iii), and (c)(2)(ii) to read as follows:

§ 2520.103–5 Transmittal and certification of information to plan administrator for annual reporting purposes.

* * * * *

(c) * * *

(1) * * *

(ii) Holds assets of a plan in a pooled separate account and files a Form 5500 report pursuant to § 2520.103–9 for the participating plan's plan year—

(A) A copy of the annual statement of assets and liabilities of the separate account for the fiscal year of such account ending with or within the plan year for which the participating plan's annual report is made,

(B) A statement of the value of the plan's units of participation in the separate account,

(C) The Employer Identification Number (EIN) of the separate account, entity number required for purposes of completing the Form 5500 and any other identifying number assigned by the insurance carrier to the separate account,

(D) A statement that a filing pursuant to § 2520.103–9(c) will be made for the separate account (for its fiscal year ending with or within the participating plan's plan year) on or before the filing due date for such account in accordance with the Form 5500 instructions, and

(E) Upon request of the plan administrator, any other information that can be obtained from the ordinary business records of the insurance carrier and that is needed by the plan administrator to comply with the requirements of section 104(a)(1) of the Act and § 2520.104a–5 or § 2520.104a–6;

(iii) Holds assets of a plan in a pooled separate account and does not file a Form 5500 report pursuant to § 2520.103–9 for the participating plan's plan year—

(A) A copy of the annual statement of assets and liabilities of the separate account for the fiscal year of such account that ends with or within the plan year for which the participating plan's annual report is made,

(B) A statement of the value of the plan's units of participation in the separate account,

(C) The EIN of the separate account and any other identifying number assigned by the insurance carrier to the separate account,

(D) A statement that a filing pursuant to § 2520.103–9(c) will not be made for the separate account for its fiscal year ending with or within the participating plan's plan year, and

(E) Upon request of the plan administrator, any other information that can be obtained from the ordinary business records of the insurance carrier and that is needed by the plan administrator to comply with the requirements of section 104(a)(1) of the Act and § 2520.104a–5 or § 2520.104a–6.

* * * * *

(2) * * *

(i) In a common or collective trust that files a Form 5500 report pursuant to § 2520.103–9 for the participating plan's plan year—

(A) A copy of the annual statement of assets and liabilities of the common or collective trust for the fiscal year of such trust ending with or within the plan year for which the participating plan's annual report is made,

(B) A statement of the value of the plan's units of participation in the common or collective trust,

(C) The EIN of the common or collective trust, entity number assigned for purposes of completing the Form 5500 and any other identifying number assigned by the bank, trust company, or similar institution,

(D) A statement that a filing pursuant to § 2520.103–9(c) will be made for the common or collective trust (for its fiscal year ending with or within the participating plan's plan year) on or before the filing due date for such trust in accordance with the Form 5500 instructions, and

(E) Upon request of the plan administrator, any other information that can be obtained from the ordinary business records of the bank, trust company or similar institution and that is needed by the plan administrator to comply with the requirements of section 104(a)(1) of the Act and §§ 2520.104a–5 or 2520.104a–6.

(ii) In a common or collective trust that does not file a Form 5500 report pursuant to § 2520.103–9 for the participating plan's plan year—

(A) A copy of the annual statement of assets and liabilities of the common or collective trust for the fiscal year of such account that ends with or within the plan year for which the participating plan's annual report is made,

(B) A statement of the value of the plan's units of participation in the common or collective trust,

(C) The EIN of the common or collective trust and any other identifying number assigned by the bank, trust company or similar institution,

(D) A statement that a filing pursuant to § 2520.103–9(c) will not be made for the common or collective trust for its fiscal year ending with or within the participating plan's plan year, and

(E) Upon request of the plan administrator, any other information that can be obtained from the ordinary business records of the bank, trust company or similar institution and that is needed by the plan administrator to comply with the requirements of section 104(a)(1) of the Act and §§ 2520.104a–5 or 2520.104a–6.

* * * * *

9. Section 2520.103–6 is amended by redesignating paragraph (b)(1) as paragraph (b)(1)(i), revising paragraphs (a) and (b)(1)(ii), and adding paragraph (f) to read as follows:

§ 2520.103–6 Definition of reportable transaction for Annual Return/Report.

(a) *General.* For purposes of preparing the schedule of reportable transactions described in § 2520.103–10(b)(6), and subject to the exceptions provided in §§ 2520.103–3, 2520.103–4 and 2520.103–12, with respect to individual transactions by a common or collective trust, pooled separate account, or a 103–12 investment entity, a reportable transaction includes any transaction or series of transactions described in paragraph (c) of this section.

(b) * * *

(1) * * *

(ii) Except as provided in paragraphs (c)(2) and (d)(1)(vi) of this section (relating to assets acquired or disposed of during the plan year), with respect to schedules of reportable transactions for the initial plan year of a plan, "current value" shall mean the current value, as defined in section 3(26) of the Act, of plan assets at the end of a plan's initial plan year.

* * * * *

(f) *Special rule for certain participant-directed transactions.* Participant or beneficiary directed transactions under an individual account plan shall not be taken into account under paragraph (c)(1) of this section for purposes of preparing the schedule of reportable transactions described in this section. For purposes of this section only, a transaction will be considered directed by a participant or beneficiary if it has been authorized by such participant or beneficiary.

10. Section 2520.103–9 is revised to read as follows:

§ 2520.103–9 Direct filing for bank or insurance carrier trusts and accounts.

(a) *General.* Under the authority of sections 103(b)(4), 104(a)(3), 110 and 505 of the Act, an employee benefit

plan, some or all of the assets of which are held in a common or collective trust or a pooled separate account described in section 103(b)(3)(G) of the Act and §§ 2520.103–3 and 2520.103–4, is relieved from including in its annual report information about the current value of the plan's allocable portion of assets and liabilities of the common or collective trust or pooled separate account and information concerning the individual transactions of the common or collective trust or pooled separate account, provided that the plan meets the requirements of paragraph (b) of this section, and, provided further, that the bank or insurance carrier which holds the plan's assets meets the requirements of paragraph (c) of this section.

(b) *Application.* A plan whose assets are held in a common or collective trust or a pooled separate account described in section 103(b)(3)(G) of the Act and §§ 2520.103–3 and 2520.103–4, provided the plan administrator, on or before the end of the plan year, provides the bank or insurance carrier which maintains the common or collective trust or pooled separate account with the plan number, and name and Employer Identification Number of the plan sponsor as will be reported on the plan's annual report.

(c) *Separate filing by common or collective trusts and pooled separate accounts.* The bank or insurance carrier which maintains the common or collective trust or pooled separate account in which assets of the plan are held shall file, in accordance with the instructions for the form, a completed Form 5500 "Annual Return/Report of Employee Benefit Plan" and any statements or schedules required to be attached to the form for the common or collective trust or pooled separate account, including Schedule D (DFE/Participating Plan Information) and Schedule H (Financial Information). See the instructions for this form. The information reported shall be for the fiscal year of such trust or account ending with or within the plan year for which the annual report of the plan is made.

(d) *Method of filing.* The Form 5500 "Annual Return/Report of Employee Benefit Plan" may be filed electronically or through other media in accordance with the instructions accompanying the form, provided the bank or insurance company which maintains the common or collective trust or pooled separate account maintains an original copy, with all required signatures, as part of its records.

11. Section 2520.103–10 is revised to read as follows:

§ 2520.103–10 Annual report financial schedules.

(a) *General.* The administrator of a plan filing an annual report pursuant to § 2520.103–1(a)(2) or the report for a group insurance arrangement pursuant to § 2520.103–2 shall, as provided in the instructions to the Form 5500 "Annual Return/Report of Employee Benefit Plan," include as part of the annual report the separate financial schedules described in paragraph (b) of this section.

(b) *Schedules.* (1) *Assets held for investment.* (i) A schedule of all assets held for investment purposes at the end of the plan year (see § 2520.103–11) with assets aggregated and identified by:

(A) Identity of issue, borrower, lessor or similar party to the transaction (including a notation as to whether such party is known to be a party in interest);

(B) Description of investment including maturity date, rate of interest, collateral, par, or maturity value;

(C) Cost; and

(D) Current value, and, in the case of a loan, the payment schedule.

(ii) Except as provided in the Form 5500 and the instructions thereto, in the case of assets or investment interests of two or more plans maintained in one trust, all entries on the schedule of assets held for investment purposes that relate to the trust shall be completed by including the plan's allocable portion of the trust.

(2) *Assets acquired and disposed within the plan year.* (i) A schedule of all assets acquired and disposed of within the plan year (see § 2520.103–11) with assets aggregated and identified by:

(A) Identity of issue, borrower, issuer or similar party;

(B) Descriptions of investment including maturity date, rate of interest, collateral, par, or maturity value;

(C) Cost of acquisitions; and

(D) Proceeds of dispositions.

(ii) Except as provided in the Form 5500 and the instructions thereto, in the case of assets or investment interests of two or more plans maintained in one trust, all entries on the schedule of assets held for investment purposes that relate to the trust shall be completed by including the plan's allocable portion of the trust.

(3) *Party in interest transactions.* A schedule of each transaction involving a person known to be a party in interest except do not include:

(i) A transaction to which a statutory exemption under part 4 of title I applies;

(ii) A transaction to which an administrative exemption under section 408(a) of the Act applies; or

(iii) A transaction to which the exemptions of section 4975(c) or 4975(d) of the Internal Revenue Code (Title 26 of the United States Code) applies.

(4) *Obligations in default.* A schedule of all loans or fixed income obligations which were in default as of the end of the plan year or were classified during the year as uncollectible.

(5) *Leases in default.* A schedule of all leases which were in default or were classified during the year as uncollectible.

(6) *Reportable transactions.* A schedule of all reportable transactions as defined in § 2520.103–6.

(c) *Format requirements for certain schedules.* See the instructions to the Form 5500 "Annual Return/Report of Employee Benefit Plan" as to the format requirement for the schedules referred to in paragraphs (b)(1), (b)(2) or (b)(6) of this section.

12. Section 2520.103–11 is amended by revising paragraph (a) and adding paragraph (d) to read as follows:

§ 2520.103–11 Assets held for investment purposes.

(a) *General.* For purposes of preparing the schedule of assets held for investment purposes described in § 2520.103–10(b)(1) and (2), assets held for investment purposes include those assets described in paragraph (b) of this section.

* * * * *

(d) *Special rule for certain participant-directed transactions.* Cost information may be omitted from the schedule of assets held for investment purposes for assets described in paragraphs (b)(1)(i) and (b)(1)(ii) of this section only with respect to participant or beneficiary directed transactions under an individual account plan. For purposes of this section only, a transaction will be considered directed by a participant or beneficiary if it has been authorized by such participant or beneficiary.

13. Section 2520.103–12 is amended by revising the last two sentences of paragraph (a), revising paragraph (b), and also adding a new paragraph (f) to read as follows:

§ 2520.103–12 Limited exemption and alternative method of compliance for annual reporting of investments in certain entities.

(a) * * * The plan is not required to include in its annual report any information regarding the underlying assets or individual transactions of the entity, provided the information described in paragraph (b) regarding the entity is reported directly to the Department on behalf of the plan administrator on or before the filing due date for the entity in accordance with

the instructions to the Form 5500 Annual Return/Report. The information described in paragraph (b), however, shall be considered as part of the annual report for purposes of the requirements of section 104(a)(1) of the Act and §§ 2520.104a–5 and 2520.104a–6.

(b) The following information must be filed regarding the entity described in paragraph (c) of this section:

(1) A Form 5500 "Annual Return/Report of Employee Benefit Plan" and any statements or schedules required to be attached to the form for such entity, completed in accordance with the instructions for the form, including Schedule A (Insurance Information), Schedule C (Service Provider Information), Schedule D (DFE/Participating Plan Information), Schedule G (Financial Transaction Schedules), Schedule H (Financial Information), and the schedules described in § 2520.103–10(b)(1) and (b)(2). See the instructions for this form. The information reported shall be for the fiscal year of such entity ending with or within the plan year for which the annual report of the plan is made.

(2) A report of an independent qualified public accountant regarding the financial statements and schedules described in paragraph (b)(1) of this section which meets the requirements of § 2520.103–1(b)(5).

* * * * *

(f) *Method of filing.* The Form 5500 "Annual Return/Report of Employee Benefit Plan" may be filed electronically or through other media in accordance with the instructions accompanying the form provided the entity described in paragraph (c) of this section maintains an original copy, with all required signatures, as part of its records.

14. Section 2520.104–21 is amended by revising paragraphs (b)(3) and (d), and adding paragraph (e) to read as follows.

§ 2520.104–21 Limited exemption for certain group insurance arrangements.

* * * * *

(b) * * *

(3) Uses a trust (or other entity such as a trade association) as the holder of the insurance contracts and uses a trust as the conduit for payment of premiums to the insurance company.

* * * * *

(d) *Examples.* (1) A welfare plan has 25 participants at the beginning of the plan year. It is part of a group insurance arrangement of a trade association which provides benefits to employees of two or more unaffiliated employers, but not in connection with a multiemployer plan as defined in the Act. Plan benefits are fully insured pursuant to insurance contracts purchased with premium payments derived half from employee contributions (which the employer forwards within three months of receipt) and half from the general assets of each participating employer. Refunds to the plan are paid to participating employees within three months of receipt as provided in the plan and as described to each participant upon entering the plan. The trade association holds the insurance contracts. A trust acts as a conduit for payments, receiving premium payments from participating employers and paying the insurance company. The plan appoints the trade association as its plan administrator. The association, as plan administrator, provides summary plan descriptions to participants and beneficiaries, enlisting the help of participating employers in carrying out this distribution. The plan administrator also makes copies of certain plan documents available to the plan's principal office and such other places as necessary to give participants reasonable access to them. The plan administrator files with the Secretary an annual report covering activities of the plan, as required by the Act and such regulations as the Secretary may issue. The exemption provided by this section applies because the conditions of paragraph (b) have been satisfied.

(2) Assume the same facts as paragraph (d)(1) of this section except that the premium payments for the insurance company are paid from the trust to an independent insurance brokerage firm acting as the agent of the insurance company. The trade association is the holder of the insurance contract. The plan appoints an officer of the participating employer as the plan administrator. The officer, as plan administrator, performs the same reporting and disclosure functions as the administrator in paragraph (d)(1) of this section, enlisting the help of the association in providing summary plan descriptions and necessary information. The exemption provided by this section applies.

(3) The facts are the same as paragraph (d)(1) of this section except the welfare plan has 125 participants at the beginning of the plan year. The exemption provided by this section does not apply because the plan had 100 or more participants at the beginning of the plan year. See, however, § 2520.104–43.

(4) The facts are the same as paragraph (d)(2) of this section except the welfare plan has 125 participants. The exemption provided by this section does not apply because the plan had 100 or more participants at the beginning of the plan year. See, however, § 2520.104–43.

(e) *Applicability date.* For purposes of paragraph (b)(3) of this section, the arrangement may continue to use an entity (such as a trade association) as the conduit for the payment of insurance premiums to the insurance company for reporting years of the arrangement beginning before January 1, 2001.

15. Section 2520.104–41 is amended by revising paragraphs (b) and (c) to read as follows:

§ 2520.104–41 Simplified annual reporting requirements for plans with fewer than 100 participants.

* * * * *

(b) *Application.* The administrator of an employee pension or welfare benefit plan which covers fewer than 100 participants at the beginning of the plan year and the administrator of an employee pension or welfare benefit plan described in § 2520.103–1(d) may file the simplified annual report described in paragraph (c) of this section in lieu of the annual report described in § 2520.103–1(b).

(c) *Contents.* The administrator of an employee pension or welfare benefit plan described in paragraph (b) of this section shall file, in the manner described in § 2520.104a–5 and in accordance with the instructions for the form, a completed Form 5500 "Annual Return/Report of Employee Benefit Plan" and any statements or schedules required to be attached to the form, including Schedule A (Insurance Information), Schedule B (Actuarial Information), Schedule D (DFE/Participating Plan Information), Schedule I (Financial Information—Small Plan), and Schedule R (Retirement Plan Information). See the instructions for this form.

16. Section 2520.104–43 is amended by revising paragraphs (b)(1)(ii) and (b)(2) to read as follows:

§ 2520.104–43 Exemption from annual reporting requirement for certain group insurance arrangements.

* * * * *

(b) * * *

(1) * * *

(ii) an annual report containing the items set forth in § 2520.103–2 has been filed with the Secretary of Labor in accordance with §§ 2520.104a–6 by the trust or other entity which is the holder of the group insurance contracts by which plan benefits are provided.

(2) For purposes of this section, the terms "group insurance arrangement" or "trust or other entity" shall be used in place of the terms "plan" and "plan administrator," as applicable, in §§ 2520.103–3, 2520.103–4, 2520.103–6,

2520.103–8, 2520.103–9 and 2520.103–10.

* * * * *

17. Section 2520.104–44 is amended by revising the second sentence of paragraph (a)(2), removing the word "and" at the end of paragraph (b)(1)(iii), revising the period at the end of paragraph (b)(2) to a semicolon, and adding the word "and" after such semicolon, adding paragraph (b)(3), and revising paragraph (c)(1) to read as follows:

§ 2520.104–44 Limited exemption and alternative method of compliance for annual reporting by unfunded plans and certain insured plans.

(a) * * *

(2) * * * An employee pension benefit plan which meets the requirements of paragraph (b)(2) or (b)(3) of this section is not required to comply with the annual reporting requirements described in paragraph (c) of this section.

(b) * * *

(3) A pension plan using a tax deferred annuity arrangement under section 403(b)(1) of the Internal Revenue Code (Title 26 of the United States Code) and/or a custodial account for regulated investment company stock under Code section 403(b)(7) as the sole funding vehicle for providing pension benefits.

(c) * * *

(1) Completing certain items of the annual report relating to financial information and transactions entered into by the plan as described in the instructions to the Form 5500 "Annual Return/Report of Employee Benefit Plan" and accompanying schedules;

* * * * *

18. Section 2520.104–46 is amended by revising paragraph (d)(1) to read as follows:

§ 2520.104–46 Waiver of examination and report of an independent qualified public accountant for employee benefit plans with fewer than 100 participants.

* * * * *

(d) *Limitations.* (1) The waiver described in this section does not affect the obligation of the plan described in paragraph (b)(1), or (b)(2) of this section to file the Form 5500 "Annual Return/Report of Employee Benefit Plan" and all applicable financial schedules and statements as prescribed by the instructions to the form. See § 2520.104–41.

* * * * *

19. Section 2520.104b–10 is amended by revising the phrase in the first sentence of paragraph (a) "paragraphs (b) and (g)" to read "paragraph (g)", by removing and reserving paragraph (b), and by revising paragraph (c) introductory text and paragraph (f) to read as follows.

§ 2520.104b–10 Summary Annual Report.

* * * * *

(c) *When to furnish.* Except as otherwise provided in this paragraph (c), the summary annual report required by paragraph (a) of this section shall be furnished within nine months after the close of the plan year.

* * * * *

(f) *Furnishing of additional documents to participants and beneficiaries.* A plan administrator shall promptly comply with any request by a participant or beneficiary for additional documents made in accordance with the procedures or rights described in paragraph (d) of this section.

* * * * *

§ 2520.104b–10 [Amended]

20. Section 2520.104b–10 is further amended as follows.

a. The following sentence from paragraph (d)(3) under the heading "Basic Financial Statement" is removed:

[For plans filing form 5500K, omit separate entries for employer contributions and employee contributions and insert instead "contributions by the employer and employees of ($)"].

b. In paragraph (d)(3), in the list under the heading "Your Rights to Additional Information" items 1. through 8. are revised and items 9. and 10. are added to read as follows:

* * * * *

1. an accountant's report;

2. financial information and information on payments to service providers;

3. assets held for investment;

4. fiduciary information, including non-exempt transactions between the plan and parties-in-interest (that is, persons who have certain relationships with the plan);

5. loans or other obligations in default or classified as uncollectible;

6. leases in default or classified as uncollectible;

7. transactions in excess of 5 percent of the plan assets;

8. insurance information including sales commissions paid by insurance carriers;

9. information regarding any common or collective trusts, pooled separate accounts; master trusts or 103–12 investment entities in which the plan participates, and

10. actuarial information regarding the funding of the plan.

* * * * *

c. In paragraph (d)(4), in the list under the heading "Your Rights to Additional Information" items 1. through 7. are revised and items 8. and 9. as added to read as follows:

1. an accountant's report;

2. financial information and information on payments to service providers;

3. assets held for investment;

4. fiduciary information, including non-exempt transactions between the plan and parties-in-interest (that is, persons who have certain relationships with the plan);

5. loans or other obligations in default or classified as uncollectible;

6. leases in default or classified as uncollectible;

7. transactions in excess of 5 percent of the plan assets;

8. insurance information including sales commissions paid by insurance carriers; and

9. information regarding any common or collective trusts, pooled separate accounts, master trusts or 103–12 investment entities in which the plan participates.

d. The last sentence of both paragraphs (d)(3) and (d)(4) under the heading "Your Rights to Additional Information" are revised to read as follows:

"Requests to the Department should be addressed to: Public Disclosure Room, Room N5638, Pension and Welfare Benefits Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210."

e. The last sentence of the undesignated paragraph following paragraph (e)(2) is removed.

21. The appendix to § 2520.104b–10 is revised to read as follows:

APPENDIX TO § 2520.104b–10—THE SUMMARY ANNUAL REPORT (SAR) UNDER ERISA: A CROSS-REFERENCE TO THE ANNUAL REPORT

SAR Item	Form 5500 Large Plan Filer Line Items	Form 5500 Small Plan Filer Line Items
A. PENSION PLAN		
1. Funding arrangement	Form 5500—9a	Same.
2. Total plan expenses	Sch. H—2j	Sch. I—2i.
3. Administrative expenses	Sch. H—2i(5)	Not applicable.
4. Benefits paid	Sch. H—2e(4)	Sch. I—2e.
5. Other expenses	Sch. H—Subtract the sum of 2e(4) & 2i(5) from 2j	Sch. I—2h.
6. Total participants	Form 5500—7f	Same.
7. Value of plan assets (net):		
a. End of plan year	Sch. H—1l [Col. (b)]	Sch. I—1c [Col. (b)].
b. Beginning of plan year	Sch. H—1l [Col. (a)]	Sch. I—1c [Col. (a)].
8. Change in net assets	Sch. H—Subtract 1l [Col. (a)] from 1l[Col. (b)]	Sch. I—Subtract 1c [Col. (a) from 1c [Col. (b)].
9. Total income	Sch. H—2d	Sch. I—2d.
a. Employer contributions	Sch. H—2a(1)(A) & 2a(2) if applicable	Sch. I—2a(1) & 2b if applicable.
b. Employee contributions	Sch. H—2a(1)(B) & 2a(2) if applicable	Sch. I—2a(2) & 2b if applicable.
c. Gains (losses) from sale of assets	Sch. H—2b(4)(C)	Not applicable.
d. Earnings from investments	Sch. H—Subtract the sum of 2a(3), 2b(4)(C) and 2C from 2d.	Sch. I –2c.
10. Total insurance premiums	Total of all Schs. A –5b	Total of all Schs. A—5b.
11. Funding deficiency:		
a. Defined benefit plans	Sch. B—10	Same.
b. Defined contribution plans	Sch. R—6c, if more than zero	Same.
B. WELFARE PLAN		
1. Name of insurance carrier	All Schs. A—1(a)	Same.
2. Total (experience rated and non-experienced rated) insurance premiums.	All Schs. A—Sum of 8a(4) and 9(a)	Same.
3. Experience rated premiums	All Schs. A—8a(4)	Same.
4. Experience rated claims	All Schs. A—8b(4)	Same.
5. Value of plan assets (net):		
a. End of plan year	Sch H.—1l [Col. (b)]	Sch. I—1c [Col. (b)].
b. Beginning of plan year	Sch H.—1l [Col. (a)]	Sch. I—1c [Col. (a)].
6. Change in net assets	Sch. H—Subtract 1l [Col. (a)] from 1l [Col. (b)]	Sch. I—Subtract 1c [Col. (a)] from 1c [Col. (b)].
7. Total income	Sch. H—2d	Sch. I—2d.
a. Employer contributions	Sch. H—2a(1)(A) & 2a(2) if applicable	Sch. I—2a(1) & 2b if applicable.
b. Employee contributions	Sch. H—2a(1)(B) & 2a(2) if applicable	Sch. I—2a(2) & 2b if applicable.
c. Gains (losses) from sale of assets	Sch. H—2b(4)(C)	Not applicable.
d. Earnings from investments	Sch. H—Subtract the sum of 2a(3), 2b(4)(C) and 2c from 2d.	Sch. I –2c.
8. Total plan expenses	Sch. H—2j	Sch. I—2i.
9. Administrative expenses	Sch. H—2i(5)	Not applicable.
10. Benefits paid	Sch. H—2e(4)	Sch. I—2e.
11. Other expenses	Sch. H—Subtract the sum of 2e(4) & 2i(5) from 2j	Sch. I—2h.

Signed at Washington, D.C., this 12th day of April, 2000.

Leslie Kramerich,

Acting Assistant Secretary, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 00–9611 Filed 4–18–00; 8:45 am]

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Part III

Department of Housing and Urban Development

Tenant-Based Section 8 Program: Procedures for Determining Baseline Unit Allocations, Verifying Unit Allocations, Accessing, Using, Restoration of and Recapture of Program Reserves and Transfers of Baseline Unit Allocations; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Doc. No. FR–4459–N–07]

Tenant-Based Section 8 Program: Procedures for Determining Baseline Unit Allocations, Verifying Unit Allocations, Accessing, Using, Restoration of and Recapture of Program Reserves and Transfers of Baseline Unit Allocations

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: On October 21, 1999, HUD published its final rule specifying the method HUD will use in allocating housing assistance available to renew expiring contracts with public housing agencies (PHAs) for Section 8 tenant-based housing assistance. As required by statute, the final rule was developed using negotiated rulemaking procedures. This notice, which was also developed during the negotiated rulemaking process, provides guidance on several topics relating to the final rule, including the procedures for verifying unit allocations; the accessing, using, restoration of and recapture of program reserves in the Annual Contributions Contract (ACC) Reserve Account; and the transfer of baseline unit allocations. HUD will make the necessary revisions to its standard ACC to incorporate the policies and procedures announced in this notice.

FOR FURTHER INFORMATION CONTACT: Robert Dalzell, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4204, Washington, DC 20410; telephone (202) 708–1380. (This is not a toll-free number.) Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Introduction

HUD developed this Notice during the negotiated rulemaking process that resulted in the publication of a revised 24 CFR 982.102 on October 21, 1999 (64 FR 56882). The Notice covers five separate topics:

- Section II (entitled "Determination of Initial baseline (as of December 31, 1999)") describes procedures for establishing the initial baseline number of units reserved for each PHA;
- Section III (entitled "Verifying Number of Renewal Units") describes the procedures for verifying unit allocations;
- Section IV (entitled "Annual Contributions Contract (ACC) Reserve Account") describes the procedures for accessing reserves in the ACC Reserve Account, the permissible uses of reserves, and the policy for restoration of depleted reserves;
- Section V states HUD's policy on recapturing program reserves in the PHA's ACC Reserve Account; and
- Section VI (entitled "Reduction of Adjusted Baseline Number of Units and Budget Authority") explains the procedures to be followed to require transfers of baseline unit allocations in the tenant-based Section 8 program.

This Notice supersedes Notices PIH 98–65 and 99–1, as well as HUD's February 18, 1999 **Federal Register** notice (64 FR 8187). HUD will make the necessary revisions to its standard ACC to incorporate the policies and procedures announced in this Notice.

The renewal funding methodology listed in revised 24 CFR 982.102 is designed to provide adequate funding for the number of units reserved for each PHA. PHAs have significant flexibility to manage their programs within the available funding including the amount of program reserves available in each PHA's ACC Reserve Account. HUD advises PHAs to use this flexibility first of all to ensure that they assist the number of families that equal the number of units reserved for the PHA—the baseline number of units. Because of local conditions, it is possible that PHAs may have some funds remaining after assisting the number of families that equal the PHA's baseline. HUD encourages PHAs in this situation to assist additional families; however, HUD also has to caution PHAs to carefully assess their local conditions (demographics of waiting list, turnover rate, future renewal funding) prior to issuing vouchers to families above those equivalent to the PHA's baseline. PHA's must plan ahead to avoid becoming overextended and unable to maintain adequate support for families in their tenant-based program.

II. Determination of Initial Baseline (As of December 31, 1999)

In order to calculate the allocation of renewal funding in the tenant based Section 8 program, HUD uses a renewal units number as a factor in its calculation (renewal units equal the number of units for which funding is reserved on HUD books for a PHA's program). HUD has established an initial baseline number of units reserved for each PHA as of December 31, 1999, to be used in calculating the renewal units number for calendar year 2000 and subsequent years (see 24 CFR § 982.102(d)(1)(ii)). HUD used the following process to determine the December 31, 1999 initial baseline:

Step 1: HUD determined the number of families assisted as of October 1, 1997. For purposes of calculating the initial baseline, HUD determined the number of assisted units under lease on October 1, 1997. The number of assisted units under lease was specified in the supporting documentation submitted by PHAs with the Voucher for Payment of Annual Contributions and Operating Statement (Form HUD–52681).

Step 2: HUD determined the adjusted reserved number of units as of October 1, 1997. HUD determined the number of reserved units as of October 1, 1997. HUD then added the number of authorized units reserved after October 1, 1997 as a result of HUD's review, conducted in Federal Fiscal Year 1998, of leasing in excess of the number of units reserved, in accordance with PIH Notice 98–22 and letters sent to each affected PHA.[1] The result of the addition is the adjusted reserved number of units.

Step 3: HUD compared the number of adjusted reserved units and the number of leased units as of October 1, 1997. In performing this step of the calculation, HUD compared the number of adjusted reserved units (from Step 2) and the number of leased units as of October 1, 1997 (from Step 1) and used the higher of the two as the basis of further calculation in step 4. The comparison was done separately for the certificate and the voucher programs.

Step 4: HUD added any additional units reserved for the PHA from October 1, 1997 to December 31, 1999 to the result of Step 3. HUD included all additional units reserved for the PHA from October 1, 1997 until December 31, 1999. Adjustments included incremental funding as well as conversion funding awarded to provide continued assistance to assisted families pursuant to the conversion of project based assistance to tenant based assistance. HUD also included adjustments for assistance transferred from one housing agency to another.[2]

Step 5: Finally, HUD added the calculated number of units from Step 4 in the certificate program to the calculated number of units from Step 4 in the voucher program to establish the

[1] This adjustment was necessary to avoid double counting units in the course of performing the comparison since a portion of the additional authorized units would also be included in the number of units leased on October 1, 1997.

[2] In this case, the gaining PHA's adjusted baseline would increase and the transferring PHA's adjusted baseline would decrease in an amount equal to the number of units transferred.

initial baseline (as of December 31, 1999) for each PHA.

For example, on October 1, 1997, the "Main Street" Housing Authority was listed as having 100 reserved voucher units in HUD's records and subsequently reported that it was leasing 110 units in its voucher program at that time. HUD determined in 1998 that 5 units (vouchers) should be added to the Main Street Housing Authority as additional authorized units. In performing the first three steps of the calculation, HUD would have done the following: Step 1—determined that the housing authority was leasing 110 units as of October 1, 1997; Step 2—added the 5 additional authorized units to the 100 reserved units to calculate a total of 105 adjusted reserved voucher units; and Step 3—compared the 105 adjusted reserved units in the Main Street Housing Authority's voucher program to the 110 units reported as actually leased. Because the 110 units reported as leased exceeded the 105 adjusted reserved units in the housing authority's voucher program, HUD would have used 110 units as the result of step 3 of the calculation for the housing authority's voucher program. Or alternatively, the housing authority might have reported that it was leasing 100 voucher units on October 1, 1997 in Step 1 in which case HUD would have compared the 100 units with the 105 adjusted reserved units in its voucher program and would have used 105 units as the result of Step 3 of the calculation. HUD would have performed a similar analysis of the housing authority's certificate program. For example for Step 1—the housing authority reported a lease rate of 175 in its certificate program as of October 1, 1997. For Step 2—HUD's records listed the Main Street Housing Authority as having 200 reserved certificate units as of October 1, 1997. HUD would have compared the two and determined that 200 certificate units was the result of the calculation of Step 3.

To continue the example for Step 4, in Fiscal Year 1998 HUD reserved funding for 10 voucher units for the Main Street Housing Authority under the Family Unification Program. In Fiscal Year 1999 the authority had 10 voucher units added to its inventory as a result of the conversion of a property from project based to tenant based assistance. All 20 of these additional units added subsequent to 1997 would have been added to the number of units calculated in Step 3 to calculate the number of units for the housing authority's voucher program, 130. No units were added to the housing authority's certificate program after October 1, 1997. HUD's unit number for the certificate program would therefore remain 200 units.

To complete the example for Step 5, HUD would have added the number of vouchers, 130 to the number of certificates, 200 to establish a December 31, 1999 initial baseline of 330 total units.

III. Verifying Number of Renewal Units

A. Section 8 Finance Division Exhibit

HUD uses the number of renewal units to calculate the amount of renewal funding. HUD has determined the December 31, 1999 initial baseline number of units to be used for each PHA's renewal calculation for calendar year 2000.The initial baseline is a primary component of the renewal units factor.

In March of 2000 the Section 8 Finance Division in the Headquarters Office of PIH has mailed to each PHA a letter with an exhibit that lists the number of units in the PHA's initial baseline (as of December 31, 1999). An example of this exhibit is attached as Appendix A to this Notice. The Section 8 Finance Division will simultaneously send a copy of the exhibits to the Section 8 Financial Management Center (FMC).

The exhibit will separately list:

1. All of the unit counts assigned to each active increment in HUDCAPS for the PHA as of December 31, 1999;

2. The number of leased units as of October 1, 1997;

3. The number of reserved units as of October 1, 1997;

4. Any additional authorized units reserved as a result of HUD's review of leasing in excess of contract levels conducted in Federal Fiscal Year 1998 and 1999 in accordance with letters sent to each affected PHA;

5. Any units reserved for the PHA between October 1, 1997 and December 31, 1999;

6. The total number of units scheduled to expire after December 31, 2000;

7. The total number of units determined to make up the Renewal Units for the purposes of calculating the allocation of renewal funding for calendar year 2000.

B. PHA Error Notifications

PHAs will have 90 days from the date of the letter to review HUD's listing of the numbers of units and to notify HUD of any errors:

1. The PHA's notification must at a minimum specify the increment(s) in error, state that the PHA believes that HUD has made an error in determining the number of units, indicate the correct number of units, include documentary evidence demonstrating that the unit count is in error and provide a narrative explanation of how the documentation shows that HUD's baseline unit exhibit is in error.

2. The notification must be received by the FMC no later than 90 days from date of the letter at the following address: ATTN: Baseline Unit Review, Denise Rock, 2345 Grand Blvd., Suite 1150, Kansas City, MO 64108–2603;

3. If the FMC does not receive a notification of errors within the prescribed time frame, HUD will consider the renewal units number and the other listed unit numbers established and will not consider later requests for adjustments to the unit count based on error except in extraordinary circumstances.

C. FMC Review of Error Notifications

The FMC will review any error notifications submitted by PHAs within a reasonable time period in light of the number of error notifications received [3] (while the error notification is under review, HUD will not change the allocation of renewal funding to compensate for the asserted error):

1. If the FMC determines that an error has occurred, it will make an adjustment to the PHA's renewal unit count; however, in making its determination, the FMC will review and revise any element in calculation of the initial baseline and the number of renewal units.

a. If HUD determines there is sufficient funding available, HUD will make appropriate adjustments to the applicable PHA's renewal unit count for the calendar year in which it makes the determination, otherwise the adjustment will be applied to the following calendar year (it will not be retroactive).

b. The FMC will send the PHA a revised unit exhibit with a description of when and how the adjustment to compensate for the error will be made (with a copy to the Section 8 Finance Division in PIH Headquarters).

2. If the FMC determines that there is no error, it will send a letter to the notifying PHA indicating that it does not believe that there is an error with an explanation of its reasoning.

3. If a PHA disagrees with the FMC's determination (either concluding that there is no error or disagreeing with the number of units in error), it can ask for the Assistant Secretary of Public and Indian Housing to reconsider the

[3] The FMC will attempt to complete its reviews within 60 days.

determination of the FMC in accordance with the following procedure:

a. Its request for reconsideration must be sent to the FMC and received no later than 30 days after the date of the FMC's reply to the PHA's notification.

b. The request for reconsideration must clearly state the nature of the disagreement and the reason that the determination of the FMC is incorrect.

c. The FMC will forward the request to the Section 8 Finance Division in PIH Headquarters.

d. The Assistant Secretary shall have the same ability to respond to the PHA's error notification that the FMC has in III.C.1 and III.C.2 above.

e. The Assistant Secretary for Public and Indian Housing will reply to the request for reconsideration within a reasonable time period (generally within 30 days).

i. If the Assistant Secretary agrees with all or part of the PHA's request for reconsideration, the Assistant Secretary will issue an appropriate directive to the FMC and will also provide a written response to the applicable PHA.

ii. If the Assistant Secretary disagrees with the PHA's request for reconsideration, the Assistant Secretary will provide the PHA with a written response explaining why the PHA's request will not be further considered.

iii. The decision of the Assistant Secretary shall be final.

IV. Annual Contributions Contract (ACC) Reserve Account

A. General

HUD continues to maintain local program reserves (ACC reserve accounts) for each PHA's program in the amount determined by HUD in accordance with the PHA's Consolidated Annual Contributions Contract. In accordance with the Quality Housing and Work Responsibility Act of 1998 (Pub.L. 105–276, 112 Stat. 2461, approved October 21, 1998) (the Public Housing Reform Act), HUD revised its methodology for allocating funding for the renewal of expiring contracts in the tenant-based Section 8 program. HUD anticipates that some PHAs may not receive adequate budget authority to support the adjusted baseline number of units under the revised allocation system. Some PHAs may experience increases in the cost per unit of tenant-based assistance that exceed the per unit costs predicted by the revised renewal allocation methodology and would therefore not have sufficient funds to support the adjusted baseline. In order to provide reasonable assurance that there will be adequate funding to support families assisted in the tenant-based Section 8 program, HUD believes that PHAs should have access to an Annual Contributions Contract (ACC) Reserve Account. The approved reserve level is 1/6th of the current year projected expenditures from the PHA's approved budget for a given year.

There are separate ACC Reserve Accounts for both the certificate and voucher programs. The amounts in each program reserve (certificate or voucher) are fungible and can be budgeted and requisitioned, as needed, from the ACC Reserve Account for either program. Amounts accumulated by a PHA in the ACC Reserve Account above the approved reserve level are considered excess reserves.

B. Procedures for Accessing ACC Reserve Account

A PHA will be permitted to access up to 50% of its approved reserve level under the circumstances noted below if the PHA is not designated as troubled under the Section 8 Management Assessment Program (SEMAP) and is not in breach of its ACC. To access balances in the ACC Reserve Account, the PHA must submit a budget or budget revision to the FMC.

In order for a non-troubled PHA that has not breached its ACC to access ACC Reserve Account balances in excess of 50% of the approved reserve level, it must submit the following to the FMC:

1. A budget or budget revision.

2. A narrative justification that clearly outlines the circumstances that cause the PHA to need to access reserves in the ACC Reserve Account.

3. A plan that describes:

a. The appropriate steps that it is taking to ensure that it will not exceed its budget authority, including balances in the ACC Reserve Account, in the current fiscal year;

b. How it will reduce (and ultimately eliminate) its reliance on reserve funding over the subsequent 2 years; and

c. In instances in which the PHA is obligated to restore reserves, its plan for restoring reserves.

PHAs designated as troubled under SEMAP may access reserves only after the FMC has approved the request. The FMC shall inform the applicable Troubled Agency Recovery Center (TARC) in the event a troubled PHA requests access to its reserves and shall also inform the TARC of the proposed decision on the request. A troubled PHA may be required by the FMC and/or the TARC to provide documentation and/or justification to substantiate its request to access reserve funds.

C. Permissible Uses of ACC Reserves

1. *Supporting the Reserved Number of Units.* A PHA must compare the budget authority assigned to the PHA by HUD pursuant to the allocation of renewal funding with the actual per unit costs the PHA is incurring. If at any time the PHA determines that the overall cost of maintaining assistance for the number of families assisted under the PHA's program (but not exceeding the number of units reserved to the PHA) has increased to a level that will not be supported within the budget authority that HUD has assigned to the PHA, the PHA may request authorization to use a portion of its ACC Reserve Account. In this instance HUD will restore depleted reserves in accordance with Section IV.D. below subject to the availability of funds.

2. *Supporting Units Above the Reserved Number of Units.* a. A PHA may issue as many vouchers as can be prudently supported within the PHA's allocated annual budget authority even if the number of vouchers exceeds the number of units reserved for the PHA. PHAs that exercise this flexibility are engaging in "maximized leasing." "Maximum leased units" means the number of leased units in excess of the number reserved. *It is important for PHAs that take advantage of maximized leasing to examine the long term impact of maximized leasing to ensure that it does not jeopardize adequate support for the reserved number of units in subsequent years.*

The units supported above the PHA's reserved number of units (maximized leased units) will not be supported by HUD's calculation of the allocation of renewal funding. The PHA may not receive sufficient budget authority in subsequent years to be able to maintain maximized leased units exceeding the number of units reserved. The PHA may use the ACC Reserve Account to maintain assistance for maximized leased units on a temporary basis while the PHA takes steps to reduce the size of its program through attrition back to its reserved number of units or the number of units that can be supported by its allocated budget authority on a long term basis. The PHA may not use the ACC Reserve Account to support units beyond the number of units supported by annual budget authority (apart from the ACC Reserve Account) for more than a year except under exceptional circumstances. A PHA that uses the ACC Reserve Account in this situation must restore the amount of reserves depleted to support maximized leased units by using less than its full

annual budget authority in subsequent years.

b. A PHA that is close to leasing all of the units that can be supported within annual budget authority may issue more vouchers than the PHA can actually support with annual budget authority (without using its ACC Reserve Account) on the assumption that not all issued units will ultimately be used. PHAs that are close to leasing a number of units that fully utilizes their available annual budget authority can be expected to occasionally exceed their annual budget authority based on more families than predicted leasing units; in such instances the PHA is permitted to support units not supported by annual budget authority through use of the ACC Reserve Account. PHAs are to manage their lease-up and turnover rates to attempt to achieve full utilization of their annual budget authority without relying on the ACC Reserve Account. PHAs that use the ACC Reserve Account in this situation must restore the amount of ACC Reserve Account funds used to temporarily support lease-up that exceeds annual budget authority by using less than their full annual budget authority in subsequent years.

c. A PHA that has had to use the ACC Reserve Account to support units beyond its reserved number of units must not admit families on its waiting list until the number of families in its program is reduced below the reserved number of units through attrition [4] or it is able to support families from the waiting list within its annual budget authority apart without using funds in the ACC Reserve Account.

D. Restoration of Depleted Reserves.

Subject to the availability of appropriated funds, HUD will restore ACC Reserve Account amounts to the ⅙th level in accordance with the following:

1. HUD will determine the amount by which the ACC Reserve Account is depleted below the approved reserve level based on the ACC Reserve Account level recorded in HUDCAPS from the most recent year end statement approved and processed by the FMC compared to the approved budget for the current year at the time that the Department calculates the amounts to be restored.

2. HUD will determine if a PHA has leased more than its reserved number of units based on its most recent HUD approved Year End Statement; if the PHA has leased more than its reserved number of units, HUD will not restore any depleted ACC Reserve Account for such an agency during the PHA's current fiscal year. However, HUD may grant an exception to this policy on a case by case basis where a PHA has substantially depleted the ACC Reserve Account and HUD has determined that the PHA is not providing long term support for units not supported by annual budget authority.

3. HUD shall determine the schedule for restoration of depleted ACC Reserves in instances where a PHA has not leased more than its reserved number of units or HUD has determined that the housing agency is not providing long term support for units not supported by annual budget authority apart from the funds in the ACC Reserve Account.

V. Excess ACC Reserve Amounts

At its discretion, HUD may recapture ACC Reserve Account amounts in excess of the approved reserve level.

VI. Reduction of Adjusted Baseline Number of Units and Budget Authority

A. Beginning with PHA Fiscal Years December 31, 1999 and thereafter, HUD will assess the leasing rate and use of budget authority of each PHA on an annual basis when HUD processes the PHA's year end statement (Approximately six months after the end of the PHA's fiscal year) to determine if HUD will transfer some or all of the PHA's unexpended annual budget authority to another PHA.

B. In performing the assessment, HUD will exclude units (and their associated budget authority) awarded to the PHA for: litigation purposes; on schedule replacement/relocation purposes; as well as budget authority for a funding increment whose effective date is less than 8 months prior to the end of the PHA's fiscal year in which such funds are reallocated.

For example for calendar year 2000 the Main Street Housing Authority has an adjusted baseline of 130 units. In 1999, HUD awarded 10 units to the PHA to provide for relocation of 10 families living in 10 units of public housing approved for demolition. The demolition is not scheduled to take place until the end of calendar year 2000 and the 10 units are being held by the PHA until they are needed to support the demolition. For the purposes of assessing the PHA's lease-up rate, HUD would exclude the 10 units and only perform the assessment on the 120 units remaining. It would take the 10 units and multiply them by the adjusted per unit cost for the housing authority ($4,800) and subtract the result from the housing authority's overall budget authority ($48,000) in performing the assessment below.

C. If the assessment reveals that the PHA's lease rate is less than 90% of the reserved number of units ("90% unit threshold") and the PHA has expended less than 90% of its annual budget authority (90% annual budget authority threshold"), HUD will issue a warning to the PHA, the applicable PHA governing board and the chief executive officer of the unit of local or state government. The warning will state that if the PHA fails to increase its lease rate to 95% of the number of reserved units by the time that it submits its 2nd budget after the warning (approximately 16 months after the warning), then it's unexpended baseline authority would be subject to reallocation by HUD to another PHA.

For example, the Main Street Housing Authority has a fiscal year that ends on December 31, 1999. At the time that it submits its year end statement (around February of 2000), it reports that the number of units months leased for its 1999 fiscal year was 1020 (the equivalent of 85 units out of the possible 130) and that it expended $408,000 out of a total annual budget authority of $611,000. When HUD performs its assessment in conjunction with approving the year end statement (around June of 2000), it will perform the following steps:

1. HUD will subtract the 10 relocation units from 130 adjusted baseline number of units.

2. For the remaining 120 units available for lease-up, HUD will compare the possible units months leased (120 × 12 or 1,440) with the number of actual units months leased (1020) to derive the lease-up percentage (71%).

3. Since the lease-up percentage falls below the 90% threshold, HUD will determine the percentage use of annual budget authority as follows:

a. HUD will first subtract the annual budget authority for the 10 excluded relocation units ($48,000) from the total annual budget authority for the PHA ($611,000) to determine the available annual budget authority ($611,000 − $48,000=$563,000).

b. HUD will then divide the amount expended ($408,000) by the amount of the available budget authority ($563,000) to determine the percentage of budget authority utilization ($408,000/$563,000=72%).

In this instance the assessment would indicate that the housing authority should be issued a warning based on the

[4] In this instance, the PHA cannot simply return to 100% leasing of its reserved number of units before it can start issuing new vouchers because if it does it will again become overextended. It must drop at least one unit below the reserved number of units to be in a position to issue new vouchers.

fact that its lease up rate is 71% and its budget authority utilization rate is 72%—both below the 90% thresholds.

D. When the PHA submits its second budget after receipt of the warning, the PHA will provide a status report on its lease-up rate to the FMC. If the PHA has failed to achieve a lease up rate of 95% of its total number of reserved number of units minus any special category units (e.g., units reserved for relocation purposes or due to litigation), the FMC will reduce both the PHA's annual budget authority and its adjusted baseline number of units.

1. In this instance, the FMC will require that budget authority not required to support currently assisted families through the end of contract increment(s) terms(s) will be deleted from the PHA's budget so as to bring its budget authority utilization rate to 95%. Budgetary authority amounts deleted from the PHA's budget will be made available for reallocation.

2. HUD will calculate the number of units the deleted budget authority under section D.1. above would have supported based on the PHA's adjusted per unit cost.

3. HUD will delete the number of units calculated under section D.2. for the purpose of calculating future renewal funding for the PHA.

For example, the Main Street Housing Authority will process its first budget about 4 months after having received the warning in October of 2000. At the time that it processes its second budget after the warning in October of 2001, it would provide a report on its status in terms of its lease-up rate. At that time, it reports that its lease up rate has improved from the equivalent of 85 units to 105 units. The lease-up percentage would have increased from 71% to 88%. It would also report that its budget authority utilization rate increased from 72% to 85% (from $408,000 to $478,550). In this instance HUD would calculate the amount of budget authority that would bring the PHA to 95% utilization of its budget authority ($478,550/.95=$503,157). HUD would then delete the remaining budget authority ($563,000 − $503,157=$59,842) from the PHA's annual budget authority. HUD would also calculate the number of units that the subtracted budget authority represents ($59,842 divided by $4,800 per unit cost = 12 units) and subtract those units from the PHA's adjusted baseline for the purpose of calculating future renewals.

E. Each year HUD will issue a PIH Notice (and subsequent **Federal Register**) notice outlining the criteria for determining the PHAs to be recipients of reallocated budget authority. The notice will outline the process for implementing the transfer as well as the number of units and the priority for reallocating budget authority.

Dated: April 12, 2000.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

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April 19, 2000

Part IV

Department of Health and Human Services

Secretary's Advisory Committee on Genetic Testing; Notice of Meeting

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Secretary's Advisory Committee on Genetic Testing

AGENCY: Office of the Secretary, DHHS.

ACTION: Notice of Meeting and Request for Public Comments on Preliminary Final Recommendations on Oversight of Genetic Testing

Pursuant to Public Law 92–463 notice is hereby given of a meeting of the Secretary's Advisory Committee on Genetic Testing (SACGT). The meeting will be held from 8:45 a.m. to 5:00 p.m June 5, 2000 to June 7, 2000 at the Governor's House Hotel, 1615 Rhode Island Avenue, NW, Washington, DC 20036. In addition to completing its report on oversight, the Committee will also be exploring the impact of gene patenting and restrictive licensing on the cost, quality, and accessibility of genetic testing, Federal regulatory requirements regarding informed consent in genetic research involving information-gathering about family members, and genetics education of health professionals. The meeting will be open to the public, with attendance limited to space available. Individuals who wish to provide public comment on the oversight recommendations of genetic tests or other issues should contact Susanne Haga at 301–496–9838. A draft agenda will be posted at the following website address http://www4.od.nih.gov/oba/sacgt.htm prior to the meeting.

SACGT was chartered to advise the Department of Health and Human Services on the medical, scientific, ethical, legal, and social issues raised by the development of and use of genetic tests. SACGT is presently assessing the adequacy of current oversight of genetic testing in the United States, in consultation with the public. After careful analysis of the issues and an effort to gather and consider public comments, SACGT drafted preliminary conclusions and recommendations on oversight of genetic tests. It is now seeking further public comments on these preliminary conclusions and recommendations. The preliminary recommendations will also be posted on SACGT's website and sent to groups and individuals who submitted comments in the prior comment period.

The public is encouraged to submit written comments on this preliminary report by May 22, 2000. SACGT's mailing address is: SACGT, National Institutes of Health, 6000 Executive Blvd., Suite 302, Bethesda, Maryland 20892. SACGT's facsimile number is 301–496–9839. Comments can also be sent via e-mail to hagas@od.nih.gov. All public comments received will be available for public inspection at the SACGT office between the hours of 8:30 a.m. and 5:00 p.m. Questions about this request for public comment can be directed to Susanne Haga, Ph.D., Program Analyst, SACGT, by e-mail (hagas@od.nih.gov) or telephone (301–496–9838).

Adequacy of Oversight of Genetic Tests

Preliminary Conclusions and Recommendations of the Secretary's Advisory Committee on Genetic Testing

Executive Summary

The Secretary's Advisory Committee on Genetic Testing (SACGT) was chartered in 1998 to advise the Department of Health and Human Services (DHHS) on the medical, scientific, ethical, legal, and social issues raised by the development and use of genetic tests. In June 1999, Dr. David Satcher, Assistant Secretary for Health and Surgeon General, asked SACGT to assess, in consultation with the public, the adequacy of oversight of genetic tests and, if warranted, based on a consideration of the public comments and an analysis of the issues, to recommend options for additional oversight and to ensure public access to quality genetic tests. Dr. Satcher asked the Committee to report back by March 15, 2000, and to organize its report around five major issues:

- What criteria should be used to assess the benefits and risks of genetic tests?
- How can the criteria for assessing the benefits and risks of genetic tests be used to differentiate categories of tests? What are the categories, and what kind of mechanism could be used to assign tests to the different categories?
- What process should be used to collect, evaluate, and disseminate data on single tests or groups of tests in each category?
- What are the options for oversight of genetic tests and the advantages and disadvantages of each option?
- What is an appropriate level of oversight for each category of genetic test?

SACGT worked intensely through the summer and fall of 1999 to design a multifaceted process to gather public comments on genetic testing oversight issues. The public consultation process was carried out during a 60-day period from December 1, 1999, to January 31, 2000, and involved a **Federal Register** notice, a targeted mailing to 2,500 individuals and organizations, a website consultation, and a public meeting that was held on January 27, 2000. In addition, SACGT conducted a literature review and analysis of scholarly articles on genetic testing.

On February 24–25, 2000, SACGT met to review public comments received and to develop recommendations on the adequacy of oversight of genetic testing. SACGT carefully reviewed the public input received, which highlighted the importance of ensuring the quality of, and access to, genetic tests. In addition, many of the public comments expressed concern about the potential for genetic test results to be used to discriminate against people in areas such as employment and health insurance. After considering the public comments, SACGT developed the following preliminary overarching principles and recommendations.

Overarching Principles

- One of the main goals of genetic testing is to improve the health and well-being of individuals and families. No test should be introduced in the market before it is established that it can diagnose and/or predict a health-related condition accurately and safely. Thus, the public is best served by ensuring both the appropriate oversight of genetic tests and the continued development of genetic tests.
- The public, through involvement of advocacy groups, organizations, and individuals, needs to be involved in the ongoing consideration of issues surrounding genetic testing. This will be particularly important in addressing the concerns of minority populations and diverse communities regarding the purposes and uses of genetic testing.
- Since genetic education and counseling are critical to the appropriate use, interpretation, and understanding of genetic test results, efforts to ensure the education of the public and of health providers about genetics are necessary.
- Federal legislation is needed to prohibit discrimination in employment and health insurance based on genetic information. Federal legislation is also needed to protect the privacy of genetic information in medical records. Without these protections, the public will be reluctant to undergo genetic tests that might be beneficial to its health and well-being.

Recommendations

Issue 1: What criteria should be used to assess the benefits and risks of genetic tests?

- Analytical validity, clinical validity, clinical utility, and social issues should be the major criteria used

to assess the benefits and risks of genetic tests.

Issue 2: How can the criteria for assessing the benefits and risks of genetic tests be used to differentiate categories of tests? What are the categories, and what kind of mechanism could be used to assign tests to the different categories?

- For the purposes of review, a useful way to consider tests is to assess them across several dimensions. These criteria are necessary but may not be sufficient for all tests.
- Is the test at this stage of development primarily diagnostic or predictive?
- Is the mutation being tested for highly or weakly penetrant?
- Is a proven intervention available to prevent or treat the disease for which the test is being conducted?
- Is the test used for population-based screening or testing of individuals?
- Is the prevalence of the disorder for which the test is used high or low?
- Is there potential for stigmatization of individuals or groups from the test results?
- Is the test designed or able to identify more than one condition?

For example, predictive tests require more scrutiny than do diagnostic tests. Similarly, tests for weakly penetrant mutations require more assessment than do those for highly penetrant genes. Tests for conditions for which no interventions are available would be more problematic than tests for conditions for which interventions exist. Thus, for example, a high-scrutiny test would be one that is predictive, detects a mutation that is weakly penetrant, and for which a proven intervention is not available. These dimensions should be considered in the review of genetic tests, and test developers should indicate the categories into which their test(s) fit.

Issue 3: What process should be used to collect, evaluate, and disseminate data on single tests or groups of tests in each category?

- The responsibility for collecting initial data on the analytical validity of a test lies with the test developer.
- Initial knowledge of the clinical validity of a genetic test is essential to assess its safety and efficacy. Further knowledge will depend on additional research and the long-term systematic collection and analysis of additional data. Researchers and test developers should gather and share initial data on the clinical validity and utility of genetic tests.
- Since data sharing and analysis are critical, relevant DHHS agencies should work collaboratively with researchers and test developers to advance data collection and provide this information to health care providers and the public. Initial exploratory data collection efforts among DHHS agencies, which have been coordinated by the Centers for Disease Control and Prevention, have been of value and should continue.
- Protecting the confidentiality of data and the privacy of individuals is essential to the progress of data collection efforts.
- Laboratories should be encouraged or required to make pre- and post-marketing data on genetic tests available in a timely, accurate, and understandable manner.
- Post-market data collection can enhance understanding of current applications of a genetic test and is important for any expansion of the use of a genetic test beyond the initial indications approved when the test is made available. Laboratories providing clinical genetic services should commit to post-market data collection efforts.

Issue 4: What are the options for oversight of genetic tests and the advantages and disadvantages of each option?

- Based on the rapidly evolving nature of genetic tests, their anticipated widespread use, and extensive concerns expressed by the public about their potential for misuse or misinterpretation, additional oversight is warranted for all genetic tests.
- The Food and Drug Administration (FDA) should be the lead federal agency responsible for reviewing, approving, and labeling of all new genetic tests. FDA review should focus on the claims of analytical and clinical validity made by the developer of the test and be appropriate to the level of scrutiny warranted by the test. The agency should develop flexible mechanisms for review of new genetic tests that minimize both the time and the cost of review without jeopardizing the quality of the assessment of test validity. These mechanisms should, for example, include the use of deemed reviewers and standards developed in concert with professional organizations.
- Clinical Laboratory Improvement Amendment regulations should be augmented to provide more specific provisions for ensuring the quality of laboratories conducting genetic tests.
- DHHS agencies should be provided with sufficient resources to carry out expanded oversight of genetic tests, including coordinated data collection, review, and information dissemination.

Issue 5: What is an appropriate level of oversight for each category of genetic test?

- Institutional Review Board review should be conducted of all research protocols for genetic tests in which individually identifiable human subjects or samples are used, regardless of the funding source. Institutions that lack an IRB must obtain the services of a qualified board. Efforts will be needed to ensure that IRBs are suitably equipped to carry out these reviews. In addition, informed consent must be obtained from all subjects participating in such research.
- FDA should give particular attention to the review of genetic tests that are used to predict diseases and conditions for which no safe and effective interventions are available. Other tests may also warrant a higher level of scrutiny in the FDA review process.
- In the future, tests may be developed that raise major social and ethical concerns. Because FDA's review will focus on assuring the analytical and clinical validity of a test, the agency's capacity to assess the ethical and social implications of a test may not be sufficient. The Secretary should consider the development of a mechanism to ensure the identification, and appropriate review, of tests that raise major social and ethical concerns.
- The U.S. Preventive Services Task Force with augmented resources, or a similar body set up or given deemed status for this purpose, should review genetic tests that are already on the market for evaluation of clinical efficacy and development of guidelines about their appropriate use.

Additional Recommendations for the Appropriate Use of Genetic Tests

- Individual and family members considering a genetic test should have access to appropriate genetic education and counseling resources to ensure their ability to make an informed decision about being tested.
- Written informed consent should be obtained for tests used for predictive purposes. The extent to which written informed consent should be obtained for all other genetic tests requires further deliberation.
- Current regulations under FDA and the Federal Trade Commission should be enforced in the area of genetic test promotion and marketing.

On March 15, 2000, SACGT forwarded preliminary recommendations to Dr. Satcher. At this time, the Committee invites public comment on this preliminary draft of its conclusions and recommendations, and at its next meeting, June 5–7, 2000, the Committee will review the comments received and will then develop a final

report to the Secretary. With the completion of this assignment, SACGT will move on to consider a number of other high-priority issues raised by genetic tests that are not the subject of this report.

Adequacy of Oversight of Genetic Tests

Preliminary Conclusions and Recommendations of the Secretary's Advisory Committee on Genetic Testing

Introduction

The Secretary's Advisory Committee on Genetic Testing (SACGT) was chartered in June 1998 to advise the Department of Health and Human Services (DHHS) on the medical, scientific, ethical, legal, and social issues raised by the development and use of genetic tests. The formation of SACGT was recommended by the National Institutes of Health (NIH)-Department of Energy (DOE) Task Force on Genetic Testing and the Joint NIH-DOE Committee to Evaluate the Ethical, Legal, and Social Implications Program of the Human Genome Project. At SACGT's first meeting in June 1999, Dr. David Satcher, Assistant Secretary for Health and Surgeon General, asked the Committee to assess, in consultation with the public, the adequacy of current oversight of genetic tests and, if warranted, to recommend options for additional oversight.

Dr. Satcher provided SACGT with a framework of five central questions around which to organize the assessment and requested that SACGT report back by March 15, 2000. During the summer and fall of 1999, the Committee gathered background information on genetic testing, designed five approaches to gather professional and public opinions on oversight of genetic testing, and prepared a document for soliciting public comment. The public consultation was held from December 1, 1999, to January 31, 2000. On February 24–25, 2000, the Committee met to review the public input received and to develop conclusions and recommendations on the adequacy of oversight of genetic testing. SACGT submitted a brief report of its preliminary recommendations to Dr. Satcher on March 15, 2000.

This report presents for public comment SACGT's preliminary conclusions and recommendations. Public comments will be reviewed at SACGT's next meeting, June 5–7, 2000, after which the Committee will submit its final conclusions and recommendations to the Secretary.

Background

Decades of genetics research have brought about many important medical and public health advances. The pace of discovery in this area has enabled scientists to make rapid progress in understanding the role of genetics in many common yet complex diseases and conditions, such as heart disease, cancer, and diabetes. It also has increased knowledge that may lead to the development of new tests to identify these disease conditions in individuals, sometimes before symptoms occur.

Genetic testing involves the analysis of chromosomes, DNA, RNA, genes, and/or gene products to determine whether an alteration is present that is causing or is likely to cause a specific disease or condition. Genetic tests can be performed for a number of purposes. Moreover, a test can be used in more than one way. For example, a test used for diagnostic purposes could also be used to predict risk of disease.

- *Preimplantation diagnosis* is used following *in vitro* fertilization to diagnose a genetic disease or condition in a preimplantation embryo.
- *Prenatal diagnosis* is used to diagnose a genetic disease or condition in a developing fetus.
- *Newborn screening* is performed in newborns in state public health programs to detect certain genetic diseases for which early diagnosis and treatment are available.
- *Carrier testing* is performed to determine whether an individual carries one copy of an altered gene for a particular recessive disease. The term "recessive" refers to diseases that will occur only if both copies of a gene that an individual receives have a disease-associated mutation; thus, each child born to two carriers of a mutation in the same gene has a 25-percent risk of being affected with the disorder.
- *Diagnostic/confirmatory testing* is used to identify or confirm the diagnosis of a disease or condition in an affected individual. Diagnostic testing may also be useful to help determine the course of a disease and choice of treatment.
- *Presymptomatic testing* is used to determine whether individuals who have a family history of a disease but no current symptoms have the gene alteration associated with the disease.
- *Predictive testing* determines the probability that a healthy individual with or without a family history of a certain disease might develop that disease.

In the past, many tests were developed to detect or confirm rare genetic diseases. More recently, tests have been developed to detect mutations that may be involved in or contribute to more common, complex conditions (such as breast, ovarian, and colon cancer and cardiovascular disease), the effects of which generally do not appear until later in life. Optimally, these tests are used to predict a person's predisposition to disease where there is a family history of the disease. In general, such tests are not recommended for individuals without a family history of the disease.

The process of discovering and understanding genetic mutations and their role in disease is extremely complex and can involve many years of investigation. In addition, because the genome is vast, discovering a specific disease-related gene has, up to now, been a difficult and time-consuming process. Nevertheless, the development and clinical use of genetic tests is expected to increase rapidly over the next decade, driven in large part by research funded and conducted by agencies within DHHS, especially NIH, as well as by work in the private sector. The Human Genome Project, a major international collaborative effort established and supported by public groups, including NIH and DOE, is expected to have a major impact on gene discovery and genetic test development. The results of the Human Genome Project, along with new technical advances, such as tandem mass spectrometry, microarrays, and gene chips, will speed the pace of disease gene discovery.

Once the entire sequence of the human genome has been determined, scientists will have a critical tool to better understand the contribution of each gene to the development and function of the human body. Even then, however, the role played by a specific gene mutation in disease will not be completely understood because of the effects of confounding factors such as gene-gene interactions and environmental influences (smoking and diet, for example). A full understanding of the role of genetic mutation in the current and future health of individuals will require more research, ranging from detailed biochemical studies to population-based studies that focus on clarifying and elucidating the significance of how genes interact with each other and with the environment.

A rising new area in medicine is pharmacogenomics, the combination of the fields of genomics and pharmacology that builds on the work of the Human Genome Project. Much of human variation is due to small differences in a person's DNA, referred to as single nucleotide polymorphisms (SNPs). Pharmacogenomics is the

application of genetic science and technology to understand how these genetic variations influence responses to medicines. Because individuals may not react in the same way to a given drug, understanding the correlation between a person's unique SNPs and his or her drug response will be of great benefit. This knowledge will help health professionals determine a person's likely response to a medicine before it is prescribed. Other potential benefits of pharmacogenomics include the development of effective therapies, prescribed with less trial and error, and the ability to target beneficial drugs and reduce adverse drug reactions.

At present, genetic testing is clinically available for more than 300 diseases or conditions in more than 200 laboratories in the United States, and investigators are exploring the development of tests for an additional 325 diseases or conditions.[i] A recent survey of genetic testing laboratories found that over a three-year period, the total number of genetic tests performed increased by at least 30 percent each year, rising from nearly 100,000 in 1994 to more than 175,000 in 1996.[ii]

In 1997, the NIH–DOE Task Force on Genetic Testing charged to review genetic testing in the United States and to make recommendations to ensure the development of safe and effective genetic tests—concluded that although genetic testing was developing successfully in the United States, some concerns about it exist.[iii] The Task Force grouped the concerns into four major categories: (1) The manner in which tests are introduced into clinical practice; (2) the adequacy and appropriate regulation of laboratory quality assurance; (3) the degree of understanding of genetics on the part of health care providers, patients, and the public; and (4) the continued availability and quality of testing for rare diseases.

A number of the Task Force recommendations were aimed at enhancing the way in which tests are developed, reviewed, and used in clinical practice. The Task Force explored the question of how tests should be assessed and made suggestions about the need for additional data and external review of genetic tests. While recommending that revisions to the current review process may be needed to assess the effectiveness and usefulness of genetic tests, the Task Force did not specify how the review of laboratory-based genetic tests should be changed.

DHHS established SACGT to help the nation prepare for some of the revolutionary changes in clinical and public health practice resulting from the continued and increasing use of genetic testing. SACGT builds on the work of the Task Force by assessing whether current programs for assuring the accuracy and effectiveness of genetic tests are satisfactory or whether other measures are needed.

It is critical for the public to understand that while genetic tests can be extremely beneficial, they also can pose risks, including medical and psychological risks, risks to families, and social and economic risks that may affect entire groups as well as individuals. As the diagnostic and predictive uses of genetic testing continue to increase, and as the effects of testing on society become clearer, its impact will become broader and ultimately will affect all of our lives. Because the use and ramifications of these tests are not yet fully realized, additional consideration is needed regarding whether current programs for assuring the safety and effectiveness of genetic tests are satisfactory or whether additional oversight measures are needed before such tests are introduced for wide-scale use.

Charge to the Committee

SACGT was asked to frame its recommendations around the following five issues:

- What criteria should be used to assess the benefits and risks of genetic tests?
- How can the criteria for assessing the benefits and risks of genetic tests be used to differentiate categories of tests? What are the categories, and what kind of mechanism could be used to assign tests to the different categories?
- What process should be used to collect, evaluate, and disseminate data on single tests or groups of tests in each category?
- What are the options for oversight of genetic tests and the advantages and disadvantages of each option?
- What is an appropriate level of oversight for each category of genetic test?

The level of oversight of genetic tests has significant medical, social, ethical, legal, economic, and public policy implications. Because the system of oversight can greatly affect those who undergo genetic testing, those who provide tests in health care practice, and those who work or invest in the development of such tests—SACGT actively sought public input on the five questions listed above. The Committee concluded that to fully respond to its charge, it was especially important to reach out to diverse communities that might have particular concerns about genetic testing and members of the public who have not yet undergone genetic testing, but are likely to face decisions about these tests in the future.

Public Consultation Process

SACGT employed several mechanisms for gathering public comment and assessing the status of prior debate about the issues surrounding genetic testing. A **Federal Register** notice, a targeted mailing to interested individuals and organizations, a web-based consultation, and a public meeting provided several venues in which the public could submit comments.[iv] To provide a framework for receiving input on the five questions in the Committee's charge, SACGT developed a document, A Public Consultation on Oversight of Genetic Tests, which provided background information about genetic tests, including their current limitations, benefits and risks, and provisions for oversight currently in place. A summary of the consultation document was prepared in English and Spanish.

SACGT received nearly 400 comments from the general public, health professionals, individuals and families affected with genetic conditions, religious groups, state health departments, industry, professional organizations, academia, and patient advocacy organizations. The comments were analyzed qualitatively with respect to the five specific issues SACGT was asked to address. (Because the comments were not a representative sample of the U.S. population, no attempt was made to perform statistical analysis.) SACGT was enormously impressed with the effort people made to participate in this process and believes that its recommendations are strengthened and enriched by the views, opinions, and perspectives the public has shared.

As part of its effort to gather broad-based perspectives on the oversight of genetic testing, SACGT also conducted a literature review and analysis of more than 70 published scholarly articles on genetic testing. Most of the articles were published within the last five years and were written by professionals in the fields of law, science, and bioethics.

Characteristics of Genetic Tests and Implications for Oversight

Genetic tests currently have certain limitations that are relevant to the issue of oversight.[v] One important limitation is that a test may not detect every mutation a gene may have. (A single gene can have many different mutations, and they can occur anywhere along the gene.) Moreover, not all mutations have

the same effects. For example, more than 800 different mutations of the cystic fibrosis gene have been identified, some of which cause varying degrees of disease severity and some of which appear to cause no symptoms at all. This means that a positive test for a specific cystic fibrosis mutation may not provide a clear picture of how the disease is likely to affect an individual. A negative test result cannot completely rule out the disease because the test will usually focus only on the more common mutations and will not detect rare ones. In addition, the frequency of common cystic fibrosis mutations varies among population groups.

Complexity of Human Disease

Another current limitation of genetic tests, especially if used for predictive purposes, relates to the complexities of how diseases develop. Diseases and conditions can be caused by the interaction of many genetic and environmental factors. Thus, predictive tests cannot provide absolute answers for everyone who might be at risk for a disease such as breast or colon cancer. For example, mutations in the breast cancer 1 gene (BRCA1) occur in about half of families with histories of multiple cases of breast and ovarian cancer. If a woman with no family history of the disease has the BRCA1 mutation, it may not mean that she will develop breast or ovarian cancer. Likewise, if she does not have the mutation, she still cannot be sure she will never develop breast or ovarian cancer. Furthermore, because of varying genetic and environmental factors, even the same mutations may present different risks to different people and to different populations. The same mutation in the cystic fibrosis gene in individuals from different populations may have different clinical effects as a result of variations in other genetic and environmental factors.

Gap Between Diagnosis and Treatment

Another important consideration related to the limitations of genetic testing is that effective treatments are not available for many diseases and conditions now being diagnosed or predicted through genetic testing, and, in some instances, they may not be available for some time—a situation sometimes called the "therapeutic gap." However, while knowledge that a disease or condition will or could develop may not provide any direct clinical benefit, it may lead to increased monitoring that could help manage the disease or condition more effectively. At the same time, information about risk of future disease can have significant emotional and psychological effects, and, in the absence of privacy and anti-discrimination protections, that information can also lead to discrimination or other forms of misuse of personal genetic information.

The Changing Nature of Genetic Information

In addition to the limitations of genetic tests, information provided by genetic tests also has potential benefits and risks. Understanding the benefits and risks of a genetic test to individuals or particular populations, which may change over time as more information is gathered, is critical in determining its appropriate use in clinical and public health practice. As further research is conducted and knowledge gained, the validity of test results may increase or decrease.

Potential Benefits of Genetic Tests

Individuals with a family history of a disease live with uncertainties about their own lives as well as their children's futures that may be relieved by having a genetic test. For example, if the test result is positive, it can provide an opportunity for psychological counseling and for the introduction of risk-reducing interventions, such as regular screening practices and healthier lifestyles. Early interventions (such as annual colonoscopies to check for precancerous polyps, the earliest signs of colon cancer) could help prevent deaths from colon cancer. If the test result is negative (the mutation is not present), in addition to feeling tremendous relief, individuals may also no longer need frequent checkups and screening tests, some of which may be uncomfortable and/or expensive.

Genetic tests can sometimes provide important information about the course a disease may take. For example, certain cystic fibrosis mutations are predictive of a mild form of the disease. Other gene mutations may identify cancers that are likely to grow aggressively.

Genetic tests also can provide information to improve treatment strategies. Because genetic factors may affect how individuals respond to drugs, the knowledge that an individual carries a particular genetic mutation can help health care providers tailor therapy. For example, individuals with Alzheimer disease who have two copies of a certain gene do not respond to a drug used in some Alzheimer's patients.[vi] In individuals with the disease who do not have both copies of that gene, however, the drug seems to slow progression of the disease.

Potential Risks of Genetic Tests

However, at the same time that genetic tests offer great potential benefits, they can also pose risks. Genetic testing poses potential physical, medical, psychological, and social and economic risks to individuals being tested and to members of their families. For the most part, the physical risks of genetic testing are minimal, because most genetic tests are performed on blood samples or cells obtained by swabbing the lining of the cheek. The procedures required to carry out prenatal genetic testing can cause miscarriage in 1 in 200 to 400 cases.

The medical risks of genetic testing relate to actions taken in response to the results of a genetic test. Positive test results can have an impact on a person's reproductive and other life choices. For example, individuals with positive test results may choose not to have children or may opt to take extraordinary preventive measures, such as surgical removal of the breasts to prevent the possible development of cancer. Individuals with negative test results may forgo screening or preventive care because they mistakenly believe they are no longer at risk for developing a given disease. Substantial risks are posed by incorrect test results or the misinterpretation of test results. False negative test results can mean delays in diagnosis and treatment, while false positive results can lead to follow-up testing and therapeutic interventions that are unnecessary, inappropriate, and sometimes irreversible.

Genetic test results have potential psychological and emotional risks. Predictive testing of healthy individuals may have significant psychological and social impacts. The knowledge about disease risk may prove burdensome because of uncertainty about how to manage risk when data about the efficacy or preventive measures is constantly changing, such as controversies about dietary interventions or the use of hormone replacement therapy in preventing heart disease.

The emotional impact of positive test results can be significant and can cause persistent worry, confusion, anger, depression, and even despair. Individuals who have relatives with a disorder may have developed a frightening picture of what their own future may hold. Negative test results also can have significant emotional effects. While most people will feel greatly relieved by a negative result, they may also feel guilty for escaping a disease that others in the family have developed (known as survival guilt). A

negative test result may provide a false sense of security because an individual may not understand that even with a negative test result, he or she still bears the same risk of disease as the general population.

Because genetic test results reveal information about the individual and the individual's family, test results can shift family dynamics in pronounced ways. For example, if a child tests positive for sickle cell trait (having one copy of the sickle cell gene) during newborn screening, it implies that one of the parents is a carrier. It is also possible for genetic tests to inadvertently disclose information about a child's parentage.

Genetic test results can pose risks for groups if they lead to stigmatization of that group and discrimination of its members. Concerns about the potential risks of discrimination and stigmatization, based on information gained from genetic testing are particularly acute among groups who have experienced genetic discrimination in the past and other forms of discrimination.

It is important to point out that the potential risks described above relate to genetic testing for conditions that are solely health-related. In the future, it may be possible to develop tests that could be used to diagnose conditions that are related to certain predispositions that also have a behavioral component, such as alcohol abuse, nicotine addiction, or eating disorders, or to predict future behavior. Although the assumption that single genes, or even many genes, can predict complex human actions is simplistic, the possibility of such tests raises profound concerns because their potential psychological, social and economic harms are so significant and the potential misuse of such information is so great. Because of these complexities, SACGT focused its discussions on the use of genetic tests to determine health-related information about individuals and/or families.

Current System of Oversight of Genetic Tests

As part of its charge, SACGT reviewed the provisions for oversight of genetic tests already in place. Currently, government agencies accord genetic and nongenetic tests the same level of oversight. Genetic tests are regulated at the federal level through three mechanisms:

(1) the Clinical Laboratory Improvement Amendments (CLIA);

(2) the Federal Food, Drug, and Cosmetic Act; and

(3) during investigational phases, the Federal Policy for the Protection of Human Subjects (45 CFR part 46, 21 CFR part 50, and 21 CFR part 56).

Four DHHS organizations have roles in the oversight of genetic tests: the Centers for Disease Control and Prevention (CDC), the Food and Drug Administration (FDA), the Health Care Financing Administration (HCFA), and the Office for Protection from Research Risks (OPRR). Although they do not have regulatory functions, NIH, the Health Resources and Services Administration (HRSA), and the Agency for Healthcare Research and Quality (AHRQ) support research activities and demonstration projects that generate knowledge about and experience with genetics and genetic testing. In addition, some states regulate genetic tests, and some professional organizations have issued relevant guidelines for professional practice.

The Roles of CDC and HCFA

All laboratory tests performed for the purpose of providing information about the health of an individual must be conducted in laboratories certified under CLIA. The regulatory requirements applied to these laboratories increase in stringency with the complexity of the tests performed. Under CLIA, HCFA's Division of Laboratories and Acute Care, in partnership with CDC's Division of Laboratory Systems, develops standards for laboratory certification. In addition, CDC conducts studies and convenes conferences to help determine when changes in regulatory requirements are needed. The advice of the Clinical Laboratory Improvement Advisory Committee may also be sought regarding these matters.

The CLIA program provides oversight of laboratories through on-site inspections conducted every two years by HCFA, using its own scientific surveyors or surveyors of deemed organizations or state-operated CLIA programs approved for this purpose. This oversight includes a comprehensive evaluation of the laboratory's operating environment, personnel, proficiency testing, quality control, and quality assurance. The laboratory director plays a critical role in assuring the safe and appropriate use of laboratory tests. The laboratory director must meet the required CLIA qualifications for laboratory director and must ensure that the test methodologies selected are capable of providing the quality of results required for patient care. Laboratory directors are required to take specific actions to establish a comprehensive quality assurance program, as outlined by CLIA, that ensures that the continued performance of all steps in the testing process is accurate. Although laboratories under CLIA are responsible for all aspects of the testing process (from specimen collection through analysis and reporting of the results), CLIA oversight has emphasized intra-laboratory processes as opposed to the clinical uses of test results.

CLIA has not specifically outlined in its current review processes additional aspects of oversight that are critical to the appropriate use of genetic tests, such as clinical validity and clinical utility. Also unaddressed are the issues of informed consent for clinical genetic testing after the research phase and adequate access to genetic counseling to assure the appropriate transfer of information. HCFA and CDC are taking steps to develop more specific laboratory requirements for genetic testing under CLIA, including provisions for the pre- and post-analytical phases of the testing process, and CDC will be issuing a Notice of Intent in the **Federal Register** to gather public comment on the proposed changes to CLIA.

Through its Office of Genetics and Disease Prevention, CDC also has a role in addressing the public health impact of advances in genetic research, furthering the collection, analysis, dissemination, and use of peer-reviewed epidemiologic information on human genes and coordinating the translation of genetic information into public health research, policy, and practice. CDC is also leading an interagency effort to explore how voluntary, public/private partnerships might help encourage and facilitate the gathering, review, and dissemination of data on the clinical validity of genetic tests. Two pilot data collection efforts, one for cystic fibrosis and one for hereditary hemochromatosis, are in the preliminary stages.

The Role of FDA

All laboratory tests and their components are subject to FDA oversight under the Federal Food, Drug, and Cosmetic Act. Under this law, laboratory tests are considered to be diagnostic devices, and tests that are packaged and sold as kits to multiple laboratories require pre-market approval or clearance by FDA. This pre-market review involves an analysis of the device's accuracy as well as its analytical sensitivity and specificity. Pre-market review is performed based on data submitted by sponsors to scientific reviewers in the Division of Clinical Laboratory Devices in FDA's

Office of Device Evaluation. In addition, for devices for which the link between clinical performance and analytical performance has not been well established, FDA requires that additional analyses be conducted to determine the test's clinical characteristics, that is, its clinical sensitivity and specificity. In some cases, FDA requires that the predictive value of the test be analyzed for positive and negative results.

The majority of new genetic tests are being developed by laboratories and are being provided as clinical laboratory services. These tests are referred to as in-house tests or "home brews." FDA has stated that it has authority, by law, to regulate such tests, but the agency has elected as a matter of enforcement discretion to not exercise that authority, in part because the number of such tests is estimated to exceed the agency's current review capacity.

However, FDA has taken steps to establish a measure of regulation of home brew tests by instituting controls over the active ingredients (analyte-specific reagents) used by laboratories to perform genetic tests. This regulation subjects reagent manufacturers to certain general controls, such as good manufacturing practices.

With few exceptions, however, the current regulatory process does not require a pre-market review of the reagents. (The exceptions involve certain reagents that are used to ensure the safety of the blood supply and to test for high-risk public health problems such as HIV and tuberculosis.) The regulation restricts the sale of reagents to laboratories performing high-complexity tests and requires that certain information accompany both the reagents and the test results. The labels for the reagents must, among other things, state that "analytical and performance characteristics are not established." Also, the test results must identify the laboratory that developed the test and its performance characteristics and must include a statement that the test "has not been cleared or approved by the U.S. FDA." In addition, the regulation prohibits direct marketing of home brew tests to consumers. In 1999, FDA established the Molecular and Clinical Genetics Panel of the Medical Devices Advisory Committee to serve as a source of independent advice in the area of DNA-based diagnostics.

The Role of Regulations Protecting Human Subjects

Additional oversight is provided during the research phase of genetic testing if the research involves human subjects or identifiable samples of their DNA. OPRR and FDA administer regulations governing the protection of human research subjects. OPRR oversees the protection of human research subjects in DHHS-funded research. FDA oversees the protection of human research subjects in trials of investigational (not yet approved) devices, drugs, or biologics being developed for eventual commercial use.

Fundamental requirements of these regulations are that experimental protocols involving human subjects must be reviewed by an organization's Institutional Review Board (IRB) to assure the safety of the subjects, to review and approve the informed consent process, and to evaluate whether risks outweigh potential benefits. The regulations apply if the trial is funded in whole or in part by a DHHS agency or if the trial is conducted with the intent to develop a test for commercial use. However, FDA regulations do not apply to laboratories developing home brew genetic tests, because at present FDA has elected not to exercise its enforcement authority. CLIA requirements apply to DHHS-funded research only if the results of the genetic test are used for patient care, meaning that results are provided to a subject, to the subject's family, or to the subject's health care provider. OPRR regulations would apply if the laboratory was funded by DHHS or was conducting research at an institution that receives DHHS funding.

The Role of NIH

The mission of NIH is to support and conduct medical research to improve health. This research encompasses basic, clinical, behavioral, population-based, and health services research. In addition to funding a substantial amount of genetics research, including the Human Genome Project, and assuring that the research is conducted in accordance with human subject regulations and other pertinent guidelines, NIH supports a number of other programs that have an important role in disseminating knowledge and technology to the public and private sectors. NIH also produces consensus statements and technology assessment reports on issues important to health care providers, patients, and the general public. Topics related to genetic testing have included the development and assessment of newborn screening for sickle cell disease, genetic testing for cystic fibrosis, and screening for and management of phenylketonuria (PKU).

The Role of AHRQ

As the lead federal agency in health care quality, AHRQ is expected to play a greater role in promoting research on optimal methods of organizing, delivering, and financing genetic services and measuring the impact of these factors on the quality of patient care. AHRQ now plays an important role in making better health-related information available to health plans, purchasers of health care, clinicians, and patients, and in developing methods for facilitating shared patient-physician decision-making. In particular, the agency has developed an instrument (Consumer Assessment of Health Plans, or CAHPS) that allows consumers to assess their current health plan and a website that catalogues clinical practice guidelines. The Technology Assessment Program of the agency has a role in rigorously evaluating the beneficial and adverse outcomes associated with health care interventions (both diagnostic and therapeutic) in order to inform consumers, health professionals, and payors. AHRQ also supports the U.S. Preventive Services Task Force, which rigorously reviews evidence for the effectiveness of more than 100 interventions to prevent illnesses and conditions, including screening tests for genetically determined conditions such as PKU and Down Syndrome, and recommends which of these interventions clinicians should provide to their patients.

The Role of HRSA

The mission of HRSA is to assure access to health care, including genetic services, for those who are medically underserved. Access is attained through a broad range of programs including support for community health centers, maternal and child programs, health professional training programs, and state public health agency infrastructure (Maternal and Child Health Block Grants). The Genetic Services Program of HRSA promotes support and leadership for assurance, assessment and policy development for utilization of genetic medicine and technology within health care and public health practice. In this role, HRSA has supported the development and quality assurance of screening tests for PKU, congenital hypothyroidism, and sickle cell anemia and for the management of these conditions within the health care setting and within newborn screening programs. In addition, HRSA has provided funding to assist public health systems develop genetic medicine and technology and demonstration projects

related to the translation of genetic technology into practice. With a special focus on underserved populations, these programs have evaluated how genetic tests are used in practice and have identified barriers to access and use.

The Role of the States

State health agencies, particularly state public health laboratories, have an oversight role in genetic testing, including the licensure of personnel and facilities that perform genetic tests. State public health laboratories and state-operated CLIA programs, which have been deemed equivalent to the federal CLIA program, are responsible for quality assurance activities. A few states, such as New York and California, have promulgated regulations that go beyond the requirements of CLIA. States also administer newborn screening programs and provide other genetic services through maternal and child health programs.

The state newborn screening laboratories must meet the requirements of CLIA's quality control and proficiency testing programs, but in general there is little Federal oversight of their programs. State newborn screening laboratories and many commercial laboratories that perform testing for state newborn screening programs have used the National Newborn Screening Quality Assurance Program for verifying test accuracy and for meeting CLIA quality assurance requirements. This is particularly important because of the absence of a requirement for HCFA-approved proficiency testing programs for newborn screening.

The Role of the Private Sector

Recognized professional organizations provide oversight in voluntary partnership with HCFA and CDC, some of which serve as agents for the government in accreditation activities. These groups also develop laboratory and clinical guidelines and standards. A number of organizations are involved in helping to assure the quality of laboratory practices and in developing clinical practice guidelines to ensure the appropriate use of genetic tests. These organizations include the following:

- the College of American Pathologists (CAP), which develops standards for its membership and establishes and operates proficiency testing programs;
- the NCCLS (formerly called the National Committee on Clinical Laboratory Standards), which develops standards for test methodologies;
- the American College of Medical Genetics (ACMG), which develops guidelines for the use of particular tests and test methodologies and works with CAP to provide proficiency tests for certain genetic tests; and
- COLA, a nonprofit, physician-directed, national accrediting organization whose purpose is to promote excellence in medicine and patient care through programs of voluntary education, achievement, and accreditation.

Other organizations, such as the American Academy of Pediatrics, the American College of Obstetrics and Gynecology, the American Society of Human Genetics, and the National Society of Genetic Counselors, are also involved in the development of guidelines and recommendations regarding the appropriate use of genetic tests. Patient advocacy groups, as well as individuals and families affected with genetic conditions, also play an important role in setting standards and in developing guidelines through advocacy and monitoring of health care practices.

Conclusions and Recommendations

SACGT was asked to assess whether current programs for assuring the accuracy and effectiveness of genetic tests are satisfactory or whether other measures are needed. This assessment requires consideration of the potential benefits and risks (including social, economic, psychological, and medical harms) to individuals, families, and society, and, if necessary, the development of a method to categorize genetic tests according to these benefits and risks. Considering the benefits and risks of each genetic test is critical in determining its appropriate use in clinical and public health practice.

Genetic tests offer great promise and provide hope for many people who wish to improve the health of their families and themselves. At the same time, if introduced prematurely or applied inappropriately, the outcomes of genetic testing could place some individuals and groups at risk. Thus, an important balance must be struck between the need to encourage the development and dissemination of new tests and the need to ensure that their introduction yields more benefit than harm.

SAGCT was guided by a recurrent theme that emerged from the public comments. Although many citizens believe that the risks and potential benefits of genetic tests are no different than those posed by any other type of medical test, there is a widespread perception that these tests are different and that people experience genetic testing in a way that is dissimilar to the experience of other forms of medical testing.

Comments received from the public by SACGT highlighted lingering and persistent concerns about the risks of inappropriate disclosure of genetic information about individuals and the potential that such disclosure would result in stigma and discrimination. One individual wrote that the public "will not be able to utilize fully the promise of genetic testing without assurances of the privacy of test results and safeguards against discrimination in health care and employment."

Based on these and other concerns, SACGT arrived at several overarching principles that address public concerns and relate to the establishment of enhanced oversight.

- One of the main goals of genetic testing is to improve the health and well-being of individuals and families. No test should be introduced in the market before it is established that it can diagnose and/or predict a health-related condition accurately and safely. Thus, the public is best served by ensuring both the appropriate oversight of genetic tests and the continued development of genetic tests.
- The public, through involvement of advocacy groups, organizations, and individuals, needs to be involved in the ongoing consideration of issues surrounding genetic testing. This will be particularly important in addressing the concerns of minority populations and diverse communities regarding the purposes and uses of genetic testing.
- Since genetic education and counseling are critical to the appropriate use, interpretation, and understanding of genetic test results, efforts to ensure the education of the public and of health providers about genetics are necessary.
- Federal legislation is needed to prohibit discrimination in employment and health insurance based on genetic information. Federal legislation is also needed to protect the privacy of genetic information in medical records. Without these protections, the public will be reluctant to undergo genetic tests that might be beneficial to its health and well-being.

In addition to developing these basic principles, SACGT considered each of the five questions in its charge separately, recognizing that there is tremendous overlap in the issues raised under each question. The Committee's conclusions and recommendations are based on its analysis of the public input received, the literature reviewed, and discussions held on these issues at each of its four public meetings.

Issue 1. What criteria should be used to assess the benefits and risks of genetic tests?

• Analytical validity, clinical validity, clinical utility, and social considerations should be the major criteria used to assess the benefits and risks of genetic tests.

SACGT identified four criteria'analytical validity,[vii] clinical validity,[viii] clinical utility,[ix] and societal issues—that can be used to assess the benefits and risks of a genetic test. The importance of these criteria was confirmed in the public comment process. Assessing the potential benefits and risks of a genetic test is a process that occurs in stages. Before a test is used in clinical or public health practice, a determination must be made regarding the test's effectiveness in the laboratory—that is, whether a test is analytically valid. The degree of complexity of the test is a particularly important factor in assessing analytical validity.

Analytical Validity

Analytical validity is an indicator of how well a test measures the property or characteristic it is intended to measure. In a DNA-based test, an analytically valid test would be positive when the particular gene mutation is present (*analytical sensitivity*) and negative when the gene mutation is absent (*analytical specificity*). A key measure of a test's analytical validity is its accuracy, or the probability that the measured value will be within a predefined range or the true activity or level. Another measure of analytical validity is reliability, or the probability of repeatedly getting the same test result. During the process of validating a new genetic test, how well it performs will be compared to how well the best existing method or "gold standard" performs. Sometimes, if a gold standard does not exist for a new genetic test, the test's performance must be based on how well it performs in samples from individuals known to have the disease.

While the analytical validity of a test must be determined, it is not a sufficient criterion for assessing the potential benefits and risks of a test. Members of the public noted that the availability of treatment options or the opportunity for prevention or amelioration of disease through lifestyle change are key requirements in assessing benefits and that in the absence of such interventions, benefits diminish. It is important to remember, however, that for some individuals, knowledge of a condition—even without options for prevention or treatment—can be of value. The possibility that a genetic test can resolve uncertainty is an important benefit for some individuals. Conversely, some individuals find value in not knowing the results of a test for which no intervention is available.

Clinical Validity and Utility

Once the analytical validity of a test is established, the second step in assessing the benefits and risks of a genetic test is to evaluate how well it performs in the clinical environment. This involves evaluating a test's clinical validity and clinical utility. Clinical validity refers to the accuracy of the test in diagnosing or predicting risk for a health condition and is measured by the sensitivity, specificity, and predictive value of the test for a given health condition. Clinical utility involves identifying the outcomes associated with positive and negative test results. Because the clinical validity and clinical utility of a genetic test may vary depending upon the health condition and the population to be tested, these criteria must be assessed on an individual basis for each test.

Thus, in considering a system for assessing benefits and risks, it is crucial to recognize that only individuals can weigh the balance between negatives and positives once a test is deemed safe and efficacious and that not everyone will make the same choice. Participants at the public meeting stated that one of the major benefits of genetic testing is that it enables patients to make informed medical decisions and life choices. One participant summed up this view by noting that "Individuals expect a high level of accuracy and to be able to use the genetic information obtained to make medical or personal decisions."

The complexity of the interpretation of a test result is a critical determinant of risk, and the contribution of other genetic factors as well as environmental factors to disease development can complicate the interpretation of a test result. The more complex the interpretation, the greater the possibility for harm. For example, a test might be clinically valid and useful in one population, but not in another. Or, a test might be appropriate for use in adults, but not in newborns. In addition, genotype/phenotype correlations vary within a given disease category, even for single gene disorders.

An important distinction in considering the risks and potential benefits of a test is that between the technical aspects of a given test—that is, its clinical validity and utility—versus how it is interpreted by health care providers and the individuals undergoing testing. A clinically valid test in the hands of a poorly trained health care provider can pose as much risk as a less valid or accurate test that is correctly interpreted. A clinically valid test administered to individuals without involving them in an informed decision-making process can also pose considerable risk to that individual or family. Thus, one way to minimize harms is to ensure that tests are administered by qualified professionals and that appropriate education and genetic counseling is provided.

Individuals submitting comments to SACGT frequently mentioned the need for health care providers to demonstrate competence in understanding the information and its implications, and a number of individuals suggested that availability of and access to genetic counseling would reduce the public's concerns about genetic testing. One commenter noted that the issues of benefits and risks are "the reason that genetic counseling and evaluation is so necessary for genetic testing." In addition, one private laboratory that offers genetic testing services stated that "many of the questions we receive from client health care providers and patients relate to the translation and interpretation of genetic information in our medical reports." In fact, commenters often mentioned that inadequate public understanding and physician education are causes of the confusion and risks associated with genetic testing. One commenter urged "more emphasis * * * on improving the education and influencing the attitudes of health professionals regarding genetic matters." Participants in the public meeting also emphasized the importance of education in minimizing the potential harms of genetic testing and in maximizing its potential benefits to diverse communities.

Factors to Be Considered in Assessing Clinical Validity

A test's clinical validity is influenced by a number of factors, including the purpose of the test, the prevalence of the disease or condition for which the test is being conducted, and the adequacy of the information available to determine clinical validity.[x] Genetic tests have a number of purposes, and some are used for more than one purpose. The acceptable level of the predictive value of a genetic test may vary depending on the purpose for which the test is used (for example, for diagnosing a condition in a person with symptoms or for predicting a future health risk in an otherwise asymptomatic individual).[xi] In addition, a higher predictive value may be required of a test for which no

other confirmatory test or clinical measure is available.

Clinical validity, particularly predictive value, is influenced by the prevalence of the condition in the population. Assessing clinical validity may be particularly challenging in the case of tests for rare diseases. This is because gathering statistically significant data may be difficult, as relatively few people have these diseases. Thus, prevalence may be a factor in determining how much data on test performance should be available before a test is offered in patient care.

For many genetic tests, particularly those that are predictive or presymptomatic, knowledge of the test's clinical validity may be incomplete for many years after the test is developed. When information that may affect clinical validity is incomplete, the potential harms of the test may increase and must be considered more carefully.

Factors to Be Considered in Assessing Clinical Utility

Clinical utility takes into account the impact and usefulness of the test results to the individual, the family, and society. The benefits and risks to be considered include the psychological, social, and economic consequences of testing as well as the implications for health outcomes. Decisions about the use of a genetic test should be based upon a consideration of the risks of any follow-up tests required to confirm an initial positive test, the efficacy of available treatments, the degree of certainty with which a diagnosis can be made, and the potential for adverse psychological and social and economic effects versus beneficial treatment if a diagnosis is made. Factors affecting clinical utility include (1) the purpose of the test; (2) the quality of evidence for assessing outcomes; (3) the potential benefits and risks of test results; (4) the nature of the health condition and its potential outcomes; (5) uncertainties of genetic test results; and (6) the provision of information concerning other family members.

Purpose of the Test

As in assessing clinical validity, the purpose of the test is an important factor in assessing clinical utility. Different risks and uncertainties are associated with genetic tests that are used to predict a future disease or condition than with those that are used for diagnostic purposes. For example, the use of a test for a specific mutation to aid in the diagnosis of cystic fibrosis in a person who has symptoms has different implications than the use of a test to determine whether a woman with no symptoms has a risk for breast and ovarian cancer because she has a BRCA1 or BRCA2 mutation that might alter her risks. Tests used for diagnostic purposes will most likely be conducted as part of a clinical evaluation to diagnose a specific disease, or they will be used for diseases or conditions that are clearly inherited.

The use of a genetic test in population screening may raise greater concern than the use of the same test in an individual seeking information about his or her health. In population screening, a large number of healthy people may receive unexpected test results that may or may not provide definitive information. Decisions about whether to use genetic tests for screening should take into account the prevalence of the condition, because the higher the prevalence of the genetic condition, the greater the number of people who may receive unnecessary treatment or false reassurance if the test produces false positive or false negative results. On the other hand, if treatment options are available, screening for highly prevalent conditions may have significant public health value.

The Quality of the Evidence for Assessing Outcomes

The quality of evidence for assessing outcomes of genetic test results is a factor to consider in determining the clinical utility of a genetic test. Often, the evidence needed to assess clinical utility is limited or lacking. Established methods for evaluating the quality of the evidence should be used to assess outcomes. (Issues pertaining to data collection and analysis are addressed more fully in Issue 3, below.)

Potential Benefits and Risks

A number of potential benefits and risks of genetic testing can be associated with positive or negative test results. For example, potential benefits of a positive test result include the possibility that it may provide knowledge of diagnosis or risk status, it could allow preventive steps or treatment interventions to be taken, or it may identify information about risk status in other family members (also a potential harm). The potential benefits of a negative test result include ruling out a specific genetic diagnosis or risk and/or eliminating the need for unnecessary screening or treatment.

The potential risks of a positive test result include exposure of individuals to unproven treatments; potential for social, psychological, and economic harms, including altered self-image, impact on family relationships, stigmatization, and potential exclusion from health insurance and employment; and identification of risk status in other family members (also a potential benefit). For false positive test results, individuals may be exposed to unnecessary screening or treatment. A negative test result could give false reassurance regarding risk due to nongenetic causes or induce psychological effects such as survivor guilt. False negative test results may delay diagnosis, screening, and treatment.

The Nature of the Health Condition

In determining the relative risks and benefits of a given test, these outcomes also must be considered in light of the nature (severity, degree of associated disability, or potentially stigmatizing characteristics) of the disorder being tested for, which is an important factor in assessing clinical utility. For example, a genetic test for periodontal disease may raise less concern than a test for cancer, and genetic tests developed for conditions such as alcoholism or mental illness might cause even greater concern because of possible misuse of such information. Health outcomes, as measured by such indicators as morbidity and mortality, are important in assessing clinical utility of genetic testing, and they can be affected by both the nature of the health condition as well as the availability, nature, and efficacy of treatment. The greater the uncertainty about the health outcomes associated with a test result, the greater the potential harms of the test. This is an important consideration in genetic testing for common health problems such as cancer and cardiovascular disease, since health outcomes typically are the result of the combined effects of genetic, environmental, and behavioral risk factors.

Uncertainties of Genetic Test Results

Genetic tests used to predict a specific disease or condition in otherwise healthy persons are associated with greater uncertainties and risks than are those used to diagnose a disease or condition. Currently, tests used for predictive purposes will provide an estimate of a person's risk of developing a particular disease or condition. However, the risk assessment may be inaccurate because of other genetic and environmental factors that have not been accounted for or are not yet known. Even so, predictive genetic tests may have profound effects on the lives of otherwise healthy individuals.

False negative results are more common in the early stages of the development of diagnostic tests,

including genetic tests. Genetic tests in early development may identify only a portion of mutations associated with a given health outcome. The role of other genetic and environmental factors is still unknown for many conditions and will also affect the certainty of genetic test results.

Implications for Family

Because genetic information may have implications for relatives of the individual being tested, the potential of the test to reveal information about family members or to alter interfamilial relationships are additional factors to be considered in assessing a test's clinical utility. For example, DNA-based tests for cystic fibrosis, sickle cell anemia, or other conditions will identify carriers for the condition as well as those who are affected. If an individual tests positive for Huntington's disease, first-degree relatives are then known to have a 50 percent chance of carrying the same mutation. Some of these relatives may not wish to discover their risk, while others may wish to use the test results of their relatives to make a decision about their own genetic testing.

Factors to Be Considered in Assessing Social Issues

Important social considerations may heighten the risks of certain tests, even if they are accurate and clinically meaningful. Tests for certain health conditions may carry special risks because of the social implications of the health condition, for example, conditions associated with mental illness or dementia. Thus, some dimensions of genetic testing may affect society as a whole and certain social groups as well as individuals, and this requires that special consideration be given to the potential for further stigmatization and discrimination of members of vulnerable or at-risk groups.

Genetic test results can change how people are viewed by their family, friends, and society as well as how people view themselves. People diagnosed with or at risk for genetic diseases or conditions may be affected by the way others begin to see and interact with them. Having or being at risk for a disease or condition that is viewed by society in a negative light can result in stigmatization, and emotional and psychological harms. In addition to changes in how they are seen by others, social influences can affect self-perception and have a profound impact on life decisions.

Diagnostic or predictive genetic information about an individual could lead to discrimination in health insurance, life insurance, education, and employment, a fear expressed repeatedly in public comments to SACGT. The fear of discrimination may be particularly acute for people with or at risk for diseases or conditions that are chronic and severely disabling and that lack effective or affordable treatments. Educational opportunities may be restricted, further limiting life possibilities. Fears of genetic discrimination have made the establishment of federal privacy and anti-discrimination protections a high priority for many. In addition to concern about discrimination, there may be downstream effects of a transformation in medicine to a focus on predicting future disease risks that are not yet fully understood.

Significant social concerns have grown out of painful memories of the American eugenics movement and the more recent history of programs that tested African Americans for sickle cell disease and disadvantaged populations for "feeble-mindedness." Because these programs heightened discrimination against those tested, tests developed for use in certain targeted population groups may carry higher risks.

In addition, because social categories used to classify ethnocultural differences often do not accurately reflect actual genetic variation within a population, care should be taken to ensure accurate interpretation of genetic test results by obtaining, to the extent possible, accurate knowledge regarding the ethnocultural and/or genetic background of the individuals being tested. A further note of caution is also necessary. In developing genetic tests, it will be important to ensure that they are accurate when used in different populations, even though doing so may inadvertently reinforce the erroneous assumption that there is a straightforward, one-to-one relationship between one's genes and one's ethnocultural identity, possible resulting in stigmatization. Even accurate tests can reinforce misguided cultural notions.

Issue 2: How can the criteria for assessing the benefits and risks of genetic tests be used to differentiate categories of tests? What are the categories and what kind of mechanism could be used to assign tests to the different categories?

SACGT considered whether analytical validity, clinical validity, clinical utility, and social issues could be used to characterize the potential benefits and risks associated with a given test. Using this information, SACGT suggested in the public consultation document that tests might be organized into categories such as "high risk" and "low risk," while acknowledging that this would not be a simple or straightforward task. Categorization would depend on the consideration of a combination of factors, including test characteristics, availability of safe and effective treatments, and the social consequences of a diagnosis or identification of risk status. In 1975, the National Academy of Sciences recommended that genetic tests be considered in terms of three categories, based on the complexity and usefulness of the information to the individual being tested.[xii]

The difficulty of arriving at a straightforward schema was reflected in the public comments received. Some individuals suggested categorizing genetic tests by the purpose of the test, such as newborn screening, prenatal, carrier, predictive, or diagnostic testing. Others suggested categorizing tests by the availability of treatment or preventive measures, by the demonstration of clinical validity, or by the stage of development of the test.

A number of public commenters believed that certain genetic tests raise more ethical, legal, and social concerns than do others. In this category, they identified prenatal, presymptomatic, and predictive tests, especially when no treatment measures are available. Commenters viewed diagnostic and confirmatory tests and tests for diseases for which treatment is available as raising less concern.

Additional considerations for the level of review of genetic tests include gene frequency—that is, whether the test would be for a common or an orphan (rare) disease; whether the test will be used for population-based screening or individual testing; the potential for stigmatization of individuals or groups; and the availability of independent methods of confirmation to reduce the occurrence of false-positive test results.

For the purposes of review, a useful way to consider tests is to assess them across several dimensions. These criteria are necessary but may not be sufficient for all tests.

- Is the test at this stage of development primarily diagnostic or predictive?
- Is the mutation being tested for highly or weakly penetrant? [xiii]
- Is a proven intervention available to prevent or treat the disease for which the test is being conducted?
- Is the test used for population-based screening or testing of individuals?
- Is the prevalence of the disorder for which the test is used high or low?

• Is there potential for stigmatization of individuals or groups from the test results?

• Is the test designed or able to identify more than one condition?

For example, predictive tests require more scrutiny than do diagnostic tests. Similarly, tests for weakly penetrant mutations require more assessment than do those for highly penetrant genes. Tests for conditions for which no interventions are available would be more problematic than tests for conditions for which interventions exist. Thus, for example, a high-scrutiny test would be one that is predictive, detects a mutation that is weakly penetrant, and for which a proven intervention is not available. These dimensions should be considered in the review of genetic tests, and test developers should indicate the categories into which their test(s) fit.

Issue 3: What process should be used to collect, evaluate, and disseminate data on single tests or groups of tests in each category?

Currently, data about genetic tests are collected by a number of different organizations. While some of these data are publicly available, others are not. Data on clinical application of a test could be collected and evaluated by a number of sources, including professional organizations, individual laboratories, academic institutions, and/or governmental agencies. Inherent in any extension of data collection requirements is an added burden to the delivery system as well as an added cost for provision of health care. These are important considerations that must be carefully understood and resolved.

SACGT considered many options for collection, evaluation, and dissemination of data on genetic tests, including the following:

• Continuing reliance on the current practice of allowing laboratories to base decisions on information they collect and analyze, including their own data or data they glean from other sources, such as research publications or consensus conferences.

• Requiring that each laboratory that offers a test be responsible for collecting and analyzing the information that is necessary to support its claims, according to national standards.

• Establishing that a government agency take primary responsibility for collecting information on clinical applications of tests that detect particular mutations and defining the appropriate claims for such tests.

• Forming a consortium of government, professional associations, and industry to create, collect, and analyze information about clinical applications.

Regardless of the option chosen for data collection, once the data have been collected and evaluated, they must be disseminated in an appropriate manner to health care practitioners and the public. One public commenter stated that "the public needs to be informed about general information that evolves from the data about genetic tests, at the same time as the practitioners are informed." Others suggested that information should be easily accessible by all and recommended an Internet-based database system. One commenter supported "the concept of developing peer reviewed Internet resources that provide information on genetic tests for health providers and the public."

SACGT concludes that databases on genetic tests should include not only data generated prior to offering the test for clinical use, but also data generated as part of any post-market evaluation. One option for dissemination is to require laboratories to release summaries of data on clinical application as part of the process of offering the test. Such summaries could be directed to health care professionals, to the general public, or to both. In addition, different methods of collection and distribution of information may be used for different tests. Guidelines or regulations might be required to make those distinctions. One method would be to rely upon publications and professional societies to inform readers and members, with the expectation that practitioners will inform the public over time. Alternatively, the federal government or a consortium could be responsible for ensuring that relevant data are available for both professional and public use.

Through the public comment process, SACGT learned that the issues of privacy and confidentiality of data collected for research is a major concern of individuals participating in such studies. One commenter noted that "collection of data to establish analytic and clinical validity is severely compromised by fear of discrimination." Many individuals indicated that they would be willing to share genetic test results and individually identifiable information if informed consent were obtained and assurances of confidentiality were provided. Many commenters recommended that data collected for research should be anonymized or coded to protect the privacy and confidentiality of the individual and the data. Participants at the public meeting suggested that individuals involved in research studies should receive feedback on the outcomes and findings of the study. Others have suggested that there are risks involved in receiving investigational tests results before the meaning of the information is understood.

• The responsibility for collecting initial data on the analytical validity of a test lies with the test developer.

• Initial knowledge of the clinical validity of a genetic test is essential to assess its safety and efficacy. Further knowledge will depend on additional research and the long-term systematic collection and analysis of additional data. Researchers and test developers should gather and share initial data on the clinical validity and utility of genetic tests.

• Since data sharing and analysis are critical, relevant DHHS agencies should work collaboratively with researchers and test developers to advance data collection and provide this information to health care providers and the public. Initial exploratory data collection efforts among DHHS agencies, which have been coordinated by the Centers for Disease Control and Prevention, have been of value and should continue.

• Protecting the confidentiality of data and the privacy of individuals is essential to the progress of data collection efforts.

Need for Post-Market Data Collection and Dissemination

SACGT believes that it is critical that data continue to be collected after genetic tests reach the market. In addition, there is no current requirement that data about a test's analytical validity, clinical validity, or clinical utility, or lack thereof, should be disclosed to health care providers or patients. BRCA1 is an example of a test that should have been released with disclaimers about the limited knowledge about the test's clinical validity, which was based on data from a small and highly selected group of families in which multiple cases of cancer had occurred. Better post-market data collection and analysis will allow for expansion of the use of the test after it has been proven and understood in the initial target population. There should be some assurance that additional data will be collected after a test is preliminarily approved, using some minimal standards, and that data will be continuously reported, so that at any given point in time the level of knowledge about any test is sufficient and that for a selective few tests, more intensive studies are needed.

• Laboratories should be encouraged or required to make pre- and post-marketing data on genetic tests available

in a timely, accurate, and understandable manner.

• Post-market data collection can enhance understanding of current applications of a genetic test and is important for any expansion of the use of a genetic test beyond the initial indications approved when the test is made available. Laboratories providing clinical genetic services should commit to post-market data collection efforts.

Issue 4: What are the options for oversight of genetic tests and the advantages and disadvantages of each option?

Oversight of genetic tests can occur through multiple approaches. SACGT identified a number of possible directions that could be taken to improve oversight of genetic tests, including (1) strengthening and expanding current CLIA or FDA regulations or voluntary standards and guidelines; (2) forming interagency review boards; or (3) forming a consortium of representatives from government, industry, and professional organizations.

In assessing whether further oversight is warranted, SACGT emphasized the importance of considering the implications that further oversight may have on the current system and all parties involved as well as the trade-offs and the evolving nature of genetic research and technology. SACGT also recognized that there are many areas beyond test development, use, and marketing, such as the training and education of health care providers and public understanding of genetics that might have an equally important impact on assuring the safety and effectiveness of a genetic test.

The public comments were evenly divided between favoring a greater federal role in oversight versus forming a public/private consortium that would be responsible for oversight. Commenters noted the advantages of a consortium, including flexibility and broad representation of stakeholders. The advantages of a greater federal role cited in public comments are increased resources, centralization of oversight, and the provision of rigorous standards. Some commenters specifically recommended FDA as the federal agency of choice to oversee genetic tests. One said that "FDA should use the authority it has to regulate all genetic tests and any kits that might be developed as part of gene sequencing." Others suggested that strengthening current CLIA regulations was preferable. Still others favored integrating all three approaches, with expansion of a consortium approach integrated with enhanced roles for FDA oversight of test validity and expanded CLIA oversight of testing practices, including enforcement of requirements for pre- and post-analytical test functions. Participants in the public meeting suggested that oversight should not be limited to the tests themselves, but should also apply to the manner in which the tests are used.

• Based on the rapidly evolving nature of genetic tests, their anticipated widespread use, and extensive concerns expressed by the public about their potential for misuse or misinterpretation, additional oversight is warranted for all genetic tests.

The type of oversight required will differ depending on the stage of development of the test and whether it falls into the "high-scrutiny" or "low-scrutiny" categories. However, several actions could be taken to strengthen the federal oversight role to ensure that some level of review occurs for all tests. In particular, the roles of CLIA and FDA in oversight should be strengthened and expanded.

• The Food and Drug Administration (FDA) should be the lead federal agency responsible for reviewing, approving, and labeling of all new genetic tests. FDA review should focus on the claims of analytical and clinical validity made by the developer of the test and be appropriate to the level of scrutiny warranted by the test. The agency should develop flexible mechanisms for review of new genetic tests that minimize both the time and the cost of review without jeopardizing the quality of the assessment of test validity. These mechanisms should, for example, include the use of deemed reviewers and standards developed in concert with professional organizations.

Various elements of a genetic test (analytical validity, clinical validity, clinical utility, and test methodology) raise different issues that require further oversight. A genetic test should not be used in clinical practice (that is, for other than research purposes) unless it has been shown to detect reliably the mutation that it is intended to detect. CLIA requires a laboratory that offers a test to determine the analytical validity of the test before it is used in clinical practice. In the current system, the laboratory intending to offer a test decides when it has met CLIA's requirement, a judgment that may later be evaluated during a CLIA inspection. SACGT believes that the current system requires review. Standards should be enhanced to assist laboratories in deciding when a test's analytical validity has been determined and is acceptable, or laboratories should be required to obtain the concurrence of an independent third party before a test is offered for use in clinical practice.

• Clinical Laboratory Improvement Amendment regulations should be augmented to provide more specific provisions for ensuring the quality of laboratories conducting genetic tests.

The additional oversight and data collection efforts recommended by SACGT will require enhanced resources.

• DHHS agencies should be provided with sufficient resources to carry out expanded oversight of genetic tests, including coordinated data collection, review, and information dissemination.

Finally, professional organizations and state health departments can provide additional oversight protections. Organizations such as CAP, ACMG, and NCCLS have developed guidelines and standards for the development and use of genetic tests, and they continue to do so; state health departments may require laboratory facilities and personnel that perform genetic tests be licensed, and importantly, patient advocacy groups as well as individuals and families affected with a genetic condition will continue to play an important role in setting standards and in developing guidelines.

Issue 5: What is an appropriate level of oversight for each category of genetic test?

At this time, no systematic or credible mechanism is in place for reviewing evidence about genetic tests before they are introduced into clinical practice using standardized methodologies. Thus, it is difficult to determine with great certainty when a test is ready to move from research to clinical practice. (In clinical practice, test results go back to the patient or the patient's family, as opposed to only being part of data collection.) In addition, once tests enter the health care system, it is difficult to retrieve data on their use and outcomes. SACGT concluded that although genetic tests should be evaluated at all stages, from development through clinical application, the level and focus of review should be appropriate to the stage and complexity of the test itself. For example, diagnostic tests for a disease with high penetrance and for which an intervention is available may require less scrutiny than predictive tests for a disease for which no proven intervention is available.

Also important is the degree to which benefits are provided by positive and negative test results. In general, genetic tests should provide information that people will find useful in making decisions relating to their health and well-being. Some consumers might assume that a test would not be made

available unless it has a health benefit. For example, a negative genetic test result may provide a useful basis of information for informed decision-making. Others have argued that access to information, even it if does not lead to a health-related intervention, is itself useful. There is currently no requirement that the clinical utility of a genetic test be assessed before it is used in clinical practice, and additional oversight may be needed to ensure greater awareness of the utility of the test.

In considering the level of oversight warranted, the risks, benefits, and economic implications (both short- and long-term) associated with oversight must be considered. More stringent oversight, for example, may ensure greater certainty that a test has been shown to be accurate and useful, that patient safeguards are in place, and that health care dollars are not spent on tests of little value. On the other hand, additional oversight may unnecessarily delay the introduction of new tests (or improvements to existing tests) into clinical practice and increase the costs of test development, which may in turn discourage the development of new tests. The provision of any type of additional oversight is likely to have implications for resources that may affect the costs of genetic tests and public access to them.

The public comments emphasized a need for guidelines or national standards to determine when a test is ready for clinical use. Many commenters stated that a test should be considered ready for clinical use when clinical validity and utility have been demonstrated. One said that investigational tests are ready for general use "only when sufficient data has been collected and evaluated to determine accuracy, validity, and utility in different populations." Participants in the public meeting said that it was important that the benefits of immediate test application be weighed against what might be lost if the test is not available. In general, commenters thought that tests for rare diseases should be given special considerations so that their availability would not be limited. One said that special consideration for genetic tests for rare diseases "must be given in order to ensure access to such tests, even before validity is confirmed."

Systematic and ongoing review of genetic tests would provide information to health care providers and individuals to assist their decision-making about the usefulness of the test and its potential risks and benefits. The level of confidence in the information presented to individuals on genetic tests should be high.

Making information available and understandable about a test's accuracy and predictive power and the availability of therapy for the disease the test is designed to test for is important to the public, but most commenters thought that this would not be a sufficient form of oversight. Similarly, while commenters believed that the review of promotional materials would be an important part of the oversight process of genetic tests, this alone would not be sufficient for oversight.

Ongoing review is essential, because when test manufacturing methods and materials change, either deliberately or inadvertently, the performance characteristics of a test can change as well, altering its analytical validity. Although CLIA requires reevaluation of tests when the methodology changes, stronger incentives are needed to re-qualify tests when methods and materials change to demonstrate equivalent analytical validity performance.

In addition to considering the levels of oversight required, SACGT considered the timing of such oversight. Because the clinical validity of tests changes as it is used in a population, oversight must consider the entire continuum of test introduction and use over time, from the earliest stages of research to wide-scale clinical application.

SACGT determined that different levels of oversight are warranted for different phases and types of genetic tests. Specific recommendations are made for tests in the research phase of development, the review of tests prior to clinical and public health use, and tests already on the market.

Oversight of Tests in the Research Phase of Development

Analytical validity should be determined in the research phase. Clinical validity can be established only by the expansion of testing to larger numbers of people. Thus, a test in the research phase must satisfy somewhat different standards than one that has been widely used in clinical settings. There must also be a rationale for a test's clinical application and for establishing a population in which testing would be appropriate. In some cases, laboratories that are developing genetic tests for eventual use in clinical practice conduct studies using identifiable patient samples.[xiv] Unless the study is conducted with federal funding or is intended for submission to FDA, there is no federal requirement that laboratories obtain informed consent from a patient participating in that study. Further, at present, not all facilities developing genetic tests have IRB oversight bodies in place, because IRBs are not legally required for institutions that do not conduct DHHS-funded research.

- Institutional Review Board review should be conducted of all research protocols for genetic tests in which individually identifiable human subjects or samples are used, regardless of the funding source. Institutions that lack an IRB must obtain the services of a qualified board. Efforts will be needed to ensure that IRBs are suitably equipped to carry out these reviews. In addition, informed consent must be obtained from all subjects participating in such research.

Transition of Genetic Tests to Clinical and Public Health Use

Once a laboratory has established the analytical validity of a test, its clinical validity and utility can be established only by testing in human populations. Questions must be answered about a test's ability to generate information about the presence, or possibility of future occurrence, of a disease. Determining a genetic test's clinical validity is a complex process, often requiring years of work. At the same time, many would like to see gene discoveries quickly translated into practical use as soon as the discoveries are made, often before the clinical validity of the test is fully established. The use of the test is then refined as new information becomes available. No federal standards guide how laboratories determine when enough is known about a genetic test for it to be used in clinical practice or the extent to which uncertainties about a test's characteristics must be disclosed. FDA should play a central role in serving as the "gatekeeper" for the introduction of new tests and should have the resources to carry out timely reviews.

Many tests are likely to fall into the "low-scrutiny" category and would receive expedited review. For those tests that raise concerns—because they are predictive rather than diagnostic, weakly penetrant, detect a disorder for which no proven intervention exists, or detect a gene mutation in a subpopulation at greater risk for stigma or discrimination—greater scrutiny is warranted.

- FDA should give particular attention to the review of genetic tests that are used to predict diseases and conditions for which no safe and effective interventions are available. Other tests may also warrant a higher

level of scrutiny in the FDA review process.

• In the future, tests may be developed that raise major social and ethical concerns. Because FDA's review will focus on assuring the analytical and clinical validity of a test, the agency's capacity to assess the ethical and social implications of a test may not be sufficient. The Secretary should consider the development of a mechanism to ensure the identification, and appropriate review, of tests that raise major social and ethical concerns.

SACGT can play an important coordinating role in the oversight of genetic tests. The Committee, which includes nonvoting liaison members from AHRQ, CDC, FDA, HCFA, HRSA, and NIH, made a commitment to follow the progress of DHHS in implementing enhanced oversight and to provide ongoing advice about the oversight issues as necessary. SACGT should not engage in case-by-case review of genetic tests, but should serve as a forum for public discussion of evolving concerns about the issues raised in the approval, release, and ongoing review of genetic tests.

Review of Tests Already on the Market

SACGT believes that some tests already on the market should be further evaluated for clinical efficacy and that guidelines should be developed for their appropriate use. A body similar to the U.S. Preventive Services Task Force could be constituted to conduct such reviews. Such a group could develop methodology that emphasizes systematic analytic procedures to review scientific evidence for the purpose of developing sound practice guidelines for genetic testing. Evaluations could be submitted for consideration by medical organizations, specialty societies, government agencies, and other groups concerned with the delivery of genetic services and could be published in peer-reviewed medical journals and other publications.

• The U.S. Preventive Services Task Force with augmented resources, or a similar body set up or given deemed status for this purpose, should review genetic tests that are already on the market for evaluation of clinical efficacy and development of guidelines about their appropriate use.

Additional Recommendations for the Appropriate Use of Genetic Tests

In addition to responding to the five questions in its charge, SACGT developed several recommendations directed toward improving the safe and responsible introduction of genetic tests to the public.

• Individual and family members considering a genetic test should have access to appropriate genetic education and counseling resources to ensure their ability to make an informed decision about being tested.

Current oversight does not specifically address whether genetic education and qualified counseling should be made available for all genetic tests. Genetic test results may be difficult to interpret and present in an understandable manner, raise important questions related to disclosure of test results to family members, and sometimes involve difficult treatment decisions. Because of these intricate issues, some have suggested that those who offer genetic tests should be encouraged or required to make genetic education or counseling available to those considering genetic testing and their family members.

• Written informed consent should be obtained for tests used for predictive purposes. The extent to which written informed consent should be obtained for all other genetic tests requires further deliberation.

Even after a test has been accepted into clinical practice, some observers have suggested that because of the predictive power of genetic tests and the impact that test results may have on individuals and their families, tests should not be administered unless the individual has been fully informed of the test's risks and benefits and a written informed consent has been obtained. There is currently no requirement for such an informed consent.

• Current regulations under FDA and the Federal Trade Commission should be enforced in the area of genetic test promotion and marketing.

Although the federal government requires that promotion and marketing of products and services (which sometimes takes the form of educational materials) be truthful and not deceptive, federal agencies have taken little enforcement action against false or deceptive claims involving genetic tests. While some believe that false or deceptive claims are not currently a problem, others have suggested that promoting or advertising genetic tests, especially to patients/consumers, should be prohibited. Another suggestion is to permit the promotion and advertising of genetic tests, while also emphasizing taking action against those who make false or deceptive claims.

Conclusion

On March 15, 2000, SACGT forwarded its preliminary draft recommendations to Dr. Satcher. The Committee invites public comment on this preliminary draft of its conclusions and recommendations, and at its next meeting, June 5–7, 2000, the Committee will review the comments received and will develop a final report to the Secretary. With the completion of this assignment, SACGT will move on to consider a number of other high-priority issues, relevant to genetic tests and not addressed in this report.

[i] These statistics were provided by GeneTests, a directory of clinical laboratories providing testing for genetic disorders, which can be found at the following website: *http://www.genetests.org*

[ii] McGovern, M.M.; Benach, M.O.; Wallenstein, S.; *et al.* Quality assurance in molecular genetic testing laboratories. JAMA 281(9): 835–40, 1999.

[iii] Holtzman, N.A.; Watson, M.S. (eds.) Promoting Safe and Effective Genetic Testing in the United States: Final Report of the Task Force on Genetic Testing. Baltimore: Johns Hopkins University Press, 1997.

[iv] The consultation document was mailed to 2,500 individuals and organizations in late November 1999, and comments were received until January 31, 2000. A public meeting was held at the University of Maryland, Baltimore, on January 27, 2000, which was planned and organized by a steering group composed of SACGT members and additional experts knowledgeable about issues of concern to diverse communities.

[v] Some of the information presented in this section regarding genes, genetics research, and genetic testing is adapted from Understanding Gene Testing, a booklet produced by the National Cancer Institute and the National Human Genome Research Institute. The booklet is available at *http://www.accessexcellence.org/AE/AEPC/NIH/index.html.*

[vi] Farlow, M.R.; *et al.* Treatment outcome of tacrine therapy depends on apolipoprotein genotype and gender of the subjects with Alzheimer's disease. Neurology 50(3): 669–77, 1998.

[vii] The term analytical validity refers to how well a test performs in the laboratory, that is, how well the test measures the property or characteristic it is intended to measure. (In the case of a genetic test, the property can be DNA, proteins, or metabolites.) In other words, does the test do what its makers claim it does? If so, it must produce the same results repeatedly and in different laboratories (given the same set of procedures).

[viii] Clinical validity refers to the accuracy with which a test predicts the presence or absence of a clinical condition or predisposition. Thus, a test would be clinically valid if it successfully detects the disease or predisposition. Initially, the test has to be conducted on individuals who are known to have the condition (as well as those who do not) to determine its success rate.

[ix] Clinical utility refers to the usefulness of the test and the value of the information to the person being tested. If a test has utility, it means that the results—positive or negative—provide information that is of

value to the person being tested because he or she can use that information to seek an effective treatment or preventive strategy. Even if no interventions are available to treat or prevent the disease or condition, there may be benefits associated with knowledge of a result.

[x] Prevalence refers to the percentage of a population that is affected with a particular disease at any given time.

[xi] A genetic test may either have positive predictive value (the probability that an individual with a positive test result will develop the disease) or negative predictive value (the probability that an individual with a negative result will not get the disease), depending upon its clinical sensitivity and specificity (clinical validity).

[xii] National Research Council. Committee for the Study of Inborn Errors of Metabolism. Genetic Screening: Programs, Principles, and Research. Washington, DC: National Academy of Sciences, 1975.

[xiii] Penetrance is a concept indicating the likelihood that a given gene will result in disease. For example, if a condition is not expressed in every person who carries the mutation, it is said to have reduced penetrance.

[xiv] The National Bioethics Advisory Commission has addressed ethical issues concerning the use of human biological materials in research and made a number of recommendations relevant to some of the issues discussed here. National Bioethics Advisory Commission. Research Involving Human Biological Materials: Ethical Issues and Policy Guidance. Report and Recommendations of the National Bioethics Advisory Commission. 1999.

Secretary's Advisory Committee on Genetic Testing

National Institutes of Health, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892, 301–496–9839 (facsimile), sc112c@nih.gov (email), http://www4.od.nih.gov/oba/sacgt.htm (website).

Date: April 14, 2000.

Sarah Carr,

Executive Secretary, SACGT.

[FR Doc. 00–9808 Filed 4–18–00; 8:45 am]

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H.R. 1374/P.L. 106–183

To designate the United States Post Office building located at 680 U.S. Highway 130 in Hamilton, New Jersey, as the "John K. Rafferty Hamilton Post Office Building". (Apr. 13, 2000; 114 Stat. 200)

H.R. 3189/P.L. 106–184

To designate the United States post office located at 14071 Peyton Drive in Chino Hills, California, as the "Joseph Ileto Post Office". (Apr. 14, 2000; 114 Stat. 201)

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