
# Federal Register

8–14–00 Monday
Vol. 65 No. 157 Aug. 14, 2000

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for Private Use, $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)


# Federal Register

8–14–00 Monday
Vol. 65 No. 157 Aug. 14, 2000
Pages 49469–49718

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

**The seal of the National Archives and Records Administration authenticates the Federal Register** as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $638, or $697 for a combined **Federal Register,** Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $253. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $9.00 for each issue, or $9.00 for each group of pages as actually bound; or $2.00 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

**How To Cite This Publication:** Use the volume number and the page number. Example: 65 FR 12345.

Printed on recycled paper.

## SUBSCRIPTIONS AND COPIES

PUBLIC
Subscriptions:
Paper or fiche 202–512–1800
Assistance with public subscriptions 512–1806
General online information 202–512–1530; 1–888–293–6498
Single copies/back copies:
Paper or fiche 512–1800
Assistance with public single copies 512–1803
FEDERAL AGENCIES
Subscriptions:
Paper or fiche 523–5243
Assistance with Federal agency subscriptions 523–5243

# Contents

Federal Register

Vol. 65, No. 157

Monday, August 14, 2000

**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.

**3 CFR**
Executive Orders:
13165 ..... 49469

**7 CFR**
2 ..... 49471
371 ..... 49471
920 ..... 49472
3015 ..... 49474
3016 ..... 49474
3019 ..... 49474

**12 CFR**
1805 ..... 49642

**13 CFR**
120 ..... 49481

**Proposed Rules:**
107 ..... 49511

**14 CFR**
39 ..... 49481
73 ..... 49483

**Proposed Rules:**
23 ..... 49513
39 ..... 49523

**21 CFR**
1304 ..... 49483

**24 CFR**
903 ..... 49484

**30 CFR**
250 ..... 49485

**Proposed Rules:**
920 ..... 49524

**32 CFR**
199 ..... 49491

**33 CFR**
100 ..... 49493
165 (2 documents) ..... 49495, 49497

**40 CFR**
52 (2 documents) ..... 49499, 49501
300 ..... 49503
442 ..... 49666

**Proposed Rules:**
52 ..... 49527
141 ..... 49638
142 ..... 49638
300 (2 documents) ..... 49527, 49528

**46 CFR**

**Proposed Rules:**
67 ..... 49529

**47 CFR**

**Proposed Rules:**
Ch. I ..... 49530

**49 CFR**
544 ..... 49505

**50 CFR**
21 ..... 49508
230 ..... 49509

**Proposed Rules:**
17 (2 documents) ..... 49530, 49531

Federal Register
Vol. 65, No. 157
Monday, August 14, 2000

# Presidential Documents

Title 3—

The President

Executive Order 13165 of August 9, 2000

## Creation of the White House Task Force on Drug Use in Sports and Authorization for the Director of the Office of National Drug Control Policy To Serve as the United States Government's Representative on the Board of the World Anti-Doping Agency

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Office of National Drug Control Reauthorization Act of 1998, (21 U.S.C. 1701 *et seq.*), and in order to develop recommendations for Federal agency actions to address the use of drugs in sports, in particular among young people, it is hereby ordered as follows:

**Section 1.** *Policy.* The use of drugs in sports has reached a level that endangers not just the legitimacy of athletic competition but also the lives and health of athletes—from the elite ranks to youth leagues. The National Household Survey on Drug Abuse issued in 1999 found that in just 1 year's time the rate of steroid use among young people rose roughly 50 percent among both sexes and across all age groups. It is the policy of my Administration to take the steps needed to help eliminate illicit or otherwise banned drug use and doping in sports at the State, national, and international level.

**Sec. 2.** *Establishment of a White House Task Force on Drug Use in Sports.* (a) There is established a White House Task Force on Drug Use in Sports (Task Force). The Task Force shall comprise the co-vice chairs of the White House Olympic Task Force (the "Olympic Task Force Vice Chairs"), and representatives designated by the Office of National Drug Control Policy, the Department of Health and Human Services, the Department of Labor, the President's Council on Physical Fitness and Sports, the Office of Management and Budget, the National Security Council, the Department of State, the Department of the Treasury, the Department of Education, the Department of Justice, the Department of Transportation, the National Institute on Drug Abuse, and the Substance Abuse and Mental Health Services Administration.

(b) The Task Force shall develop recommendations for the President on further executive and legislative actions that can be undertaken to address the problem of doping and drug use in sports. In developing the recommendations, the Task Force shall consider, among other things: (i) the health and safety of America's athletes, in particular our Nation's young people; (ii) the integrity of honest athletic competition; and (iii) the views and recommendations of State and local governments, the private sector, citizens, community groups, and nonprofit organizations, on actions to address this threat. The Task Force, through its Chairs, shall submit its recommendations to the President.

(c) The Director of the Office of National Drug Control Policy (the Director), the Secretary of the Department of Health and Human Services, and the Olympic Task Force Vice Chairs or their designees shall serve as the Task Force Chairs.

(d) To the extent permitted by law and at the request of the Chairs, agencies shall cooperate with and provide information to the Task Force.

**Sec. 3.** *Participation in the World Anti-Doping Agency.* (a) As part of my Administration's efforts to address the problem of drug use in sports, the

United States has played a leading role in the formation of a World Anti-Doping Agency (WADA) by the Olympic and sports community and the nations of the world. Through these efforts, the United States has been selected to serve as a governmental representative on the board of the WADA. This order will authorize the Director to serve as the United States Government's representative on the WADA board.

(b) Pursuant to 21 U.S.C. 1701 *et seq.*, the Director, or in his absence his designee, is hereby authorized to take all necessary and proper actions to execute his responsibilities as United States representative to the WADA.

(c) To assist the Director in carrying out these responsibilities as the United States Government representative to the WADA and to the extent permitted by law, Federal employees may serve in their official capacity, *inter alia*, on WADA Committees or WADA advisory committees, serving as experts to the WADA.

William J. Clinton

THE WHITE HOUSE,
*August 9, 2000.*

[FR Doc. 00–20670
Filed 8–11–00; 8:45 am]
Billing code 3195–01–P

# Rules and Regulations

Federal Register
Vol. 65, No. 157
Monday, August 14, 2000



## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

### 7 CFR Part 2

### Animal and Plant Health Inspection Service

### 7 CFR Part 371

**[Docket No. 00–063–1]**

## Plant Protection Act; Delegation of Authority

**AGENCY:** Office of the Secretary, USDA.

**ACTION:** Final rule.

**SUMMARY:** This document delegates the authority given to the Secretary of Agriculture under the Agricultural Risk Protection Act of 2000 to administer the Plant Protection Act. Authority is delegated from the Secretary of Agriculture to the Assistant Secretary for Marketing and Regulatory Programs (whose title has been changed to the Under Secretary for Marketing and Regulatory Programs); from that official to the Administrator of the Animal and Plant Health Inspection Service; and from the Administrator of the Animal and Plant Health Inspection Service to the Deputy Administrator for Plant Protection and Quarantine.

**EFFECTIVE DATE:** August 14, 2000.

**FOR FURTHER INFORMATION CONTACT:** Ms. Cynthia Howard, Chief, Regulatory Analysis and Development, PPD, APHIS, suite 3C63, 4700 River Road Unit 118, Riverdale, MD 20737–1238; (301) 734–5957.

**SUPPLEMENTARY INFORMATION:** Title IV of the Agricultural Risk Protection Act of 2000 (Pub. L. 106–224), known as the Plant Protection Act, incorporates nine preexisting pest quarantine and exclusion statutes into a comprehensive law aimed at, among other things, augmenting the Secretary's authority to detect, control, and eradicate plant pests and noxious weeds. Section 434 of the Plant Protection Act authorizes the Secretary to issue such regulations and orders as he considers necessary to carry out this title. This rule delegates that authority from the Secretary of Agriculture to the Assistant Secretary for Marketing and Regulatory Programs (as noted previously, now entitled the Under Secretary for Marketing and Regulatory Programs); from that official to the Administrator of the Animal and Plant Health Inspection Service; and from the Administrator of the Animal and Plant Health Inspection Service to the Deputy Administrator for Plant Protection and Quarantine. We will further amend title 7 and amend title 9 of the *Code of Federal Regulations* in a future rulemaking action to add the Plant Protection Act to our lists of legal authorities and to make any other changes deemed necessary as a result of the enactment of this law.

This rule relates to internal agency management. Therefore, this rule is exempt from the provisions of Executive Order 12866 and 12988. Moreover, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required for this rule, and it may be made effective less than 30 days after publication in the **Federal Register**. In addition, under 5 U.S.C. 804, this rule is not subject to congressional review under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. 104–121. Finally, this action is not a rule as defined by 5 U.S.C. 601 *et seq.*, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

**List of Subjects**

*7 CFR Part 2*

Authority delegations (Government agencies).

*7 CFR Part 371*

Organization and functions (Government agencies).

Accordingly, 7 CFR parts 2 and 371 are amended as follows:

## PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

1. The authority citation for part 2 continues to read as follows:

**Authority:** Sec. 212(a), Pub. L. 103–354, 108 Stat. 3210, 7 U.S.C. 6912(a)(1); 5 U.S.C. 301; Reorganization Plan No. 2 of 1953, 3 CFR 1949–1953 Comp., p. 1024.

### Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretaries and Assistant Secretaries

2. Section 2.22 is amended by adding a new paragraph (a)(2)(xlvi) to read as follows:

**§ 2.22 Assistant Secretary for Marketing and Regulatory Programs.**

(a) * * *

(2) * * *

(xlvi) Plant Protection Act (Title IV, Pub. L. 106–224, 114 Stat. 438, 7 U.S.C. 7701–7772).

* * * * *

### Subpart N—Delegations of Authority by the Assistant Secretary for Marketing and Regulatory Programs

3. Section 2.80 is amended by adding a new paragraph (a)(51) to read as follows:

**§ 2.80 Administrator, Animal and Plant Health Inspection Service.**

(a) * * *

(51) Plant Protection Act (Title IV, Pub. L. 106–224, 114 Stat. 438, 7 U.S.C. 7701–7772).

* * * * *

## PART 371—ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

4. The authority citation for part 371 continues to read as follows:

**Authority:** 5 U.S.C. 301.

5. Section 371.3 is amended by adding a new paragraph (b)(2)(xv) to read as follows:

**§ 371.3 Plant Protection and Quarantine.**

* * * * *

(b) * * *

(2) * * *

(xv) Plant Protection Act (Title IV, Pub. L. 106–224, 114 Stat. 438, 7 U.S.C. 7701–7772).

* * * * *

For Part 2, Subpart C:

Dated: August 8, 2000.

**Dan Glickman,**

*Secretary of Agriculture.*

P For Part 2, Subpart N:

Dated: July 20, 2000.

**Michael V. Dunn,**

*Under Secretary for Marketing and Regulatory Programs.*

For Part 371:

Dated: July 17, 2000.

**Craig A. Reed,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 00–20611 Filed 8–11–00; 8:45 am]

BILLING CODE 3410–34–P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 920

**[Docket No. FV00–920–3 IFR]**

### Kiwifruit Grown in California; Decreased Assessment Rate

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This rule decreases the assessment rate established for the Kiwifruit Administrative Committee (Committee) for the 2000–2001 and subsequent fiscal periods from $0.05 to $0.03 per 22-pound volume fill container or equivalent of kiwifruit. The Committee locally administers the marketing order which regulates the handling of kiwifruit grown in California. Authorization to assess kiwifruit handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** August 15, 2000. Comments received by October 13, 2000, will be considered prior to issuance of a final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 205–5698, or E-mail: moab.docketclerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html.*

**FOR FURTHER INFORMATION CONTACT:**

Diane Purvis, Marketing Assistant or Rose M. Aguayo, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (559) 487–5901; Fax: (559) 487–5906; or

George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Order No. 920, as amended (7 CFR part 920), regulating the handling of kiwifruit grown in California, hereinafter referred to as the "order." The marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California kiwifruit handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable kiwifruit beginning August 1, 2000, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition.

After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule decreases the assessment rate established for the Committee for the 2000–2001 and subsequent fiscal periods from $0.05 to $0.03 per 22-pound volume fill container or equivalent of kiwifruit.

The California kiwifruit marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers of California kiwifruit. They are familiar with the Committee's needs and the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate.

The assessment is normally formulated and discussed in a public meeting. A public meeting was held on July 11, 2000. Because a Committee quorum (eight Committee representatives) was not present at the meeting, the Committee voted on the budget and assessment rate by telephone on July 13, 2000. Thus, all directly affected persons were provided an opportunity to participate and provide input.

For the 1998–1999 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

In the telephone conference call on July 13, 2000, the Committee unanimously recommended 2000–2001 expenditures of $81,575 and an assessment rate of $0.03 per 22-pound volume fill container or equivalent of kiwifruit. In comparison, last year's budgeted expenditures were $83,800. The assessment rate of $0.03 is $0.02 lower than the rate currently in effect.

The Committee voted to reduce 2000–2001 budgeted expenditures and the assessment rate to lessen the financial burden on California kiwifruit handlers.

The following table compares major budget expenditures recommended by the Committee for the 2000–2001 and 1999–2000 fiscal periods:

| Budget expense categories | 2000–2001 | 1999–2000 |
|---|---|---|
| Administrative Staff & Field Salaries | 52,000 | 56,000 |
| Travel, Food & Lodging | 9,500 | 7,500 |
| Office Costs | 12,000 | 14,000 |
| Vehicle Expense Account | 4,000 | 2,300 |
| Annual Audit | 4,075 | 4,000 |

The assessment rate recommended by the Committee was derived by considering the amount of funds in the Committee's operating reserve, anticipated expenses, and expected shipments of California kiwifruit. Kiwifruit shipments for the year are estimated at 2,704,545 22-pound volume fill containers or equivalents of kiwifruit, which should provide $81,136 in assessment income at an assessment rate of $.03 per container, $439 less than the estimated expenses. Income derived from handler assessments, along with $24,000 from the Committee's operating reserve, will be adequate to meet budgeted expenses and to establish an adequate reserve (estimated to be $23,561 at the end of the 2000–2001 fiscal period). Reserve funds will be kept within 1 fiscal period's expenses, the maximum permitted under § 920.42 of the order.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings.

The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2000–2001 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 400 producers of kiwifruit in the production area and approximately 56 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

None of the 56 handlers subject to regulation have annual kiwifruit sales of at least $5,000,000, excluding receipts from any other sources. Ten of the 400 producers subject to regulation have annual sales of at least $500,000; and the remaining 390 producers have sales less than $500,000, excluding receipts from any other sources. The majority of California kiwifruit producers and handlers may be classified as small entities.

This rule decreases the assessment rate established for the Committee and collected from handlers for the 2000–2001 and subsequent fiscal periods from $0.05 to $0.03 per 22-pound volume fill container or equivalent. The Committee unanimously recommended 2000–2001 expenditures of $81,575 and an assessment rate of $0.03 per 22-pound volume fill container or equivalent. The assessment rate of $0.03 is $0.02 lower than the current rate. The quantity of assessable kiwifruit for the 2000–2001 fiscal period is estimated at 2,704,545 22-pound volume fill containers or equivalents. Thus, the $0.03 rate should provide $81,136 in assessment income, $439 less than the estimated expenses.

The estimated assessments of $81,136, combined with the $24,000 from the Committee's operating reserve will allow the Committee to meet its expenses and to establish an adequate reserve (estimated to be $23,561 at the end of the 2000–2001 fiscal period). Reserve funds will be kept within 1 fiscal period's expenses, the maximum permitted under § 920.42 of the order.

The following table compares major budget expenditures recommended by the Committee for the 2000–2001 and 1999–2000 fiscal years:

| Budget expense categories | 2000–2001 | 1999–2000 |
|---|---|---|
| Administrative Staff & Field Salaries | 52,000 | 56,000 |
| Travel, Food & Lodging | 9,500 | 7,500 |
| Office Costs | 12,000 | 14,000 |
| Vehicle Expense Account | 4,000 | 2,300 |
| Annual Audit | 4,075 | 4,000 |

The Committee reviewed and unanimously recommended 2000–2001 expenditures of $81,575 which includes decreases in Administrative Staff and Field Salaries, and office costs. The Committee also unanimously recommended lowering the assessment rate from $0.05 to $0.03 to lessen the financial burden on handlers.

Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Finance and Assessment Subcommittee. These groups discussed alternate expenditure levels. The subcommittee looked at maintaining the assessment rate at its current level, but determined that handler financial burden should be lessened. The assessment rate of $0.03 per 22-pound volume fill container or equivalent of assessable kiwifruit was recommended by the Committee and was derived by considering the funds in the Committee's operating reserve, anticipated expenses, and expected shipments of California kiwifruit.

Kiwifruit shipments for the year are estimated at 2,704,545 22-pound volume fill containers or equivalents of kiwifruit, which should provide $81,136 in assessment income, $439 less than the estimated expenses. Income derived from handler assessments, along with the $24,000 from the Committee's operating reserve, will be adequate to meet budgeted expenses and to establish an adequate reserve (estimated to be $23,561 at the end of the 2000–2001 fiscal period). Reserve funds will be kept within 1 fiscal period's expenses, the maximum permitted under § 920.42 of the order.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2000–2001 season will be approximately $12.32 per 22-pound volume fill container or

equivalent of kiwifruit. Therefore, the estimated assessment revenue for the 2000–2001 fiscal period as a percentage of total grower revenue is estimated at 0.2 percent.

This action decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers.

In addition, the Committee's July 11, 2000, meeting was widely publicized throughout the California kiwifruit industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the July 11, 2000, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

Additionally, all attendees were advised of the telephone conference call to be conducted on July 13, 2000. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action imposes no additional reporting or recordkeeping requirements on either small or large California kiwifruit handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2000–2001 fiscal period begins on August 1, 2000, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable kiwifruit handled during such fiscal period; (2) this action decreases the assessment rate for assessable kiwifruit beginning with the 2000–2001 fiscal period; (3) handlers are aware of this action which was unanimously recommended by the Committee during a telephone conference meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

**List of Subjects in 7 CFR Part 920**

Kiwifruit, Marketing agreements.

For the reasons set forth in the preamble, 7 CFR part 920 is amended as follows:

## PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 920 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 920.213 is revised to read as follows:

**§ 920.213 Assessment rate.**

On and after August 1, 2000, an assessment rate of $0.03 per 22-pound volume fill container or equivalent is established for kiwifruit grown in California.

Dated: August 8, 2000.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 00–20490 Filed 8–11–00; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF AGRICULTURE

### 7 CFR Parts 3015, 3016 and 3019

**RIN 0503–AA16**

### Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments and Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations

**AGENCY:** Department of Agriculture

**ACTION:** Final rule.

**SUMMARY:** The United States Department of Agriculture (USDA) is revising its grants management regulations in order to bring the entitlement programs it administers under the same regulations that already apply to nonentitlement programs and to identify exceptions to these general rules that apply only to entitlement programs

**DATES:** This rule is effective August 14, 2000. Implementation shall be phased in by incorporating the provisions into awards made after the start of the next Federal entitlement program year.

**FOR FURTHER INFORMATION CONTACT:** Gerald Miske, Supervisory Management Analyst, Fiscal Policy Division, Office of the Chief Financial Officer, USDA, Room 5411 South Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250; FAX (202) 690–1529; telephone (202) 720–1553.

**SUPPLEMENTARY INFORMATION:**

**Background**

The administrative requirements for awards and subawards under all USDA entitlement programs are currently in 7 CFR part 3015, "Uniform Federal Assistance Regulations." The corresponding requirements for awards and subawards to State and local governmental organizations under USDA nonentitlement programs are in subparts A through D of 7 CFR part 3016, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments." The administrative requirements for awards and subawards to nongovernmental, non-profit organizations are in 7 CFR part 3019, "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations." This final rule expands the scope of parts 3016 and 3019 to include entitlement programs, and deletes administrative requirements for awards and subawards under such programs from the scope of part 3015. It also establishes, in subpart E to part 3016, certain exceptions to the general administrative requirements that will apply only to the entitlement programs. The following text outlines the evolution of these changes.

On March 11, 1988, USDA joined other Federal agencies in publishing a final grants management common rule applicable to assistance relationships established by grants and cooperative agreements, and by subawards thereunder, to State and local governments (53 FR 8044). Prior to that date, administrative requirements for awards and subawards under all USDA

programs were codified at 7 CFR part 3015. The USDA implemented the common rule at 7 CFR part 3016 . At that time, the common rule did not apply to entitlement programs such as the Food Stamp and Child Nutrition Programs administered by the Food and Nutrition Service, USDA, and the entitlement grant programs administered by the Department of Health and Human Services (DHHS). However, subpart E of part 3016 was reserved with the express intention of including provisions specifically tailored to the entitlement programs. Pending the publication of subpart E to part 3016, the USDA entitlement programs have remained under part 3015. These programs included:

(1) Entitlement grants under the following programs authorized by the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 *et seq*): (a) National School Lunch Program, General and Special Meal Assistance (sections 4 and 11 of the Act, respectively), (b) Commodity Assistance (section 6 of the Act), (c) Summer Food Service Program for Children (section 13 of the Act), and (d) Child and Adult Care Food Program (section 17 of the Act);

(2) Entitlement grants under the following programs authorized by the Child Nutrition Act of 1966 (42 U.S.C. 1771 *et seq*), (a) Special Milk Program for Children (section 3 of the Act), (b) School Breakfast Program (section 4 of the Act), and (c) State Administrative Expense Funds (section 7 of the Act); and

(3) Entitlement grants for State Administrative Expenses under the Food Stamp Act of 1977 (7 U.S.C. 2011 *et seq*) (sections 4(b) and 16 of the Act).

The exclusion of these programs from the scope of part 3016 caused that regulation to apply only to USDA's nonentitlement programs. The principal nonentitlement programs administered by the Food and Nutrition Service include the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), the Commodity Supplemental Food Program (CSFP), the WIC Farmers' Market Nutrition Program (FMNP), the Nutrition Education and Training Program (NET), and the Emergency Food Assistance Program (TEFAP).

On August 24, 1995, USDA published an interim final rule at 7 CFR part 3019 in order to implement the revised Office of Management and Budget (OMB) Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations" (60 FR 44122). As with part 3016, USDA did not include entitlement programs in the scope of part 3019. In excluding entitlements from the scope of part 3019 at the time of its initial publication, USDA anticipated issuing a document that would provide a single set of grant and subgrant administrative rules for all types of organizations operating USDA entitlement programs.

On February 17, 1998, USDA published a Notice of Proposed Rulemaking (Proposed Rule) (63 FR 7734) as the first step in developing such a document. USDA received six requests for additional time for comment. Accordingly, on May 22, 1998, USDA published a 30 day extension to the initial 90 day comment period (63 FR 28294). Excluding the time extension requests, USDA received comments within the time period from 45 interested parties.

**Comments on Proposed Rule and Responses**

In publishing the proposed rule, USDA specifically solicited comments on: (1) Applying the provisions of part 3016 to USDA entitlement program awards and subawards to State and local governmental organizations; (2) applying the provisions of part 3019 to USDA entitlement program awards and subawards to nongovernmental Non-Profit Organizations; and (3) adopting proposed exceptions to be included in subpart E of part 3016. The exceptions proposed for subpart E included: (1) Requiring States and other governmental program operators to conduct procurements under USDA entitlement programs in accordance with § 3016.36(b) through (i); (2) requiring governmental grantees and subgrantees to adopt the requirement in § 3019.43 which prohibits the award of a contract under a Federal program to a firm that had performed certain services to orchestrate that procurement; and (3) establishing program regulations as the authoritative source for financial reporting requirements under the Food Stamp and Child Nutrition Programs.

*Applying the Provisions of 7 CFR Parts 3016 and 3019 to Entities Operating USDA Entitlement Programs.*

Eight of the commenters were in favor of the proposal to provide a single set of regulations governing the administration of grants and subgrants. Conversely, six commenters stated that no change to the current regulation should be made. However, further review of the underlying basis for opposing change disclosed that the comments were more specifically related to contracting provisions proposed for subpart E to part 3016, as opposed to the overall concept of applying parts 3016 and 3019 to USDA's entitlement program awards and subawards.

Therefore, in the absence of any specific objections to the proposal, USDA is amending parts 3016 and 3019 to apply those provisions to entitlement awards and subawards.

*Adopting Proposed Exceptions to be Included in Subpart E of Part 3016*

By far, the largest number of the comments received were related to this issue. The USDA had proposed to depart from the Federalism principle set out in § 3016.36(a) with respect to State grantee and governmental subgrantee procurements under entitlement programs by requiring States to follow the rules set out in § 3016.36(b) through (i). The USDA made this proposal primarily to strengthen competition in grantee and subgrantee procurements under entitlement programs. While State rules generally contain detailed competition requirements, USDA had sought to ensure a minimum, uniform level of competition in procurements under its entitlement programs. In doing so, USDA recognized that the rules stated at § 3016.36(b) through (i) did not comprise a complete procurement system but rather formed an outline in which each State's own procurement regulations must provide the details. Under the proposed rule, therefore, Federal rules would have taken precedence over State rules only where the latter failed to provide for such minimum requirements.

One commenter agreed with the proposal on the basis that it would simplify administrative oversight and reduce uncertainty in grants management. However, thirteen of the commenters strongly opposed the departure from Federalism. These commenters pointed out that the approach could result in disparate treatment of procurements under entitlement programs versus those under other programs. Several commenters also argued that USDA had not provided sufficient justification for such a broad approach. Upon further review, USDA agrees that its concerns for competition in procurements under its entitlement programs can be resolved without mandating specific Federal requirements on such a global scale. Therefore, USDA has revised the final rule to remove the requirement in the proposed § 3016.60(a) which would have required States to follow the procurement rules set out in § 3016.36(b) through (i). As an alternative, the final rule authorizes

States to use either State rules, in accordance with § 3016.36(a), or to adopt the requirements in § 3016.36(b) through (i). It should be noted that USDA does not intend that these revisions change the longstanding relationships between States and subrecipients. Some of the interpretive language in the Proposed Rule preamble may have resulted in a misunderstanding of current practice with regard to State oversight of subrecipient procurements. The USDA's position continues to be that as part of their oversight responsibilities, States are to require that local governments follow the requirements in § 3016.36(b) through (i) and that non-profit organizations follow the requirements in part 3019. Section 3016.37 still governs relationships other than procurements.

The Federal government's interest in ensuring maximum competition dictates that certain practices cannot be allowed. Increasing and ensuring competition provides the greatest opportunity to procure the highest quality goods and services at the lowest possible cost. Lower costs, in turn, help extend the purchasing power of grants under the nutrition-assistance programs vital to the health of vulnerable populations such as children and the needy. Therefore, regardless of whether States choose to follow State rules or the requirements in § 3016.36(b) through (i), States must ensure that the requirements set out in subpart E of this final rule are followed.

The USDA has addressed below the special provisions in subpart E of part 3016 that will apply to entitlement programs and the related comments.

*Prohibiting Geographical Preference in Procurements Under USDA Entitlement Programs*

As explained in the preamble to the proposed rule, the USDA is concerned about the effects of geographical preference in procurements under the entitlement programs it administers. Geographical preference in procurement entails the use of procedures that give bidders and offerors a competitive advantage based solely on their location within the territory of the procuring entity. For example, a State's procurement rules may require that an out-of-state bidder's bid be surcharged a prescribed percentage, or that a bid submitted by a firm located within the state be discounted a prescribed percentage, for price comparison purposes. Such practices are inherently anti-competitive. Indeed, the preamble to the March 11, 1988, grants management common rule expressed governmentwide policy on this matter by identifying "* * * the application of unreasonably restrictive qualifications and any percentage factors that give bidding advantages to in-State or local firms* * *" as "* * * barriers to open and free competition which are not in the public interest." (53 FR 8039).

Only open and free competition can ensure that program operators obtain the best products and services at the lowest possible prices, thereby maximizing the impact of scarce Federal resources. For example, the mission of USDA's Child Nutrition Programs is to improve children's health and well-being by providing them with nutritious, low-cost or free meals. These programs depend heavily on program operators' procurements. As noted above, increased competition enhances the program operators' ability to buy quality products at low prices, and thus enables them to offer better, lower cost meals to children. In these programs especially, maximum open and free competition is directly linked to the operators' ability to achieve program goals. It is therefore vital to the success of the programs.

The USDA received very few comments on this subject. Those comments were divided with two in favor, two opposed and one questioning the absence of specific data. The primary argument in opposition was that prohibiting geographic preference would have a negative effect on partnerships between schools and the food industry. The USDA does not agree that the effect on such partnerships is of such a magnitude that the anti-competitive practice should be allowed. The USDA has considered the benefits of partnering between procuring entities and members of the food industry located within the territory of the procuring entity. We have weighed this benefit against the detriment to competition caused by providing such preferences. We find the benefit of partnering based on geographic location does not outweigh the damage such practices cause to competition. In making this finding, USDA has taken into account the ever increasing ability of procuring entities and offerors to consult and gather information and expertise across long distances via telephone, electronic mail, facsimile, video, telephone conferencing and the Internet. In light of this trend towards the increasing availability of information and ease of communications, we disagree that the use of geographic preferences is needed as a way to foster partnering relationships.

This final rule prohibits geographic preference in procurements under USDA entitlement programs. In the proposed rule, this requirement was one of the items covered in § 3016.36(b) through (i) (see § 3016.36(c)(2)). Because, as discussed above, this final rule allows States to elect to use their own rules rather than § 3016.36(b) through (i), the prohibition on geographic preferences is included in § 3016.60(c) of subpart E as a mandatory procurement requirement.

*Prohibiting the Award of a Contract to a Contractor That Previously Had Performed Certain Services Related to That Procurement for the Program Operator*

Under § 3019.43, non-profit organizations are currently precluded from awarding contracts under USDA nonentitlement programs to firms "that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals" for such procurements. The purpose of this regulation is to "ensure objective contractor performance and eliminate unfair competitive advantage." Extending the applicability of part 3019 to USDA entitlement programs operated by non-profit organizations will result in equal application of this requirement to both entitlement and nonentitlement programs.

USDA also proposed applying this requirement to State and local governmental program operators through a provision in part 3016, subpart E. USDA's intent in proposing this exception to the general rule was the same as that underlying the existing requirement for non-profit organizations: to minimize the anti-competitive effect of less-than-arm's length transactions under USDA entitlement programs.

Three State agencies and one commenter representing a State agency agreed, explicitly stating that contractors involved in drafting specifications, requirements, statements of work, invitations for bids, or requests for proposals should be excluded from bidding. However, twenty-nine commenters disagreed with or had concerns regarding this proposed exception.

The commenters' principal concerns were that: (1) food service personnel might lack the necessary knowledge to write bid specifications that would be correct, complete, precise, and understandable; (2) the only way to learn about products or services is to discuss specifications with potential bidders; (3) the prohibition would have a negative impact on the food manufacturers' willingness to develop products to meet school food service

needs; (4) schools would either have to spend more money to get an acceptable product or schools would get inferior products and defeat the purpose of the program; and (5) this prohibition, when considered in conjunction with the proposal to have States follow the procurement requirements in § 3016.36(b) through (i), would unduly emphasize lowest cost to the detriment of other needs and benefits.

Following lengthy study of the comments on this issue, especially those opposing the prohibition in new § 3016.60(b), USDA concludes that there has been a misunderstanding of both the intent and the anticipated effect of this revision.

The commenters' concerns listed above focus on a program operator's ability to obtain the information necessary to formulate specifications that will elicit responsive bids or offers of the desired product or service. Specifications comprise a statement of a program operator's need for a product or service. The USDA agrees that a program operator is in the best position to know its own needs. Under both the old rules and this final rule, that operator may consult with as many expert sources as necessary to obtain the information needed for an effective procurement. In proposing the prohibition against using contractors who previously drafted the bid specifications, USDA had no intention of prohibiting consultations between program operators and industry.

Permissible practices include accessing publicly available information and contacting manufacturers and distributors directly. Examples of publicly available information include, but are not limited to: Product brochures; product specification handouts; information available on the Internet and in trade journals; recommendations from other program operators; and information obtained by visiting other program operations and attending industry and professional trade fairs. The types of information that a program operator can obtain through direct industry contacts include, but are not limited to: recommendations of one product over another; features that enable one to differentiate between available products; prices for specific products or product features; model numbers and other data that enable one to identify products that may meet one's needs; specification sheets; and, informational hand-outs. A program operator can do all these things in the course of conducting a proper procurement.

Legislation enacted subsequent to the publication of the proposed rule further affirmed program operators' authority to obtain information needed for their procurements under USDA entitlement programs. Section 104(e) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Goodling Act) (Pub. L. 105–336, 112 Stat. 3143) amended the National School Lunch Act to provide that "[i]n acquiring a good or service for programs under [such] Act or the Child Nutrition Act of 1966 (other than section 17 of that Act (42 U.S.C. 1771 *et seq.*)) a State, State agency, school, or school food authority may enter into a contract with a person who has provided *specification information* to the State, State agency, school, or school food authority *for use* in developing contract specifications for acquiring such good or service."(Emphasis added.) (Pub. L. 105–336, § 104(e), 112 Stat. 3143). The emphasized language makes clear Congress' intent to permit all States, State agencies, schools, or school food authorities operating programs under either the National School Lunch Act or the Child Nutrition Act of 1966 (except for the WIC program) to collect information from prospective contractors, yet still enter into contracts with such contractors.

A program operator may not engage a contractor to actually write the bid or proposal terms, product specifications, procurement procedures, contract terms, etc., and then consider this same contractor for the resulting contract award. Congress made it clear, by prefacing the phrase "in developing contract specifications" with the words "for use" that it must be the State, State agency, school, or school food authority that does the actual development, drafting or any other form of bid specification preparation. The Conference Report accompanying the Goodling Act makes clear that this provision "* * * is not intended to allow a potential contractor or other interested party to participate in the procurement process through drafting the procurement specifications, procedures or documents" (H.R. Conf. Rep. No. 786,105th Cong., 2d Sess.38 (1998).) Prospective contractors who develop, draft or in any other way prepare bid specifications, may not enter into a contract based on those specifications.

One commenter articulated the key distinction: A vendor that furnished information to a program operator for the program operator's use in formulating specifications for a procurement action may still be considered for the procurement award. But, a vendor engaged in actually drafting the specifications or other procurement documents may not be considered for the award. Both Federal law and regulations thus hold program operators responsible for their own specifications and procurement documents. Program operators must conduct their procurements under the USDA entitlement programs in a manner that avoids any appearances of, or actual, conflicts of interest.

With regard to the related concern that lowest cost was being over emphasized to the detriment of quality, USDA is aware that industry specification advice is not the only information program operators use in formulating specifications. For example, the USDA supports those schools and institutions operating the Child Nutrition Programs in their efforts to identify children's preferences for different types of food products through student surveys, tastes tests, etc. Such quality factors will continue to be allowed as part of the specifications under these revised rules. We would note that this kind of information cannot be obtained through consultations with industry, yet obtaining it is an essential prerequisite both to discussing a school district's needs for products and services with industry representatives and to soliciting bids or offers from industry.

With regard to balancing cost and quality, the method a program operator chooses for a procurement (small purchase, formal advertising with sealed bids, formal advertising for negotiable proposals, etc.) must be appropriate for the desired product or service. For example, for subgrantees subject to § 3016.36(b) through (i), the formal advertising, sealed bid method described at § 3016.36(d)(2) is appropriate when a program operator's public solicitation describes the desired product or service with sufficient precision that responsive bids will differ only in price. If this is not possible, a program operator should consider using the competitive negotiation method described at § 3016.36(d)(3).

Once a method is chosen for a particular procurement, however, the program operator must consistently observe the principles of that method. Negotiating under a sealed bid procurement, for example, is inappropriate; the lowest responsive bid must be accepted and unresponsive bids, regardless of price, must be rejected.

In this regard, a program operator seeking to work with a contractor in developing a custom-made product that will meet program needs must exercise caution to avoid inappropriately blending the sealed bid and competitive

proposal procedures. The program operator may engage the contractor to develop the product and supply the finished product to the program, thus providing all qualified vendors the opportunity to compete for an award to both develop and supply the product. It would not be acceptable, however, for the same program operator to negotiate with the same contractor to develop the product and then, in a separate procurement action, publicly solicit bids to supply the product; the product would only be available from the firm that developed it.

We cannot overemphasize, however, that neither the sealed bid method nor the competitive proposal method requires a program operator to award a contract to a vendor that lacks the capability to successfully perform under the terms and conditions of the proposed procurement. Nor is a program operator required to award a contract to a bidder whose bid does not meet bid specifications simply because that bidder submitted the lowest price; any unresponsive bid must be rejected.

Other than the geographic preference and conflict of interest prohibitions in § 3016.60, the procurement regulations applicable to USDA entitlement program grantees and subgrantees remain essentially unchanged from prior practice. Grantees and subgrantees are encouraged to incorporate quality and taste related factors into the specifications and evaluation requirements as appropriate under each procurement mechanism and in accordance with applicable State and local procurement regulations.

The regulations continue to allow program operators to use small purchase, sealed bid, and competitive proposals procurement methods. All three methods allow program operators to incorporate quality as a procurement consideration. Under the sealed bid method, which requires that awards be made on the basis of lowest price, quality considerations, when sufficiently definite, can be built into the specifications, or a two-step bidding process may be used. Quality considerations under the sealed bid method are not an award factor, but a responsiveness issue assessing compliance with the specifications, which is why the specifications must be sufficiently definite. Awards cannot be made to a bidder offering a nonconforming product.

Under the competitive proposals method, quality considerations not only can be built into the product specifications for responsiveness, but also can be used as evaluation factors in making the award determination. The competitive proposals method allows for the use of less definite factors. The following hypothetical case illustrates this point.

A school district solicits sealed bids for fresh or frozen pizza products, inviting bids from all potential suppliers. Among other specifications, the solicitation requires that the pizza products be tasty. To assess conformance with the taste specification, the school district requires that bidders provide pizza product samples with their bids. The school district will assess taste acceptability through blind taste tests by students, rating samples as either acceptable or unacceptable. Bids providing unacceptable samples will be considered nonresponsive for failure to conform with the specification requirements. The solicitation instructs that award will be made to the lowest price supplier whose pizza product conforms to all specification requirements, including taste acceptability.

Five suppliers of fresh and frozen pizza submit prices and bid samples. The bids are as follows:

| Supplier | Product type | Price per serving | Taste |
|---|---|---|---|
| A | Frozen | $0.27 | Unacceptable. |
| B | Fresh | 0.57 | Acceptable. |
| C | Fresh | 0.40 | Acceptable. |
| D | Frozen | 0.54 | Acceptable. |
| E | Fresh | 0.56 | Acceptable. |

The school district correctly awards the contract to Supplier C. Of the four suppliers whose products ranked acceptable for taste (those of Suppliers B, C, D, and E), Supplier C submitted the lowest bid. The school district correctly rejects the Supplier A's bid even at the lowest price because the product did not conform to the specification requiring an acceptable taste.

USDA has revised the proposed regulatory language in new section 3016.60(b) to make express the authority of, and limitations on, program operators to acquire information from prospective contractors as spelled out in the Goodling Act; and to otherwise clarify the aspects of this provision that have been misunderstood. New paragraph 3016.60(b) makes clear that a grantee or subgrantee may not contract with a party who has developed, drafted, or in any other way prepared specifications, procedures, or documents for such contract; and that, conversely, a prospective contractor may provide information to a grantee or subgrantee, which the grantee or subgrantee may then use to develop its own documents and specifications, and still enter into a contract with the grantee and subgrantee.

*Clarification of Conditions for Use of the Small Purchase Procurement Method*

Purchases using informal, small purchase methods can generally be made in less time and at less expense because such methods are simpler than formal procurement methods. State and local governments' ability to use the small purchase method for these programs is generally expressed as a dollar level known as the small purchase threshold. The Federal small purchase threshold under both § 3016.36 and § 3019.44 is tied to the level set at 41 U.S.C. 401(11) (currently $100,000). Two commenters expressed concern that many program operators may not realize the benefits of this feature of this rule because State and local government procurement rules often set small purchase thresholds lower than the Federal $100,000 level. The commenters' assessment of the effect of the lower State and local thresholds is correct when applied to this final rule. When a lower State or local small purchase threshold exists, only procurements below that level can be conducted using the simplified procedures. A formal method (sealed bid or competitive proposal) must be used for those procurements above the State or local level.

**Financial Reporting Requirements**

The USDA proposed a third specific exception to be included in subpart E of 7 CFR 3016: the exclusion of the USDA entitlement programs listed at § 3016.4(b), except the Food Distribution Program on Indian

Reservations, from the financial reporting provisions in § 3016.41. No comments were received on this proposal. The exception language proposed for subpart E, § 3016.61 has been incorporated into the final rule.

*Editorial and Technical Changes*

The USDA made an editorial change in part 3015 to correct the name of the USDA office responsible for Federal assistance policy. Finally, USDA made a technical change in § 3016.4 to recognize the recent reclassification of the Food Distribution Program on Indian Reservations from nonentitlement to entitlement. No comments were received on these two changes. Therefore, the changes have been incorporated into the final rule.

**Regulatory Impact Analysis**

*Executive Order 12866*

The Office of Management and Budget reviewed the Proposed Rule and determined the rule to be significant under Executive Order 12866. In accordance with the provisions of Executive Order 12866, USDA prepared a cost benefit assessment which analyzed the economic impact of this rule on States, other grantees, and subgrantees operating USDA entitlement programs. The economic impact analysis had two discrete dimensions: bringing these programs under the umbrella of parts 3016 and 3019, and establishing the deviations and exceptions stated in subpart E to part 3016.

As stated in the Proposed Rule, USDA believes that both dimensions would have a negligible economic impact.

However, USDA does not have the database needed to quantify the foregoing generalizations about the costs and savings associated with this rule. Accordingly, USDA requested commenters to provide feedback on the economic impact of this rule. One of the commenters referred to the issue of economic impact of the overall rule in relation to USDA's proposal to set aside the Federalism principle to require the State to use § 3016.36(b) through (i) in conducting procurements under USDA entitlement programs. However, no commenter provided any substantive information on this subject or referred USDA to sources where it could be found. Since USDA has revised the final rule to avoid setting aside the Federalism principle, the one comment received in this regard is now moot. Several comments contained references to the potential cost of implementing certain specific provisions within the rule. These comments are discussed in the appropriate sections above.

As noted above, under this rule, financial reporting requirements, with the exception of the Food Distribution Program on Indian Reservations, will continue to be contained in the program-specific regulations rather than in part 3016. Because the reporting requirements themselves remain unchanged, this provision of the rule will have no economic impact on grantees and subgrantees.

The Office of Management and Budget has reviewed this final rule and determined the rule to be not significant.

*Executive Order 13132*

Executive Order 13132 (E.O. 13132) on "Federalism" (64 FR 43255, August 10, 1999) requires Federal agencies to have an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." The final rules for 7 CFR parts 3015 and 3019 have no federalism implications. 7 CFR part 3016 is already applicable to State and local governments operating nonentitlement programs. A proposed revision to 7 CFR part 3016 was published as a Proposed Rule on February 17, 1998, to make the rule applicable to State and local governments operating entitlement programs. It should be noted that this Proposed Rule was published prior to the November 2, 1999, implementation of E.O. 13132. However, in the spirit of E.O 13132, USDA had already included substantial intergovernmental consultation in the development of the Proposed Rule. Subsequently it was determined that the Proposed Rule included a potential Federalism implication related to § 3016.36 which deals with procurement. The USDA met with State and local officials on multiple occasions to discuss proposed policy changes for entitlement programs and, in particular, to discuss the subject matter of the Proposed Rule. In addition, during the comment period USDA received comments on the Proposed Rule from eight State agencies in seven States and twenty local governments in eleven States. In light of comments received, the proposed provision for States to follow Federal rules in procurement was changed in this final rule to give States the option of following State or Federal procurement rules. We believe this change is in accordance with Federalism principles.

*Civil Rights Impact Analysis*

The USDA does not believe that this rule will have a significant civil rights impact and invited comments on this position. No comments were received.

*Paperwork Reduction Act*

The information collection requirements of this rule were previously approved for USDA under #0505–0008 for entitlement and nonentitlement programs. However, that number has been retired because the reporting and recordkeeping requirements of this rule are the same as those required by OMB Circulars A–102 and A–110 and have already been cleared by OMB. The USDA believes this rule will not impose additional information collection requirements on grantees and subgrantees.

*Regulatory Flexibility Act*

In accordance with the requirements of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the USDA Chief Financial Officer has reviewed this rule and certifies that it does not have a significant economic impact on a substantial number of small entities. The potential economic impact is discussed above in connection with Executive Order 12866.

**List of Subjects**

*7 CFR part 3015*

Grant programs, Intergovernmental relations.

*7 CFR part 3016*

Grant programs.

*7 CFR part 3019*

Grant programs.

Issued at Washington, DC.

**Sally Thompson,**

*Chief Financial Officer.*

Approved:

**Dan Glickman,**

*Secretary of Agriculture.*

Accordingly, USDA amends 7 CFR chapter XXX as set forth below.

## PART 3015—UNIFORM FEDERAL ASSISTANCE REGULATIONS

1. The authority citation for part 3015 is revised to read as follows:

**Authority:** 5 U.S.C. 301; 31 U.S.C. 901–903; 7 CFR 2.28, unless otherwise noted.

2. In § 3015.1, revise paragraphs (a)(l), (a)(3), (a)(4) and (d) to read as follows:

**§ 3015.1 Purpose and scope of this part.**

(a)(l) This part specifies the set of principles for determining allowable costs under USDA grants and cooperative agreements to State and

local governments, universities, non-profit and for-profit organizations as set forth in OMB Circulars A–87, A–21, A–122, and 48 CFR 31.2, respectively. This part also contains the general provisions that apply to all grants and cooperative agreements made by USDA.

* * * * *

(3) Rules for grants and cooperative agreements to State and local governments are found in part 3016 of this chapter.

(4) Rules for grants and cooperative agreements to institutions of higher education, hospitals, and other non-profit organizations are found in part 3019 of this chapter.

* * * * *

(d) Responsibility for developing and interpreting the material for this part and in keeping it up-to-date is delegated to the Office of the Chief Financial Officer.

3. In § 3015.2, revise paragraphs (d)(3), (d)(4), (d)(5), and (d)(6) to read as follows:

**§ 3015.2 Applicability.**

* * * * *

(d) * * *

(3) Agencies or instrumentalities of the Federal government,

(4) Individuals,

(5) State and local governments, and

(6) Institutions of higher education, hospitals and other non-profit organizations.

* * * * *

## PART 3016—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

4. The authority citation for part 3016 is revised to read as follows:

**Authority:** 5 U.S.C. 301; 31 U.S.C. 901–903; 7 CFR 2.28.

**§ 3016.4 [Amended]**

5. In § 3016.4 remove paragraphs (a)(4) through (6), redesignate paragraphs (a)(7) through (10) as (a)(4) through (7) and revise paragraph (b) to read as follows:

§ 3016.4 Applicability.

* * * * *

(b) *Entitlement programs.* In USDA, the entitlement programs enumerated in this paragraph are subject to subparts A through D and the modifications in subpart E of this part.

(1) Entitlement grants under the following programs authorized by The National School Lunch Act:

(i) National School Lunch Program, General Assistance (section 4 of the Act),

(ii) Commodity Assistance (section 6 of the Act),

(iii) National School Lunch Program, Special Meal Assistance (section 11 of the Act),

(iv) Summer Food Service Program for Children (section 13 of the Act), and

(v) Child and Adult Care Food Program (section 17 of the Act);

(2) Entitlement grants under the following programs authorized by The Child Nutrition Act of 1966:

(i) Special Milk Program for Children (section 3 of the Act),

(ii) School Breakfast Program (section 4 of the Act), and

(iii) Entitlement grants for State Administrative Expense Funds (section 7 of the Act); and

(3) Entitlement grants under the following programs authorized by the Food Stamp Act of 1977:

(i) Food Distribution Program on Indian Reservations (section 4(b) of the Act), and

(ii) State Administrative Expense Funds (section 16 of the Act).

6. Subpart E is added to read as follows:

### Subpart E—Entitlement

Sec.



**§ 3016.60 Special procurement provisions.**

(a) Notwithstanding §§ 3016.36(a) and 3016.37(a), States conducting procurements under grants or subgrants under the USDA entitlement programs specified in § 3016.4(b) may elect to follow either the State laws, policies, and procedures as authorized by §§ 3016.36(a) and 3016.37(a), or the procurement standards for other governmental grantees and all governmental subgrantees in accordance with § 3016.36(b) through (i). Regardless of the option selected, States shall ensure that paragraphs (b) and (c) of this section are followed

(b) When conducting a procurement under the USDA entitlement programs specified in § 3016.4(b) of this part, a grantee or subgrantee may enter into a contract with a party that has provided specification information to the grantee or subgrantee for the grantee's or subgrantee's use in developing contract specifications for conducting such a procurement. In order to ensure objective contractor performance and eliminate unfair competitive advantage, however, a person that develops or drafts specifications, requirements, statements of work, invitations for bids, requests for proposals, contract terms and conditions or other documents for use by a grantee or subgrantee in conducting a procurement under the USDA entitlement programs specified in § 3016.4(b) shall be excluded from competing for such procurements. Such persons are ineligible for contract awards resulting from such procurements regardless of the procurement method used. However, prospective contractors may provide grantees or subgrantees with specification information related to a procurement and still compete for the procurement if the grantee or subgrantee, and not the prospective contractor, develops or drafts the specifications, requirements, statements of work, invitations for bid, and/or requests for proposals used to conduct the procurement.

(c) Procurements under USDA entitlement programs specified in § 3016.4(b) shall be conducted in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographic preferences except as provided for in § 3016.36(c)(2).

**§ 3016.61 Financial reporting.**

The financial reporting provisions found in § 3016.41 do not apply to any of the USDA entitlement programs listed in § 3016.4(b) except the Food Distribution Program on Indian Reservations. The financial reporting requirements for these entitlement programs are found in the following program regulations:

(a) For the National School Lunch Program, 7 CFR part 210;

(b) For the Special Milk Program for Children, 7 CFR part 215;

(c) For the School Breakfast Program, 7 CFR part 220;

(d) For the Summer Food Service Program for Children, 7 CFR part 225;

(e) For the Child and Adult Care Food Program, 7 CFR part 226;

(f) For State Administrative Expense Funds under section 7 of the Child Nutrition Act of 1966, 7 CFR part 235; and

(g) For State Administrative Expenses under section 16 of the Food Stamp Act of 1977, 7 CFR part 277.

## PART 3019—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NON-PROFIT ORGANIZATIONS

7. The authority citation for part 3019 is revised to read as follows:

**Authority:** 5 U.S.C. 301; 31 U.S.C. 901–903; 7 CFR 2.28.

8. In § 3019.1, designate the existing text as paragraph (a) and add paragraph (b) to read as follows:

**§ 3019.1 Purpose.**

* * * * *

(b) This part also applies specifically to the grants, agreements and subawards to institutions of higher education, hospitals, and other non-profit organizations that are awarded to carry out the following entitlement programs:

(1) Entitlement grants under the following programs authorized by The Richard B. Russell National School Lunch Act:

(i) National School Lunch Program, General Assistance (section 4 of the Act),

(ii) Commodity Assistance (section 6 of the Act),

(iii) National School Lunch Program, Special Meal Assistance (section 11 of the Act),

(iv) Summer Food Service Program for Children (section 13 of the Act), and

(v) Child and Adult Care Food Program (section 17 of the Act).

(2) Entitlement grants under the following programs authorized by The Child Nutrition Act of 1966:

(i) Special Milk Program for Children (section 3 of the Act), and

(ii) School Breakfast Program (section 4 of the Act).

(3) Entitlement grants for State Administrative Expenses under The Food Stamp Act of 1977 (section 16 of the Act).

9. In § 3019.2, remove the last sentence in paragraph (e) introductory text and paragraphs (e)(1) through (e)(5).

[FR Doc. 00–20489 Filed 8–11–00; 8:45 am]

BILLING CODE 3410–90–P

## SMALL BUSINESS ADMINISTRATION

### 13 CFR Part 120

### Business Loan Programs

**AGENCY:** Small Business Administration.

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** The U.S. Small Business Administration (SBA) published a final rule governing 7(a) loan securitizations on February 10, 1999. In that rule, SBA inadvertently omitted a sentence in the section covering capital requirements for securitizing institutions ("securitizers"). This document adds that sentence.

**DATES:** Effective on August 14, 2000.

**FOR FURTHER INFORMATION CONTACT:** James W. Hammersley, Director, Secondary Market Sales, (202) 205–7505.

**SUPPLEMENTARY INFORMATION:** SBA published a final rule in the **Federal Register** on February 10, 1999, (64 FR 6503), governing 7(a) loan securitizations. This correction adds a sentence to § 120.425(a), on capital requirements, that was inadvertently omitted. Section 120.425(a) provides that all "securitizers must be considered to be 'well capitalized' by their regulator." It further states that "SBA, as the regulator, will consider a nondepository institution to be 'well capitalized' if it maintains a minimum unencumbered paid in capital and paid in surplus equal to at least 10 percent of its assets, excluding the guaranteed portion of 7(a) loans." This correction adds that "[t]he capital charge applies to the remaining balance outstanding on the unguaranteed portion of the securitizer's 7(a) loans in its portfolio and in any securitization pools."

This correction is consistent with notice provided in the preamble to the final rule published on February 10, 1999 (64 FR 6503). That preamble stated that commenters requested SBA to clarify that "the capital charge applies not only to the unguaranteed portion of the securitizer's 7(a) loans in the portfolio but also to the remaining balance outstanding in the securitization pools" and that SBA "incorporated" this clarification "into the final rule."

By making this correction, SBA is incorporating the clarification, as intended, into the final rule.

**List of Subjects in 13 CFR Part 120**

Loan programs—business, Small businesses.

Accordingly, SBA amends 13 CFR part 120 by making the following correcting amendment:

## PART 120—[CORRECTED]

1. The authority citation for part 120 continues to read as follows:

**Authority:** 15 U.S.C. 634(b)(6) and 636(a) and (h).

2. In § 120.425, amend paragraph (a) by adding a new sentence after the fourth sentence to read as follows:

**§ 120.425 What are the minimum elements that SBA will require before consenting to a securitization?**

* * * * *

(a) * * * The capital charge applies to the remaining balance outstanding on the unguaranteed portion of the securitizer's 7(a) loans in its portfolio and in any securitization pools. * * *

* * * * *

**Aida Alvarez,**

*Administrator.*

[FR Doc. 00–19339 Filed 8–11–00; 8:45 am]

BILLING CODE 8025–01–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 99–NM–331–AD; Amendment 39–11769; AD 2000–11–21]**

**RIN 2120–AA64**

### Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects information in an existing airworthiness directive (AD) that applies to certain Airbus Model A319, A320, and A321 series airplanes. That AD currently requires a one-time general visual inspection to determine the part number and serial number of the spoiler servocontrol, and corrective action, if necessary. This document corrects the type of inspection required by this AD, and corrects references to certain paragraphs of the applicable service bulletins. These corrections are necessary to ensure that operators are notified of the type of inspection required and the correct paragraph references of the applicable service bulletins.

**DATES:** Effective July 18, 2000.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of July 18, 2000 (65 FR 37017, June 13, 2000).

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

**SUPPLEMENTARY INFORMATION:** On June 1, 2000, the Federal Aviation Administration (FAA) issued AD 2000–11–21, amendment 39–11769, which applies to certain Airbus Model A319, A320, and A321 series airplanes. That AD requires a one-time general visual inspection to determine the part number

and serial number of the spoiler servocontrol, and corrective action, if necessary. That AD was prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions required by that AD are intended to prevent failure of the spoiler servocontrol piston rod, which could result in reduced controllability of the airplane.

**Need for the Correction**

Paragraph (a) of AD 2000–11–21 specifies a "general visual inspection." However, the FAA points out that since the inspection is to determine the part number and serial number of certain components, it is unnecessary to require a general visual inspection. Likewise, it is unnecessary to include the definition of that inspection in Note 2 following paragraph (a) of that AD. Instead, the FAA considers that an "inspection" rather than a "general visual inspection" adequately describes the action required by this AD to determine the part number and serial number for the spoiler servocontrols. Paragraph (a) of this AD reflects these changes.

In addition, the FAA recently obtained information that paragraphs (a) and (b) of AD 2000–11–21 contain incorrect paragraph references to the applicable service bulletins. The information specifies that paragraph (a) should reference paragraph 3.B.(1)(b) instead of paragraph 2.B.(1)(b) of the applicable service bulletins, and that paragraph (b) should reference paragraph 3.B.(1)(b)1 instead of paragraph 2.B.(1)(b)1. However, the FAA points out that paragraphs 2.B.(1)(b) and 2.B.(1)(b)1 are the correct paragraph references specified by Airbus Service Bulletin A320–17–1126 and A320–27–1127, both dated April 26, 1999. In addition, paragraphs 3.B.(1)(b) and 3.B.(1)(b)1 are the correct paragraph references specified by Revision 01 of those service bulletins, both dated October 6, 1999. Therefore, in paragraph (a) of this AD, the FAA has added a reference to paragraph 3.B(1)(b) of Revision 01 of the service bulletins, and in paragraph (b) of this AD, the FAA has added a reference to paragraph 3.B(1)(b)1 of Revision 01 of the service bulletins.

The FAA has determined that such corrections to paragraphs (a) and (b) of AD 2000–11–21 are necessary. These corrections will ensure that operators are notified of the correct type of inspection required by this AD, and the correct paragraph references of the applicable service bulletins.

**Correction of Publication**

This document corrects the type of inspection required by this AD, corrects certain paragraph references to the applicable service bulletins, and adds the AD as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

The AD is reprinted in its entirety for the convenience of affected operators. The effective date of the AD remains July 18, 2000.

Since this action only corrects the type of inspection required (and removes Note 2 defining the previously specified inspection), and corrects certain paragraph references to the applicable service bulletins, it has no adverse economic impact and imposes no additional burden on any person. Therefore, the FAA has determined that notice and public procedures are unnecessary.

**List of Subject in 14 CFR Part 39**

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

**Adoption of the Correction**

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 [Corrected]**

2. Section 39.13 is amended by correctly adding the following airworthiness directive (AD):

**2000 21 Airbus Industrie:** Amendment 39–11769. Docket 99–NM–331–AD.

*Applicability:* The following models, certificated in any category, excluding those on which Airbus Service Bulletin A320–27–1126, dated April 26, 1999 (for Model A319 and 321 series airplanes); or A320–27–1127, dated April 26, 1999, or Revision 01, dated October 6, 1999 (for Model A320 series airplanes); has been accomplished:

- Model A319 series airplanes, serial numbers (S/N) 0546 through 0972 inclusive;
- Model A320 series airplanes, S/N 0002 through 0842 inclusive, 0846 through 0859 inclusive, 0865, 0866, and 0872 through 0960 inclusive; and
- Model A321 series airplanes, S/N 0364 through 0974 inclusive.

**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 failure of the servocontrol piston rod, which could result in reduced controllability of the airplane, accomplish the following:

**Inspection**

(a) At the applicable time specified by paragraph (a)(1) or (a)(2) of this AD: Perform an inspection to determine the part number and serial number for the spoiler servocontrols, in accordance with Airbus Service Bulletin A320–27–1126, dated April 26, 1999, or Revision 01, dated October 6, 1999 (for Model A319 and A321 series airplanes); or Airbus Service Bulletin A320–27–1127, dated April 26, 1999, or Revision 01, dated October 6, 1999 (for Model A320 series airplanes); as applicable. If the part number and serial number are identified in paragraph 2.B.(1)(b) of the Accomplishment Instructions of the original service bulletins, or in paragraph 3.B.(1)(b) of the Accomplishment Instructions of Revision 01 of the service bulletins; as applicable; prior to further flight, perform applicable corrective actions (including removal, reidentification of the servocontrol, and replacement of the servocontrol with a modified part) as specified in the applicable service bulletin.

(1) For Model A319 and A321 series airplanes: Inspect within 2 months after the effective date of this AD.

(2) For Model A320 series airplanes: Inspect within 28 months after the effective date of this AD.

**Spares**

(b) As of the effective date of this AD, no person shall install on any airplane a spoiler servocontrol having part number 31077–050, 31077–060, or 31077–110; and S/N 0001 to 3499, except those serial numbers excluded in paragraph 2.B.(1)(b)1 of the Accomplishment Instructions of Airbus Service Bulletin A320–27–1126, dated April 26, 1999; or in paragraph 3.B.(1)(b)1 of the Accomplishment Instructions of Airbus Service Bulletin A320–27–1126, Revision 01, dated October 6, 1999; unless that servocontrol has been inspected, and corrective actions have been performed, in accordance with the requirements of 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 2:** 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 §§ 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.

**Incorporation by Reference**

(e) The actions shall be done in accordance with Airbus Service Bulletin A320–27–1126, including Appendices 01 and 02, dated April 26, 1999; Airbus Service Bulletin A320–27–1126, Revision 01, including Appendices 01 and 02, dated October 6, 1999; Airbus Service Bulletin A320–27–1127, including Appendices 01 and 02, dated April 26, 1999; or Airbus Service Bulletin A320–27–1127, Revision 01, including Appendices 01 and 02, dated October 6, 1999, as applicable. The incorporation by reference of these documents was approved previously by the Director of the Federal Register as of July 18, 2000 (65 FR 37017, June 13, 2000). Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Note 3:** The subject of this AD is addressed in French airworthiness directive 1999–362–139(B), dated September 8, 1999.

**Effective Date**

(f) The effective date of this amendment remains July 18, 2000.

Issued in Renton, Washington, on August 8, 2000.

**Donald L. Riggin,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 00–20504 Filed 8–11–00; 8:45 am]

BILLING CODE 4910–13–U

## DEPARTMENT OF TRANSPORTATION

### 14 CFR Part 73

**[Airspace Docket No. 00–AGL–21]**

**RIN 2120–AA66**

## Revocation of Restricted Area R–3302 Savanna; IL

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action removes Restricted Area 3302 (R–3302) Savanna, IL. The FAA is taking this action in response to a Department of Defense (DOD), United States Army (USA) determination that this restricted airspace is no longer required to support the USA mission.

**EFFECTIVE DATE:** 0901 UTC, October 5, 2000.

**FOR FURTHER INFORMATION CONTACT:** Bil Nelson, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

**SUPPLEMENTARY INFORMATION:**

**Background**

The USA's position on special use airspace (SUA) is that they will keep and efficiently utilize only that airspace necessary to accomplish the mission of the USA. In keeping with that policy, the USA has closed the Savanna Army Depot. As a result, all military related operations have ceased at the depot, therefore, R–3302 is no longer required.

**The Rule**

This amendment to 14 CFR part 73 removes R–3302 Savanna, IL. The FAA is taking this action in response to a DOD, USA determination that this restricted airspace is no longer required to support the USA mission. Because this action only involves removal of restricted airspace, I find that notice and public comment under 5 U.S.C. 553(b) are unnecessary.

Section 73.33 of 14 CFR part 73 was republished in FAA Order 7400.8G, dated September 1, 1999.

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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**Environmental Review**

This action reduces restricted airspace. The rule contains no changes to air traffic control procedures or routes. Therefore, the FAA has determined that this action is not subject to environmental assessments and procedures in accordance with FAA Order 1050.1D, "Policies and Procedures for Considering Environmental Impacts," and the National Environmental Policy Act.

**List of Subjects on 14 CFR Part 73**

Airspace, Navigation (air).

**Adoption of the Amendment**

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

## PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 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.

**§ 73.33 [Amended]**

2. § 73.33 is amended as follows:

* * * * *

**R–3302 Savanna, IL [Removed]**

* * * * *

Issued in Washington, DC, on August 8, 2000.

**Reginald C. Matthews,**

*Manager, Airspace and Rules Division.*

[FR Doc. 00–20585 Filed 8–11–00; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### 21 CFR Part 1304

**[DEA–143C]**

**RIN 1117–AA36**

## Establishment of Freight Forwarding Facilities for DEA Distributing Registrants

**AGENCY:** Drug Enforcement Administration (DEA), Justice.

**ACTION:** Final rule; correction.

**SUMMARY:** This document contains a correction to the final regulation which was published, on Wednesday, July 19, 2000 (65 FR 44674, rule document 00–18147). The regulation discussed the establishment of freight forwarding facilities for DEA distributing registrants.

**EFFECTIVE DATE:** August 14, 2000.

**FOR FURTHER INFORMATION CONTACT:** Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Telephone (202) 307–7297.

**SUPPLEMENTARY INFORMATION:**

The final regulation that is the subject of this correction established regulations governing freight forwarding facilities for DEA distributing registrants. The final regulation amended 21 CFR Parts 1300, 1301, 1304 and 1307. As published, the final regulation contained an error that could cause confusion in the regulated industry. Accordingly, the publication July 19, 2000 of the final regulation to establish freight forwarding facilities for DEA distributing registrants which was the subject of **Federal Register** Document 00–18147 is corrected as follows:

## PART 1304—[CORRECTED]

1. On page 44679, column 1, line 26, in amendatory instruction 2., remove "proposed to be amended" and replace it with "is amended":

Dated: August 7, 2000.

**John H. King,**

*Deputy Assistant Administrator, Office of Diversion Control.*

[FR Doc. 00–20469 Filed 8–11–00; 8:45 am]

**BILLING CODE 4410–09–M**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Part 903

**[Docket No. FR–4420–F–09]**

**RIN 2577–AB89**

## Public Housing Agency (PHA) Plan: Streamlined Plans

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Final rule.

**SUMMARY:** This final rule adopts the amendment concerning streamlined PHA Plans that was published for public comment in an April 17, 2000 HUD proposed rule. The April 17, 2000 rule also proposed amendments to the deconcentration of poverty component of the PHA's admission policy, which is part of the PHA Plan submission. The proposed amendments concerning a PHA's policy on deconcentration of poverty, and the public comments received on these amendments, are still under consideration, and will be addressed in a separate rulemaking. No public comments were received on the proposed amendment concerning submission of streamlined PHA Plans, and therefore, this rule makes final that amendment.

**DATES:** *Effective Date:* September 13, 2000.

**FOR FURTHER INFORMATION CONTACT:** Rod Solomon, Deputy Assistant Secretary, Office of Policy, Program and Legislative Initiatives, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4116, Washington, DC 20410; telephone (202) 708–0713 (this is not a toll-free number). Persons with hearing or speech impairments may access that number via TTY by calling the Federal Information Relay Service at (800) 877–8339.

**SUPPLEMENTARY INFORMATION:**

### I. Background

On April 17, 2000 (65 FR 2086), HUD published a proposed rule that would revise HUD's regulations in 24 CFR part 903 that implement the Public Housing Agency Plan to fully reflect the importance of deconcentration by income and affirmatively furthering fair housing in a PHA's admission policy, consistent with the Administration's directive to achieve "One America." The April 17, 2000 rule also proposed to provide further direction to PHAs on the implementation of deconcentration and affirmatively further fair housing. In addition to these amendments, HUD proposed a change to § 903.11(c) that would permit the Secretary of HUD to further simplify the PHA Plan submission for PHAs permitted to submit a streamlined plan.

While HUD received many comments on the proposed amendments concerning deconcentration of poverty, no public comments were received on the proposed amendment to § 903.11(c). HUD is still considering public comments on the proposed amendments concerning deconcentration of poverty and a final rule addressing these amendments will be issued separately. This rule proceeds to codify the amendment to § 903.11(c).

### II. Findings and Certifications

*Regulatory Flexibility Act*

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this final rule, and in so doing certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule is limited to making a technical, simplification change to HUD's regulations in 24 CFR 903.11, as described in this preamble.

*Executive Order 13132, Federalism*

This final rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of Executive Order 13132 (entitled "Federalism").

*Environmental Impact*

The Finding of No Significant Impact with respect to the environment was prepared during the interim rulemaking stage of the PHA Plan rule (Docket No. FR–4420), in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4223). That Finding remains applicable to this rule, and is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410.

*Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; approved March 22, 1995) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This rule does not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

*Catalog of Federal Domestic Assistance*

The Catalog of Federal Domestic Assistance numbers applicable to the programs affected by this rule are 14.850 and 14.855.

**List of Subjects in 24 CFR Part 903**

Administrative practice and procedure, Public housing, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, HUD amends part 903 of title 24 of the Code of Federal Regulations to read as follows:

## PART 903—PUBLIC HOUSING AGENCY PLANS

1. The authority citation for 24 CFR part 903 continues to read as follows:

**Authority.** 42 U.S.C. 1437c; 42 U.S.C. 3535(d).

2. Section 903.11 is revised to read as follow:

**§ 903.11 Are certain PHAs eligible to submit a streamlined Annual Plan?**

(a) Yes, the following PHAs may submit a streamlined Annual Plan, as described in paragraph (b) of this section:

(1) PHAs that are determined to be high performing PHAs as of the last annual or interim assessment of the PHA before the submission of the 5-Year or Annual Plan;

(2) PHAs with less than 250 public housing units (small PHAs) and that have not been designated as troubled in accordance with section 6(j)(2) of the 1937 Act; and

(3) PHAs that only administer tenant-based assistance and do not own or operate public housing.

(b) All streamlined plans must provide information on how the public may reasonably obtain additional information on the PHA policies contained in the standard Annual Plan, but excluded from their streamlined submissions.

(c) A streamlined plan must include the information provided in this paragraph (c) of this section. The Secretary may reduce the information requirements of streamlined Plans further, with adequate notice.

(1) For high performing PHAs, the streamlined Annual Plan must include the information required by § 903.7(a), (b), (c), (d), (g), (h), (m), (n), (o), (p) and (r). The information required by § 903.7(m) must be included only to the extent this information is required for PHA's participation in the public housing drug elimination program and the PHA anticipates participating in this program in the upcoming year.

(2) For small PHAs that are not designated as troubled or that are not at risk of being designated as troubled under section 6(j)(2) of the 1937 Act the streamlined Annual Plan must include the information required by § 903.7(a), (b), (c), (d), (g), (h), (k), (m), (n), (o), (p) and (r). The information required by § 903.7(k) must be included only to the extent that the PHA participates in homeownership programs under section 8(y). The information required by § 903.7(m) must be included only to the extent this information is required for the PHA's participation in the public housing drug elimination program and the PHA anticipates participating in this program in the upcoming year.

(3) For PHAs that administer only tenant-based assistance, the streamlined Annual Plan must include the information required by § 903.7(a), (b), (c), (d), (e), (f), (k), (l), (o), (p) and (r).

Dated: August 7, 2000.

**Harold Lucas,**

*Assistant Secretary for Public and Indian Housing.*

[FR Doc. 00–20550 Filed 8–11–00; 8:45 am]

BILLING CODE 4210–33–P

## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

### 30 CFR Part 250

### RIN 1010–AC41

## Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Subpart O—Well Control and Production Safety Training

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Final rule.

**SUMMARY:** This rule amends MMS regulations governing the training of lessee and contractor personnel engaged in oil and gas and sulphur operations in the OCS. MMS is making this amendment to enhance safety, allow the development of new and innovative training techniques, to impose fewer prescriptive requirements on the oil and gas industry, and provide increased training flexibility.

**EFFECTIVE DATE:** October 13, 2000.

**FOR FURTHER INFORMATION CONTACT:** Wilbon Rhome or Joseph Levine, Operations and Analysis Branch, at (703) 787–1032.

**SUPPLEMENTARY INFORMATION:** On April 20, 1999, we published the proposed rule in the **Federal Register** (64 FR 19318). During the 90-day comment period, which ended on July 19, 1999, MMS held a workshop.

### Background

On February 5, 1997, we published a final rule in the **Federal Register** (62 FR 5320) concerning the training of lessee and contractor employees engaged in drilling, well completion, well workover, well servicing, or production safety system operations in the OCS. The final rule streamlined the previous regulations by 80 percent, provided the flexibility to use alternative training methods, and simplified the training options at 30 CFR 250, Subpart O—Training.

The February 5, 1997, final rule did not sufficiently address developing a performance-based training system, so we planned to publish a proposed rule to better address this issue. Before considering any further revisions to the rule, we decided to hold a workshop in Houston, Texas. The purpose of the workshop was to discuss the development of a performance-based training system for OCS oil and gas activities.

On April 4, 1997, we published a **Federal Register** notice (62 FR 18070) announcing the workshop. We stated that the goal of the meeting was to develop a procedure that ensures that lessee and contractor employees are trained in well control or production safety system operations by creating a less prescriptive training program, focusing on results and not on processes.

To improve the regulations at 30 CFR 250, Subpart O—Training, the workshop notice asked attendees to be prepared to present and discuss comments on the following four performance measures and indicators that could be used as part of a performance-based program:

- MMS Written Test;
- MMS Hands-On and Simulator Testing;
- Audits, Interviews, or Cooperative Reviews; and
- Incident of Noncompliance (INC), Civil Penalty, and Event Data.

On June 10, 1997, we conducted a public workshop in Houston, Texas, which received excellent participation from industry and training schools. Approximately 190 people attended the workshop, representing a diverse cross section of the oil and gas industry.

The next step in the development of a performance-based training system was accomplished by publishing a proposed rule on April 20, 1999. The rule focused on the development of a performance-based training program. The proposed rule required lessee and contract employees to develop their own training programs tied to the job duties of their personnel. This final rule will primarily focus on training results rather than on the process by which employees are trained. By developing appropriate performance measures, MMS can evaluate the effectiveness of a lessee's training programs by:

- written testing;
- hands-on testing;
- training system audits; or
- employee interviews.

This approach requires lessees to be responsible for the quality and the level of training their employees receive.

### Differences Between Proposed and Final Rules

In addition to the changes we made to the final rule in response to comments, we also reworded certain complex sections for further clarity. In many instances, the changes improve MMS's internal work processes to better serve

its external customers. Following are the major changes by section.

- We replaced the tables in proposed § 250.1504. In the proposed rule, the tables listed the minimum "knowledge and job skill elements" employees must have to competently perform their assigned well control and production safety duties. The elements were far too prescriptive for a performance-based rule. The new 30 CFR 250.1503(a) is more performance-based, stating that: "You" must establish and implement a training program so that all of your employees are trained to competently perform their assigned well control and production safety duties. The knowledge and job skill elements that an employee must possess in order to perform assigned well control or production safety duties are the responsibility of the lessee.
- We added § 250.1502, establishing a 2-year transition period to ensure a smooth transition from the existing rule to the new requirement.
- We deleted proposed § 250.1502(c) that stated that both lessees and contractors are required to develop training plans. We now specify that only lessees are required to develop a training plan.
- We modified proposed § 250.1503(b)(1) through (7) to add clarity and specificity so that lessees understand they are responsible for ensuring that all personnel working on their leases are trained and can competently perform their assigned well control or production safety duties. We also wanted contractors to understand that the lessees will review their training program for contract personnel.
- We replaced proposed § 250.1510 with § 250.1503(c). In proposed § 250.1510, we explained why it may be necessary for lessees to provide a training plan to the MMS. In § 250.1503(c), we describe what documentation the lessee must provide to MMS upon request of the Regional or District Supervisor.
- We deleted proposed § 250.1512 and moved the requirements to § 250.1509 in the final rule. Under the current system, MMS-approved training schools conduct hands-on, simulator, or other types of testing that must be passed by the employees before they can work on the OCS. Under the final rule, § 250.1509 outlines the requirements involved if MMS conducts, or requires the lessees to conduct, these tests. We are changing the requirement in the proposed rule that the lessees pay all costs associated with testing. This final rule specifies that the lessees are responsible for paying the testing costs, excluding salary and travel costs for MMS personnel.

**Response to Comments**

MMS received 25 comments on the proposed rule. The comments were received from six production operators, six drilling contractors, two trade organizations, one standard setting organization, nine training schools, and one congressional office. We reviewed all the comments and, in some instances, we revised the final language based on these comments. MMS grouped the major comments and organized them by the proposed regulation section number or subject, as highlighted in the comment table.

COMMENT TABLE

| Requirement/Proposed rule | Comment | MMS response |
|---|---|---|
| Preamble | The transition period is inadequate. Lessees will not be able to implement a satisfactory program within a 90-day timeframe. | Agree—MMS added a section establishing a 2-year transition period to ensure the smoothest transition from the existing rule to the new requirement. New 30 CFR 250.1502. |
| Preamble | The stated training plan development time of 2.2 hours is an understatement. | Agree—We noted and corrected. Plan development time averages 40–60 hours. |
| § 250.1501 | MMS should delete the requirement "experienced," as this would preclude "new hire employees." The word "experienced" does not necessarily relate to "competent," which is the primary goal of MMS' training program. | Agree—We deleted the requirement "experienced." |
| § 250.1502 | Several commenters stated that contractors would need to assure each individual lessee they work for that their personnel have been trained according to the specific program requirements that have been developed by that lessee. Contractors may have to modify their program to fit each lessee's definition of an acceptable program, possibly requiring the contractor to alter its training program every time a rig changes to a different customer. | Agree—Contractors may have to address the lessees' training plans. These differences may exist regardless of the system that is in place. It is the responsibility of the lessees to ensure that those differences do not impact the safety of operations. |
| § 250.1502 | Several commenters asked for clarification concerning which personnel are to be trained. The expanded scope of the rule from the prior regulations seems to imply that the catering staff, marine, helicopter, and other nonessential third-party "contract or" personnel must also be trained by the lessee. | Agree—MMS did not mean to imply that catering staff, marine, helicopter and other nonessential third-party "contractor" personnel be trained by the lessee. According to this rule, only personnel engaged in well control or production safety operations must be trained. |
| § 250.1502 | One commenter wanted MMS to remove the requirement that hot tapping practices and procedures be included in the lessee's training plan. | Agree—The focus of this rule has been limited to well control and production safety training. |
| § 250.1502(a) | MMS' current prescriptive training requirements should be maintained. | Disagree—MMS believes lessees should be responsible for developing procedures that ensure their workers are properly trained prior to working on the OCS rather than having MMS prescribe them. |
| § 250.1502(c) | One commenter stated that MMS should clarify if both lessees and contractors are required to develop training plans. | Agree—We now specify that lessees are required to develop a training plan. Lessees will be responsible for ensuring that all personnel working on their leases are trained and can competently perform their assigned well control or production safety duties. New 30 CFR 250.1503. |

COMMENT TABLE—Continued

| Requirement/Proposed rule | Comment | MMS response |
|---|---|---|
| § 250.1502(c) | A 5-year record retention requirement for documentation for all employees is costly and unwarranted. | Disagree—MMS may need at least 5 years of training records to make an assessment of your training program and look at safety trends. New 30 CFR 250.1503(c)(1). |
| § 250.1504 | Several commenters suggested that the knowledge and job skill elements included in the tables are far too prescriptive for a rule that MMS intends to be "performance-based". | Agree—MMS believes that the tables are too prescriptive for a performance-based rule. We have elected to delete the tables. |
| § 250.1509 | Clarity that an employee needs to be kept current on information related to his or her particular job. | Agree—Wording has been changed to reflect periodic training of employees in relation to their specific job. New 30 CFR 250.1506. |
| § 250.1510 | Several commenters pointed out that the proposed rule does not contain requirements regarding course duration, class size, or periodic retraining. Some in industry may take this as a sign to extend the training frequency of their employees from 2 to 6 years, or to reduce well control certification to a one-time course and test. | Disagree—As part of the final rule, lessees will be required to develop a training plan defining their program. Minimum information to be included in the plan is included in the final rule. MMS will monitor company training programs to determine their effectiveness. New 30 CFR 250.1503. |
| § 250.1510(b)(3) | Several commenters urged MMS not to use written tests as an indicator of an employee's competency or the effectiveness of an employee's training, and one commenter stated that tests should be administered orally because many offshore workers have difficulty reading regulations or company operating manuals. | Agree in part—MMS realizes that failing a written test does not mean an employee does not know his or her job. A written test is one of many tools MMS may use in assessing the performance of a company's training program. MMS may elect to conduct oral tests according to the lessee's training plan. New CFR 250.1508(a) |
| § 250.1512 | Several commenters stated the requirements for hands-on, simulator, or other types of testing will cause a disruption in operations if conducted offshore. This type of testing will not provide a valid indicator of the lessee's performance or the effectiveness of its training program. | Disagree—Whenever possible, MMS will try to accommodate this concern and minimize any potential disruptions. However, to assist in addressing personnel competency, hands-on, simulator, or other types of testing may be conducted in an offshore environment. Therefore, we retained the option for either onshore or offshore testing. New CFR 250.1507(d) |
| § 250.1512 | Several commenters stated that MMS should delete the requirement that lessees and contractors pay for all costs associated with hands-on, simulator, or other types of testing. | Disagree—MMS may use hands-on, simulator, or other types of tests as a method for evaluating the effectiveness of a training program. Whenever possible, MMS will make efforts to minimize costs associated with testing. The final rule clarifies that lessees will not be responsible for paying the salary and travel costs of MMS personnel. New 30 CFR 250.1507(d). |
| § 250.1512 | Several commenters stated that MMS should not use an authorized representative to administer or witness MMS hands-on, simulator, or live well testing. They believe that MMS should bear the burden of guaranteeing impartiality and controlling costs during these tests. | Disagree—MMS does not have the equipment or expertise to conduct hands-on, simulator, or live well testing. For that reason, the final rule includes a provision that either the MMS or its authorized representative would administer or witness the testing if we find it necessary. New CFR 250.1509(a). |
| Testing-out | One commenter urged MMS not to move in the direction of testing-out, especially in positions critical to operational safety, such as well control. | Disagree—MMS and much of industry sees value in training, even for advanced employees who can pass the test. However, under a performance-based system, certain lessees may choose to implement the testing-out options for some of their personnel. MMS will measure these results according to the requirements in § 250.1507 to ensure the competency of these employees. |
| General | One commenter stated that statistics on incidents in OCS waters overwhelmingly support the success of MMS' current training program. With today's environment in the oil and gas industry, this is not the time to experiment with a new type of training regulation. | Disagree—MMS believes that this final rule provides companies the opportunity to develop their own programs tailored to the needs of their employees. The changes in the final rule are expected to decrease incidents and improve company performance by holding lessees accountable for the competency of their employees. |
| WellCAP | Several commenters stated that MMS should consider referencing the International Association of Drilling Contractors (IADC) WellCAP training program, or its associated documents in the final rule. WellCAP is ideally positioned to act as an industry benchmark in the absence of MMS' school-based system, providing training uniformity and an acceptable level of quality to well control training worldwide. | Agree—MMS commends IADC for the WellCAP program and acknowledges the value WellCAP could bring in providing minimum well control training requirements to lessees and contractors worldwide. MMS intends to publish a proposed rule that proposes the incorporation of WellCAP or a comparable third party certification program into Subpart O. |

**Procedural Matters**

*Regulatory Planning and Review (Executive Order 12866)*

This document is a significant rule and is subject to review by the Office of Management and Budget (OMB) under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The rule does not add any new cost to the oil and gas industry, and it will not reduce the level of safety to personnel or the environment.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The Department of the Interior (DOI) has several Memoranda of Understanding (MOUs) with the U.S. Coast Guard that define the responsibilities of each agency with respect to activities on the OCS. The MOUs are effective in avoiding inconsistency or interfering with any action taken by another agency.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This rule will not affect programs such as listed here. This is a training rule that applies to the lessees working on the OCS. There are no entitlements, grants, or user fees that apply.

(4) Although moving towards performance-based rules is a fairly new concept, this rulemaking will not raise any legal issues. However, there may be certain novel policy issues to consider, thus, this rule is significant and is subject to review by OMB. We held a public workshop before proposing this change.

*Federalism (Executive Order 13132)*

According to Executive Order 13132, this rule does not have Federalism implications. This rule does not substantially and directly affect the relationship between the Federal and State governments. This is a training rule that applies to lessees working on the OCS and amends current MMS regulations to provide increased training flexibility. Thus, this rule will not directly affect the relationship between the Federal and State Governments. This rule does not impose costs on State or localities because the rule applies only to the lessees working on the OCS.

*Civil Justice Reform (Executive Order 12988)*

According to Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

*Small Business Regulatory Enforcement Fairness Act (SBREFA)*

This rule is not a major rule under (5 U.S.C. 804(2)) SBREFA. This rule:

(a) Does not have an annual effect on the economy of $100 million or more. The estimated yearly gross cost to the oil and gas industry to train its employees is $5,945,250. Based on a 12-year cycle, well-control students would normally take six basic courses (½ course per year), and production safety system students would take four basic courses (⅓ course per year). Therefore, the annual training cost to train 15,000 students in well control would be $3,975,000 ($530 × ½ course per year × 15,000 students). The annual training cost to train 15,000 students in a production safety system would be $1,955,250 ($395 × ⅓ course per year × 15,000 students). The total annual cost is $5,930,250. There may be additional costs to the lessees or contractors with poor performance records if MMS or its authorized representative conducts, or requires the lessee or contractor to conduct hands-on, simulator, or other types of testing. They will be required to pay for all costs associated with the testing, excluding salary and travel costs for MMS personnel.

We estimate that not more than 50 employees (industry-wide) per year, at a cost of $300 per employee, will be required to take the MMS hands-on, simulator, or other types of testing. The total cost for those employees should not exceed $15,000 per year.

We feel that the cost of complying with the final rule would be somewhat less than this amount.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Based on our experience, the training industry should not change significantly under a performance-based system. Because of lower overhead and competitive pricing in the industry, costs should remain stable; and

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or ability of United States-based enterprises to compete with foreign-based enterprises.

*Unfunded Mandates Reform Act (UMRA) of 1995 (Executive Order 12866)*

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

*Paperwork Reduction Act (PRA) of 1995*

We examined the proposed rule and these final regulations under section 3507(d) of the PRA. Because of the changes proposed to the current 30 CFR 250, Subpart O regulations, we submitted the information collection requirements to OMB for approval as part of the proposed rulemaking process. As the final rule contains minor changes in the collection of information, before publication, we again submitted the information collection to OMB for approval. In response to comments, we concluded that we significantly underestimated the burden for the primary paperwork aspect of the rule that requires lessees to develop "training plans" (§ 250.1503(b) and (c)). In our resubmission to OMB, the burden for this requirement is 60 hours per plan. The following two new requirements (associated hour burden is shown in parenthesis) are the only differences in the information collected under the final rule from that approved for the proposed rule:

- § 1502—Notify MMS if lessees implement the revised final regulations before the end of the 2-year transition period (1 hour).
- § 1503(c)—Provide copies of the training plan to MMS, if requested (5 hours).

The PRA provides that 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 approved the collection of information required in the final rule under OMB control number 1010–0128.

The title of this collection of information was changed to "30 CFR 250, Subpart O Well Control and Production Safety Training" to correspond with the revised title of the subpart. Responses are mandatory. The frequency of submission varies according to the requirement but is generally "on occasion." We estimate there are approximately 130 respondents to this collection of information.

We use the collection of information required by these regulations to ensure that workers in the OCS are properly trained with the necessary skills to perform their jobs in a safe and pollution-free manner. In some instances, MMS will conduct oral interviews of offshore employees to evaluate the effectiveness of a company's training program. This information is necessary to verify training compliance with the requirements.

*Reporting and Recordkeeping "Hour" Burden:* The approved annual burden of this collection of information is 5,739 hours. Based on $50 per hour, we estimate the total "hour" burden cost to respondents to be $286,950.

*Reporting and Recordkeeping "Non-Hour Cost" Burden:* There are no "non-hour cost" burdens in the final regulations.

It should be noted that this final rule will not take full effect for 2 years from the effective date of the rule, but it allows for early implementation at the discretion of lessees. Therefore, we will continue to maintain approved information collections for the current Subpart O regulations (under OMB control number 1010–0078) as well as for these final regulations during the transition period.

*Regulatory Flexibility (RF) Act*

DOI certifies that this document will not have a significant economic effect on a substantial number of small entities under the RF Act (5 U.S.C. 601 *et seq.*). The Small Business Administration (SBA) defines a small business as having:

- Annual revenues of $5 million or less for exploration service and field service companies; and
- Fewer than 500 employees for drilling companies and for companies that extract oil, gas, or natural gas liquids.

Under SBA's Standard Industrial Classification (SIC) code 1381, Drilling Oil and Gas Wells, MMS estimates that there is a total of 1,380 firms that drill oil and gas wells onshore and offshore. Of these, approximately 130 companies are offshore lessees/operators, based on current estimates. According to SBA estimates, 39 companies qualify as large firms, leaving 91 companies qualified as small firms with fewer than 500 employees.

As explained in the PRA section, companies will be required to develop training plans. We estimate that the burden for developing these plans is approximately 60 hours each. If 91 lessees are small businesses, the burden would be 5,460 hours. At an average hourly cost of $50, the impact of this requirement is $273,000 on small businesses. Once the plan has been developed, there are no new costs for implementation.

The costs for an alternative training program would simply offset the current cost of sending employees to accredited schools. Alternative training provides both added flexibility and cost savings for companies who train their employees either onshore or offshore, at a centralized location, or during their off hours on a platform or drilling rig. It is expected that they would receive the same quality of training that they have been receiving for years. We estimate that the company may spend 5–10 ($250–$500) hours annually to update the plans. Thus, the annual cost for updating plans for small businesses is approximately $22,750 to $45,500. The cost for this update will be minimal.

A positive effect for the lessees under the new rule is that they will have increased options concerning where to get their training. This will change how a company does business. This should not result in any additional training costs or economic burdens. Under the final rule, the oil and gas industry will have the flexibility to tailor its training program to the specific needs of each company. Lessees will be given the added flexibility to determine the type of training, methodology (classroom, computer, team, on-the-job), length of training, frequency and subject matter content for their training program.

In addition to lessees, MMS currently regulates the training schools. There are 52 MMS-accredited training schools. We have approved 26 schools to teach production safety courses, 22 schools to teach well control courses, and 4 schools to teach both well control and production courses. The training companies best fit under the SIC 8249, and the criterion for small businesses is $5 million in revenue. Based on this criterion, 25 training companies will fall into the small business category.

Under these final regulations, we will no longer be accrediting training schools or imposing any regulatory burden. However, lessee personnel and the employees of contractors hired by the lessee will have to be trained and found competent in the duties associated with their particular job. Training schools that teach a broad range of vocational courses, in addition to MMS accreditation courses, and who provide quality training at a competitive price, should experience no significant change in their normal business, except the schools will no longer be burdened with MMS reporting and recordkeeping requirements.

Training schools that were previously MMS-accredited will benefit because their plans are in place and approved by MMS. Additionally, schools that have established a loyal customer-base will not be affected by the implementation of this rule. Therefore, this new provision will not cause prices to increase or decrease. Based on our experience, the failure rate of the schools in the offshore training industry should not change significantly under a performance-based program. Under the current regulations, we maintain a database that tracks training schools approved by the agency. Based on information from this database, less than 2 percent of the schools approved by MMS go out of business each year. Under the new rule, we expect this to remain the same. MMS experience has shown that because of lower overhead and competitive pricing, small training schools are just as capable as the larger schools at adapting to change.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small business about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MMS, call toll-free (888) 734–3247.

*Takings Implication Assessment (Executive Order 12630)*

According to Executive Order 12630, the rule does not have significant takings implications. MMS determined that this rule does not represent a governmental action capable of interference with constitutionally protected property rights. Thus, a Takings Implication Assessment is not required under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

*National Environmental Policy Act (NEPA) of 1969*

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA is not required.

**List of Subjects in 30 CFR Part 250**

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas

reserves, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: July 14, 2000.

**Sylvia V. Baca,**

*Assistant Secretary, Land and Minerals Management.*

For the reasons stated in the preamble, MMS amends 30 CFR part 250 as follows:

## PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

**Authority:** 43 U.S.C. 1331 *et seq.*

2. Subpart O is revised to read as follows:

## Subpart O—Well Control and Production Safety Training

Sec.



### § 250.1500 Definitions.

Terms used in this subpart have the following meaning:

*Employee* means direct employees of the lessees who are assigned well control or production safety duties.

*I* or *you* means the lessee engaged in oil, gas, or sulphur operations in the Outer Continental Shelf (OCS).

*Lessee* means a person who has entered into a lease with the United States to explore for, develop, and produce the leased minerals. The term lessee also includes an owner of operating rights for that lease and the MMS-approved assignee of that lease.

*Production safety* means production operations as well as the installation, repair, testing, maintenance, or operation of surface or subsurface safety devices.

*Well control* means drilling, well completion, well workover, and well servicing operations. For purposes of this subpart, well completion/well workover means those operations following the drilling of a well that are intended to establish or restore production to a well. It includes small tubing operations but does not include well servicing. Well servicing means snubbing, coil tubing, and wireline operations.

### § 250.1501 What is the goal of my training program?

The goal of your training program must be safe and clean OCS operations. To accomplish this, you must ensure that your employees and contract personnel engaged in well control or production safety operations understand and can properly perform their duties.

### § 250.1502 Is there a transition period for complying with the regulations in this subpart?

(a) During the period October 13, 2000 until October 15, 2002 you may either:

(1) Comply with the provisions of this subpart. If you elect to do so, you must notify the Regional Supervisor; or

(2) Comply with the training regulations in 30 CFR 250.1501 through 250.1524 that were in effect on June 1, 2000 and are contained in the 30 CFR, parts 200 to 699, edition revised as of July 1, 1999, as amended on December 28, 1999 (64 FR 72794).

(b) After October 15, 2002, you must comply with the provisions of this subpart.

### § 250.1503 What are my general responsibilities for training?

(a) You must establish and implement a training program so that all of your employees are trained to competently perform their assigned well control and production safety duties. You must verify that your employees understand and can perform the assigned well control or production safety duties.

(b) You must have a training plan that specifies the type, method(s), length, frequency, and content of the training for your employees. Your training plan must specify the method(s) of verifying employee understanding and performance. This plan must include at least the following information:

(1) Procedures for training employees in well control or production safety practices;

(2) Procedures for evaluating the training programs of your contractors;

(3) Procedures for verifying that all employees and contractor personnel engaged in well control or production safety operations can perform their assigned duties;

(4) Procedures for assessing the training needs of your employees on a periodic basis;

(5) Recordkeeping and documentation procedures; and

(6) Internal audit procedures.

(c) Upon request of the Regional or District Supervisor, you must provide:

(1) Copies of training documentation for personnel involved in well control or production safety operations during the past 5 years; and

(2) A copy of your training plan.

### § 250.1504 May I use alternative training methods?

You may use alternative training methods. These methods may include computer-based learning, films, or their equivalents. This training should be reinforced by appropriate demonstrations and "hands-on" training. Alternative training methods must be conducted according to, and meet the objectives of, your training plan.

### § 250.1505 Where may I get training for my employees?

You may get training from any source that meets the requirements of your training plan.

### § 250.1506 How often must I train my employees?

You determine the frequency of the training you provide your employees. You must do all of the following:

(a) Provide periodic training to ensure that employees maintain understanding of, and competency in, well control or production safety practices;

(b) Establish procedures to verify adequate retention of the knowledge and skills that employees need to perform their assigned well control or production safety duties; and

(c) Ensure that your contractors' training programs provide for periodic training and verification of well control or production safety knowledge and skills.

### § 250.1507 How will MMS measure training results?

MMS may periodically assess your training program, using one or more of the methods in this section.

(a) *Training system audit.* MMS or its authorized representative may conduct a training system audit at your office. The training system audit will compare your training program against this subpart. You must be prepared to explain your overall training program and produce evidence to support your explanation.

(b) *Employee or contract personnel interviews.* MMS or its authorized representative may conduct interviews at either onshore or offshore locations to inquire about the types of training that were provided, when and where this training was conducted, and how effective the training was.

(c) *Employee or contract personnel testing.* MMS or its authorized representative may conduct testing at either onshore or offshore locations for the purpose of evaluating an individual's knowledge and skills in perfecting well control and production safety duties.

(d) *Hands-on production safety, simulator, or live well testing.* MMS or its authorized representative may conduct tests at either onshore or offshore locations. Tests will be designed to evaluate the competency of your employees or contract personnel in performing their assigned well control and production safety duties. You are responsible for the costs associated with this testing, excluding salary and travel costs for MMS personnel.

**§ 250.1508 What must I do when MMS administers written or oral tests?**

MMS or its authorized representative may test your employees or contract personnel at your worksite or at an onshore location. You and your contractors must:

(a) Allow MMS or its authorized representative to administer written or oral tests; and

(b) Identify personnel by current position, years of experience in present position, years of total oil field experience, and employer's name (e.g., operator, contractor, or sub-contractor company name).

**§ 250.1509 What must I do when MMS administers or requires hands-on, simulator, or other types of testing?**

If MMS or its authorized representative conducts, or requires you or your contractor to conduct hands-on, simulator, or other types of testing, you must:

(a) Allow MMS or its authorized representative to administer or witness the testing;

(b) Identify personnel by current position, years of experience in present position, years of total oil field experience, and employer's name (e.g., operator, contractor, or sub-contractor company name); and

(c) Pay for all costs associated with the testing, excluding salary and travel costs for MMS personnel.

**§ 250.1510 What will MMS do if my training program does not comply with this subpart?**

If MMS determines that your training program is not in compliance, we may initiate one or more of the following enforcement actions:

(a) Issue an Incident of Noncompliance (INC);

(b) Require you to revise and submit to MMS your training plan to address identified deficiencies;

(c) Assess civil/criminal penalties; or

(d) Initiate disqualification procedures.

[FR Doc. 00–20352 Filed 8–11–00; 8:45 am]

BILLING CODE 4310–MR–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### 32 CFR Part 199

### Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Enhancement of Dental Benefits Under the TRICARE Retiree Dental Program

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This interim final rule implements section 704 of the National Defense Authorization Act for Fiscal Year 2000, to allow additional benefits under the retiree dental insurance plan for Uniformed Services retirees and their family members that may be comparable to those under the Dependents Dental Program. The Department is publishing this rule as an interim final rule in order to comply timely with the desire of Congress to meet the needs of retirees for additional dental coverage. Public comments are invited and will be considered for possible revisions to this rule at the time of publication of the final rule.

**DATES:** Effective August 14, 2000. Comments must be received on or before October 13, 2000.

**ADDRESSES:** Forward comments to: TRICARE Management Activity (TMA), Special Contracts and Operations Office, 16401 East Centretech Parkway, Aurora, CO 80011–9043.

**FOR FURTHER INFORMATION CONTACT:** Linda Winter, Special Contracts and Operations Office, TMA, (303) 676–3682.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The TRICARE Retiree Dental Program (TRDP), a voluntary dental insurance plan completely funded by enrollees' premiums, was implemented in 1998 to provide benefits for basic dental care and treatment based on the authority of 10 U.S.C. 1076c. Under the enabling legislation, the benefits that can be provided are limited to "basic dental care and treatment, involving diagnostic services, preventative services, basic restorative services (including endodontics), surgical services, and emergency services." Accordingly, the implementing regulation, 32 CFR 199.22, limited coverage to the most common dental procedures necessary for maintenance of good dental health and did not include coverage of major restorative services, prosthodontics, orthodontics or other procedures considered to be outside of the "basic dental care and treatment" range.

Although the program was viewed as a major advance in offering dental coverage to retired members of the Uniformed Services and their family members at a very reasonable cost, there were still concerns that the enabling legislation was too restrictive in scope and that there should be expansion of services to better meet the needs of retirees.

Congress responded to these concerns by amending 10 U.S.C. 1076c with section 704 of the National Defense Authorization Act for Fiscal Year 2000, Pub. L. 106–065, to allow the Secretary of Defense to offer additional coverage. Under provisions of the amendment, the TRDP benefits may be "comparable to the benefits authorized under section 1076a" of title 10, the Dependents Dental Plan, commonly known as the TRICARE Family Member Dental Plan. Thus, in addition to the original basic services described above, which continue to be mandated, coverage of "orthodontic services, crowns, gold fillings, bridges, complete or partial dentures, and such other services as the Secretary of Defense considers to be appropriate" [10 U.S.C. 1076a(d)(3)] may be covered by the TRDP.

The language of section 704 of the National Defense Authorization Act for Fiscal Year 2000 is permissive and does not mandate such coverage. However, because of the many requests for additional TRDP coverage regardless of the inevitable increase in premiums, the DoD is proposing to expand the current coverage through a contractual arrangement. The premium cost of the enhanced coverage will remain the responsibility of the enrollees.

**II. Provisions of the Interim Final Rule for Enhancement of TRDP Benefits**

This interim final rule allows expansion of the TRDP benefits to be

comparable to the coverage under Active Duty Dental Plan at 32 CFR 199.13, commonly known as the TRICARE Family Member Dental Plan. It maintains the original basic TRDP coverage, with the original initial and renewal enrollment periods, until contractual arrangements are in place for the additional benefits. Enrollment in the original basic plan will be superseded by enrollment in the enhanced plan. Effective with the implementation of an enhanced plan, new enrollments for basic coverage will cease. Enrollees in the basic plan at that time may continue their enrollment for basic coverage, subject to the applicable premium and eligibility provisions, as long as the contract administering that coverage is in effect. Enrollees in the basic plan will be allowed an enrollment option at the time the enhanced plan is implemented.

**III. Other Provisions of the Interim Final Rule**

One of the aims of the interim final rule is to allow flexibility in the design of an enhanced benefit structure that will help keep the increase in premiums within a reasonable range with the addition of the major dental coverage. This takes into account the increase in premiums not only for the increased benefits but the potential increase due to the risk of adverse selection. Adverse selection is the tendency for people who have a greater-than-average likelihood of needing treatment to seek coverage more than those who have a lesser likelihood of needing treatment. Accordingly, the interim final rule provides for renewal enrollment periods of up to 12 months per period for the enhanced benefits, thereby allowing the risk to be spread over a greater period of time than the month-to-month continuing enrollment for the basic coverage. Renewal for the basic program continues to be on a monthly basis. To offset the longer renewal periods, the rule allows a flexibility in the initial enrollment period for the enhanced benefits by permitting it to be in the range of from 12 to 24 months, the exact length to be determined through contractual arrangement. The initial enrollment period for the basic program will continue to be 24 months.

In addition, the interim final rule allows the establishment of an alternative course of treatment policy as in the TFMDP, adds a provision for orthodontic lifetime maximum should an orthodontic benefit be offered, and removes the specific dollar limit on the non-orthodontic annual benefit maximum while retaining the requirement for an annual maximum benefit amount. These changes are being made to permit more flexibility in the design and implementation of an enhanced TRDP benefit structure and allow ways to mitigate the increased risk for adverse selection and unacceptably high premiums that are likely to occur with the addition of major coverage.

Recognizing that occasionally some enrollees experience "buyer's remorse" shortly after enrolling in the program, this rule adds a 30-day grace period that allows new enrollees to terminate a TRDP enrollment immediately after enrollment provided no benefits have been used. This is consistent with the legislative mandate that the retiree dental plan be voluntary and provides enrollees an opportunity to further consider their dental needs before they are obligated for the initial enrollment period.

**IV. Rulemaking Procedures**

Executive Order 12866 requires certain regulatory assessments for any "significant regulatory action," defined as one that would result in an annual effect on the economy of $100 million or more, or have other substantial impacts.

The Regulatory Flexibility Act (RFA) requires that each federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities.

This rule is not a significant regulatory action under the provisions of Executive Order 12866, and it would not have a significant impact on a substantial number of small entities.

This rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The TRICARE Retiree Dental Program Enrollment Form currently in use received approval from the Office of Management and Budget (OMB) in January 1998 under OMB Number 0720–0015. That approval expires January 31, 2001.

To implement enhanced benefits in the retiree dental program in a timely manner, this rule is being issued as an interim final rule, with comment period. This is an exception to our standard practice of soliciting public comments prior to issuance. The Assistant Secretary of Defense (Health Affairs) has determined for good cause that following the standard practice in this case would be impracticable, unnecessary, and contrary to the public interest. This determination is based on several factors. First, the government has no financial interest at stake that could be impacted by rulemaking. The TRDP is distinctly different and administratively separate from other TRICARE programs. It is open to all Uniformed Services retirees regardless of age and is completely funded by enrollees' premiums. Secondly, although no appropriated funds are involved in this program, the Department maintains a fiduciary duty to act in the best interest of the intended beneficiaries (retirees). Retirees will be financially disadvantaged by delay in adding coverage of the major dental procedures to the TRDP. The more quickly this rule is put into effect, the more quickly retirees can receive the additional coverage at a reasonable premium rate. Lastly, this change directly implements a statutory amendment enacted by Congress expressly for this purpose. Interested persons are invited to comment on this rule during the 60-day public comment period. All written comments timely received will be carefully considered prior to finalization of this rule. A discussion of the major issues received by public comments will be included with the issuance of the final rule, anticipated approximately 90 days after the end of the comment period.

**List of Subjects in 32 CFR Part 199**

Claims, Dental Health, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 32 CFR Part 199 is amended as follows:

**PART 199—[AMENDED]**

1. The authority citation for Part 199 continues to read as follows:

**Authority:** 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Section 199.22 is amended by revising paragraphs (b)(1), (d)(4), (d)(5), (f) introductory text, (f)(1) introductory text, (f)(2), and paragraph (g) and adding paragraph (f)(3) to read as follows:

**§ 199.22 TRICARE Retiree Dental Program (TRDP).**

* * * * *

(b) * * *

(1) At a minimum, benefits are the diagnostic services, preventive services, basic restorative services (including endodontics), oral surgery services, and emergency services specified in paragraph (f)(1) of this section. Additional services comparable to those contained in § 199.13(e)(2) of this part may be covered pursuant to benefit

policy decisions made by the Director, OCHAMPUS, or designee.

* * * * *

(d) * * *

(4) *Enrollment periods.*

(i) *Enrollment period for basic benefits.* The initial enrollment for the basic dental benefits described in paragraph (f)(1) of this section shall be for a period of 24 months followed by month-to-month enrollment as long as the enrollee remains eligible and chooses to continue enrollment. An enrollee's disenrollment from the TRDP at any time for any reason, including termination for failure to pay premiums, is subject to a lockout period of 12 months. After any lockout period, eligible individuals may elect to reenroll and are subject to a new initial enrollment period. The enrollment periods and conditions stipulated in this paragraph apply only to the basic benefit coverage described in paragraph (f)(1) of this section. Effective with the implementation of an enhanced benefit program, new enrollments for basic coverage will cease. Enrollees in the basic program at that time may continue their enrollment for basic coverage, subject to the applicable provisions of this section, as long as the contract administering the coverage is in effect.

(ii) *Enrollment period for enhanced benefits.* The initial enrollment period for enhanced benefit coverage described in paragraph (f)(2) shall be established by the Director, OCHAMPUS, or designee, when such coverage is offered, to be a period of not less than 12 months and not more than 24 months. The initial enrollment period shall be followed by renewal periods of up to 12 months as long as the enrollee chooses to continue enrollment and remains eligible. An enrollee's disenrollment from the TRDP during an enrollment period for any reason, including termination for failure to pay premiums, is subject to a lockout period of 12 months. This lockout provision does not apply to disenrollment during an enrollment grace period as defined in paragraph (d)(5)(ii) of this section or following completion of an initial or renewal enrollment period. Eligible individuals who elect to reenroll following a lockout period or a disenrollment after completion of an enrollment period are subject to a new initial enrollment period.

(5) *Termination of coverage.*

(i) *Involuntary termination.* TRDP coverage is terminated when the member's entitlement to retired pay is terminated, the member's status as a member of the Retired Reserve is terminated, a dependent child loses eligible child dependent status, or a surviving spouse remarries.

(ii) *Voluntary termination.* Regardless of the reason, TRDP coverage shall be cancelled, or otherwise terminated, upon written request from an enrollee if the request is received by the TRDP contractor within thirty (30) calendar days following the enrollment effective date and there has been no use of TRDP benefits by the enrolled member, enrolled spouse, or enrolled dependents during that period. If such is the case, the enrollment is voided and all premium payments are refunded. However, use of benefits during this 30-day enrollment grace period constitutes acceptance by the enrollee of the enrollment and the enrollment period commitment. In this case, a request for voluntary disenrollment before the end of the initial enrollment period will not be honored, and premiums will not be refunded.

* * * * *

(f) *Plan benefits.* The Director, OCHAMPUS, or designee, may modify the services covered by the TRDP to the extent determined appropriate based on developments in common dental care practices and standard dental programs. In addition, the Director, OCHAMPUS, or designee, may establish such exclusions and limitations as are consistent with those established by dental insurance and prepayment plans to control utilization and quality of care for the services and items covered by the TRDP.

(1) *Basic benefits.* The minimum TRDP benefit is basic dental care to include diagnostic services, preventive services, basic restorative services (including endodontics), oral surgery services, and emergency services. The following is the minimum TRDP covered dental benefit (using the American Dental Association's The Council on Dental Care Program's Code on Dental Procedures and Nomenclature):

* * * * *

(2) *Enhanced benefits.* In addition to the minimum TRDP services in paragraph (f)(1) of this section, other services that are comparable to those contained in § 199.13 (e)(2) may be covered pursuant to TRDP benefit policy decisions made by the Director, OCHAMPUS, or designee. In general, these include additional diagnostic and preventive services, major restorative services, prosthodontics (removable and fixed), additional oral surgery services, orthodontics, and additional adjunctive general services (including general anesthesia and intravenous sedation). Enrollees in the basic plan will be given an enrollment option at the time the enhanced plan is implemented.

(3) *Alternative course of treatment policy.* The Director, OCHAMPUS, or designee, may establish, in accordance with generally accepted dental benefit practices, an alternative course of treatment policy which provides reimbursement in instances where the dentist and TRDP enrollee select a more expensive service, procedure, or course of treatment than is customarily provided. The alternative course of treatment policy must meet the following conditions:

(i) The service, procedure, or course of treatment must be consistent with sound professional standards of generally accepted dental practice for the dental condition concerned.

(ii) The service, procedure, or course of treatment must be a generally accepted alternative for a service or procedure covered by the TRDP for the dental condition.

(iii) Payment for the alternative service or procedure may not exceed the lower of the prevailing limits for the alternative procedure, the prevailing limits or dental plan contractor's scheduled allowance for the otherwise authorized benefit procedure for which the alternative is substituted, or the actual charge for the alternative procedure.

(g) *Maximum coverage amounts.* Each enrollee is subject to an annual maximum coverage amount for non-orthodontic dental benefits and, if an orthodontic benefit is offered, a lifetime maximum coverage amount for orthodontics as established by the Director, OCHAMPUS, or designee.

Dated: August 8, 2000.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison, Officer, Department of Defense.*

[FR Doc. 00–20471 Filed 8–11–00; 8:45 am]

BILLING CODE 5001–10–M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 100

**[CGD05–00–032]**

**RIN 2115–AE46**

## Special Local Regulations for Marine Events; Chesapeake Challenge, Patapsco River, Baltimore, MD

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is adopting temporary special local regulations

during the "Chesapeake Challenge" powerboat race to be held on the waters of the Patapsco River near Baltimore, Maryland. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Patapsco River during the event.

**DATES:** This rule is effective from 1 p.m. on August 26, 2000 to 4 p.m. on August 27, 2000.

**ADDRESSES:** You may mail comments and related material to Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, or deliver them to the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays. Comments and materials received from the public as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05–00–032 and are available for inspection or copying at Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Chief Warrant Officer R. Houck, Marine Events Coordinator, Commander, Coast Guard Activities Baltimore, telephone number (410) 576–2674.

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

Although this rule is being published as a temporary final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure the rule is both reasonable and workable. Accordingly, we encourage you to submit comments and related material. If you do so, please include your name and address, identify the docket number (CGD05–00–032), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related materials in an unbound format, no larger than 8.5 by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope.

**Regulatory Information**

A notice of proposed rulemaking (NPRM) was not published for this regulation. In keeping with 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. The Coast Guard was notified of the need for special local regulations with insufficient time to publish a NPRM, allow for comments, and publish a final rule prior to the event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. We had insufficient time to prepare and publish this rule in the **Federal Register** 30 days in advance of the events. To delay the effective date of the rule would be contrary to the public interest since a timely rule is necessary to protect mariners from the hazards associated with high speed powerboat races.

**Background and Purpose**

On August 26 and August 27, 2000, the Chesapeake Bay Power Boat Association will sponsor the "Chesapeake Challenge" powerboat race, on the waters of the Patapsco River, Baltimore, Maryland. The event will consist of 65 to 80 offshore powerboats racing in heats around an oval race course. A large fleet of spectator vessels is anticipated. Due to the need for vessel control during the races, vessel traffic will be temporarily restricted to provide for the safety of spectators, participants and transiting vessels.

**Discussion of Regulations**

The Coast Guard is establishing temporary special local regulations on specified waters of the Patapsco River. The temporary special local regulations will be in effect from 1 p.m. on August 26, 2000 to 4 p.m. on August 27, 2000. The effect will be to restrict general navigation in the regulated areas during the event. Except for participants in the "Chesapeake Challenge" powerboat race and vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. This rule also establishes three spectator viewing areas for the exclusive use of spectator vessels. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

**Regulatory Evaluation**

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

We expect the economic impact of this temporary final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Although this regulation prevents traffic from transiting a portion of the Patapsco River during the event, the effect of this regulation will not be significant due to the limited duration of the regulation and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly.

**Small Entities**

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

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

This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in the effected portions of the Patapsco River during the event.

Although this regulation prevents traffic from transiting or anchoring in a portion of the Patapsco River during the event, the effect of this regulation will not be significant because of its limited duration and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly.

**Collection of Information**

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

**Federalism**

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

**Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

**Taking of Private Property**

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

**Civil Justice Reform**

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

**Protection of Children**

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

**Environment**

We prepared an "Environmental Assessment" in accordance with Commandant Instruction M16475.1C, and determined that this rule will not significantly affect the quality of the human environment. The "Environmental Assessment" and "Finding of No Significant Impact" is available in the docket where indicated under **ADDRESSES.**

**List of Subjects in 33 CFR Part 100**

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

## PART 100—[AMENDED]

1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. A temporary section, § 100.35–T05–032 is added to read as follows:

**§ 100.35–T05–032 Special Local Regulations for Marine Events; Chesapeake Challenge, Patapsco River, Baltimore, Maryland.**

(a) *Definitions.* (1) *Regulated Area.* The waters of the Patapsco River bounded by a line connecting the following points:

| Latitude | Longitude |
|---|---|
| 39°15′27.5″ N ..... | 076°33′10.0″ W, to |
| 39°13′23.0″ N ..... | 076°31′14.0″ W, to |
| 39°12′06.0″ N ..... | 076°29′43.5″ W, to |
| 39°12′00.0″ N ..... | 076°29′08.0″ W, to |
| 39°11′24.0″ N ..... | 076°29′27.5″ W, to |
| 39°11′48.0″ N ..... | 076°30′58.0″ W, to |
| 39°14′53.5″ N ..... | 076°34′15.0″ W, to |
| 39°15′24.0″ N ..... | 076°33′53.0″ W, to |
| 39°15′27.5″ N ..... | 076°33′10.0″ W. |

(2) *Curtis Bay South Spectator Area.* The waters south of Curtis Bay Channel bounded by a line connecting the following points:

| Latitude | Longitude |
|---|---|
| 39°13′16.0″ N ..... | 076°32′31.5″ W, to |
| 39°13′00.0″ N ..... | 076°32′16.0″ W, to |
| 39°12′49.5″ N ..... | 076°32′31.5″ W, to |
| 39°13′06.0″ N ..... | 076°32′48.5″ W, to |
| 39°13′16.0″ N ..... | 076°32′31.5″ W. |

(3) *Curtis Bay North Spectator Area.* The waters north of Curtis Bay Channel bounded by a line connecting the following points:

| Latitude | Longitude |
|---|---|
| 39°14′00.0″ N ..... | 076°33′18.5″ W, to |
| 39°13′33.0″ N ..... | 076°32′50.0″ W, to |
| 39°13′20.5″ N ..... | 076°33′13.5″ W, to |
| 39°13′37.0″ N ..... | 076°33′40.0″ W, to |
| 39°14′00.0″ N ..... | 076°33′18.5″ W. |

(4) *Hawkins Point Spectator Area.* The waters south of Hawkins Point bounded by a line connecting the following points:

| Latitude | Longitude |
|---|---|
| 39°12′26.5″ N ..... | 076°31′39.0″ W, to |
| 39°11′48.0″ N ..... | 076°30′58.0″ W, to |
| 39°11′40.0″ N ..... | 076°30′33.0″ W, to |
| 39°11′16.5″ N ..... | 076°30′46.5″ W, to |
| 39°12′19.5″ N ..... | 076°31′50.5″ W, to |
| 39°12′26.5″ N ..... | 076°31′39.0″ W. |

All coordinates reference Datum NAD 1983.

(5) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Activities Baltimore.

(6) *Official Patrol.* The Official Patrol is any vessel assigned or approved by Commander, Coast Guard Activities Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(7) *Participating vessels.* Participating vessels include all vessels participating in the Chesapeake Challenge powerboat race under the auspices of the Marine Event Application submitted by the Chesapeake Bay Power Boat Association, and approved by the Commander, Fifth Coast Guard District.

(8) *Spectator vessels.* Includes any vessel, commercial or recreational, being used for pleasure or carrying passengers, that is on the Patapsco River to observe the Chesapeake Challenge powerboat race.

(b) *Special local regulations.* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in this area shall:

(i) Stop the vessel immediately when directed to do so by any official patrol.

(ii) Proceed as directed by any official patrol.

(iii) While in the regulated area, proceed at minimum wake speed not to exceed six (6) knots, unless otherwise directed by the official patrol.

(3) Spectator vessels may enter and anchor in the spectator areas described in paragraphs (a)(2), (a)(3) and (a)(4) of this section without the permission of the Patrol Commander. They shall use caution not to enter the regulated area. These spectator areas are for the exclusive use of spectator vessels.

(c) *Effective dates.* This section is effective from 1 p.m. on August 26, 2000 to 4 p.m. on August 27, 2000.

(d) *Enforcement times.* This section will be enforced from 1 p.m. to 4 p.m. on August 26 and August 27, 2000.

Dated: August 2, 2000.

**J.E. Shkor,**

*Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.*

[FR Doc. 00–20592 Filed 8–11–00; 8:45 am]

BILLING CODE 4910–15–U

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 165

**[CGD01–00–195]**

**RIN 2115–AA97**

### Safety Zone: T.E.L. Enterprises, Great South Bay, Davis Park, Sayville, NY

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone for the T.E.L. Enterprises Fireworks Display to be held on Great South Bay, Davis Park, Sayville, NY on August 12, 2000. This action is needed to protect persons, facilities, vessels and others in the maritime community from the safety hazards associated with this fireworks display. Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

**DATES:** This rule is effective from 9:30 p.m. on August 12, 2000 until 11 p.m. on August 13, 2000.

**ADDRESSES:** Documents relating to this temporary final rule are available for inspection and copying at U.S. Coast Guard Group/Marine Safety Office Long Island Sound, 120 Woodward Avenue, New Haven, CT 06512. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Chief Chris Stubblefield, Command Center, Group/Marine Safety Office Long Island Sound, New Haven, CT (203) 468–4428.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. The Coast Guard also finds good cause to make this rule effective less than 30 days after publication in the **Federal Register**. The sponsor of the event did not provide the Coast Guard with the final details for the event in sufficient time to publish a NPRM or a final rule 30 days in advance. The delay encountered if normal rulemaking procedures were followed would effectively cancel the event. Cancellation of this event is contrary to the public interest since the fireworks display is for the benefit of the public.

**Background and Purpose**

Mr. Felix Grucci of Brookhaven, NY is sponsoring a fireworks display on Great South Bay, Davis Park, Sayville, NY. The fireworks display will occur on August 12, 2000 with a rain date of August 13, 2000. The safety zone covers all waters of the Great South Bay within a 600 foot radius of the fireworks launching area which will be located in approximate position: 40°–41′17″N, 073°–00′20″W, (NAD 1983). This zone is required to protect the maritime community from the safety dangers associated with this fireworks display. Entry into or movement within this zone will be prohibited unless authorized by the Captain of the Port or his on-scene representative.

**Regulatory Evaluation**

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This safety zone involves only a portion of the Great South Bay and entry into this zone will be restricted for only 90 minutes on August 12, 2000. Although this regulation prevents traffic from transiting this section of the Great South Bay, the effect of this regulation will not be significant for several reasons: the duration of the event is limited; the event is at a late hour; all vessel traffic may safely pass around this safety zone; and extensive, advance maritime advisories will be made.

**Small Entities**

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

The Coast Guard certifies under 5 U.S.C. 605 (b) that this rule will not have a significant impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Great South Bay from 9:30 p.m. until 11 p.m. on August 12, 2000. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The duration of the event is limited; the event is at a late hour; all vessel traffic may safely pass around this safety zone; and extensive, advance maritime advisories will be made.

**Assistance for Small Entities**

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104–121], the Coast Guard wants to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If your small business or organization would be affected by this rule and you have any questions concerning its provisions or options for compliance, please call Chief Chris Stubblefield at (203) 468–4428. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

**Collection of Information**

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

**Federalism**

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

**Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

**Taking of Private Property**

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

**Civil Justice Reform**

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize

litigation, eliminate ambiguity, and reduce burden.

**Protection of Children**

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

**Environment**

The Coast Guard has considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction, M 16475.C, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES.**

**List of Subjects in 33 CFR Part 165**

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

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

## PART 165—[AMENDED]

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

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

2. Add temporary § 165.T01–CGD1–195 to read as follows:

**§ 165.T01–CGD1–195 T.E.L. Enterprises, Great South Bay, Davis Park, Sayville, NY.**

(a) *Location.* The safety zone includes all waters of Great South Bay within a 600 foot radius of the launch site located on Great South Bay, Davis Park, Sayville, NY in approximate position 40°–41′17″N, 073°–00′20″W (NAD 1983).

(b) *Effective date.* This section is effective from 9:30 p.m. until 11 p.m. on August 12, 2000. If the event is cancelled due to inclement weather, then this section is effective from 9:30 p.m. until 11 p.m. on August 13, 2000.

(c)(1) *Regulations.* The general regulations covering safety zones contained in section 165.23 of this part apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard Vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: July 28, 2000.

**T.V. Skuby,**

*Commander, U.S. Coast Guard, Acting Captain of the Port, Long Island Sound.*

[FR Doc. 00–20591 Filed 8–11–00; 8:45 am]

**BILLING CODE 4910–15–U**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 165

**[CGD01–00–192]**

**RIN 2115–AA97**

## Safety Zone: Fireworks Display, Western Long Island Sound, Larchmont, NY

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for a fireworks display located on Western Long Island Sound off Larchmont, NY. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of Western Long Island Sound.

**DATES:** This rule is effective from 9:20 p.m. on August 11, 2000 until 10:50 p.m. on August 13, 2000.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01–00–192) and are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 204, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (718) 354–4012.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant M. Day, Waterways Oversight Branch, Coast Guard Activities New York (718) 354–4012.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(8), the Coast Guard finds that good cause exists for not publishing an NPRM. Good cause exists for not publishing an NPRM due to the date the Application for Approval of Marine Event was received, there was insufficient time to draft and publish an NPRM. Further, it is a local event with minimal impact on the waterway, vessels may still transit through western Long Island Sound during the event, the zone is only in effect for 1½ hours and vessels can be given permission to transit the zone except for about 20 minutes during this time. Any delay encountered in this regulation's effective date would be unnecessary and contrary to public interest since immediate action is needed to close the waterway and protect the maritime public from the hazards associated with this fireworks display.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register.** This is due to the following reasons: It is a local event with minimal impact on the waterway, vessels may still transit through western Long Island Sound during the event, the zone is only in affect for 1½ hours and vessels can be given permission to transit the zone except for about 20 minutes during this time. Vessels will not be precluded from mooring at or getting underway from recreational piers in the vicinity of the zone. There are no commercial facilities in the vicinity of the zone. Additionally, this location will be a permanent fireworks safety zone regulated by 33 CFR 165.168. The final rule for this regulation was published in the **Federal Register** on July 13, 2000. No comments were received during this rulemaking.

**Background and Purpose**

The Coast Guard has received an application to hold a fireworks program on the waters of western Long Island Sound off Larchmont, NY. This regulation establishes a safety zone in all waters of western Long Island Sound within a 240-yard radius of the fireworks barge in approximate position 40°54′45″N 73°44′55″W (NAD 1983), about 450 yards southwest of the entrance to Horseshoe Harbor. The safety zone is in effect from 9:20 p.m. (e.s.t.) until 10:50 p.m. (e.s.t.) on Friday, August 11, 2000. If the event is cancelled due to inclement weather, then this section is effective from 9:20 p.m. (e.s.t.) until 10:50 p.m. (e.s.t.) on Sunday, August 13, 2000. The safety zone prevents vessels from transiting a portion of western Long Island Sound and is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. Marine traffic will still be able to transit through western Long Island Sound during this event. Additionally, vessels

will not be precluded from mooring at or getting underway from recreational piers in the vicinity of the zone. There are no commercial facilities in the vicinity of the zone. This safety zone precludes the waterway users from entering only the safety zone itself. Public notifications will be made prior to the event via the Local Notice to Mariners.

**Regulatory Evaluation**

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the minimal time that vessels will be restricted from the zone, that vessels may still transit through western Long Island Sound, that vessels will not be precluded from mooring at or getting underway from recreational piers in the vicinity of the zone, there are no commercial facilities in the vicinity of the zone, and advance notifications which will be made.

The size of this safety zone was determined using National Fire Protection Association and New York City Fire Department standards for 8″ mortars fired from a barge combined with the Coast Guard's knowledge of tide and current conditions in the area.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this final rule will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

For reasons discussed in the Regulatory Evaluation above, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small entities were notified of this marine event by its publication in the First Coast Guard District Local Notice to Mariners #30 dated July 25, 2000.

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

**Collection of Information**

This final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**Federalism**

The Coast Guard has analyzed this final rule under the principles and criteria contained in Executive Order 13132 and has determined that this final rule does not have implications for federalism under that Order.

**Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

**Taking of Private Property**

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

**Civil Justice Reform**

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

**Protection of Children**

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

**Environment**

The Coast Guard considered the environmental impact of this final rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1C, this final rule is categorically excluded from further environmental documentation. This rule fits paragraph 34(g) as it establishes a safety zone. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

**List of Subjects in 33 CFR Part 165**

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

**Regulation**

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

## PART 165—[AMENDED]

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

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

2. Add temporary § 165.T01–192 to read as follows:

**§ 165.T01–192 Safety Zone: Fireworks Display, Western Long Island Sound, Larchmont, NY.**

(a) *Location.* The following area is a safety zone: All waters of western Long Island Sound off Larchmont, NY within a 240-yard radius of the fireworks barge in approximate position 40°54′45″N 073°44′55″W (NAD 1983), about 450 yards southwest of the entrance to Horseshoe Harbor.

(b) *Effective period.* This section is effective from 9:20 p.m. until 10:50 p.m. on August 11, 2000. If the event is cancelled due to inclement weather, then this section is effective from 9:20 p.m. until 10:50 p.m. (e.s.t.) on August 13, 2000.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U. S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: July 26, 2000.

**R.E. Bennis,**

*Captain, U. S. Coast Guard, Captain of the Port, New York.*

[FR Doc. 00–20590 Filed 8–11–00; 8:45 am]

BILLING CODE 4910–15–U

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA–225–0230; FRL–6731–4]

### Approval and Promulgation of State Implementation Plans; California—Santa Barbara

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve a state implementation plan (SIP) revision submitted by the State of California to provide for attainment of the 1–hour ozone national ambient air quality standard (NAAQS) in Santa Barbara County. EPA is approving the SIP revision under provisions of the Clean Air Act (CAA) regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards, and plan requirements for nonattainment areas.

**DATES:** This action is effective on September 13, 2000.

**ADDRESSES:** The rulemaking docket for this action is available for public inspection during normal business hours at EPA's Region IX office. A reasonable fee may be charged for copying parts of the docket.

Copies of the SIP materials are also available for inspection at the following locations:

California Air Resources Board, 2020 L Street, Sacramento, California

Santa Barbara County Air Pollution Control District, 26 Castilian Drive B–23, Goleta, CA 93117

Santa Barbara's 1998 Clean Air Plan is available electronically at: http://www.sbcapcd.org/capes.htm

**FOR FURTHER INFORMATION CONTACT:** Dave Jesson (AIR–2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, (415) 744–1288, or jesson.david@epa.gov.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

We are finalizing approval of Santa Barbara's 1998 Clean Air Plan (CAP). The Santa Barbara County Air Pollution Control District (SBCAPCD) adopted the plan to meet the Clean Air Act (CAA) requirements for ozone areas classified as serious. The California Air Resources Board (CARB) submitted the plan to us on March 19, 1999. EPA determined the submittal to be complete on April 28, 1999, pursuant to 40 CFR part 51, appendix V.

On March 30, 2000, we proposed approval of the ozone plan with respect to its emissions inventories, control measures, 1999 rate-of-progress (ROP) plan, attainment demonstration, and transportation budgets. Please see that document (65 FR 16864–16869) for further details on our proposed action, applicable CAA requirements, and additional information on the affected area.

#### II. Public Comments

We received no public comments.

#### III. EPA Final Action

In this document, we are finalizing the following actions on the 1998 CAP. For each action, we indicate the page on which the element is discussed in our proposal.

(1) Approval of the revised baseline and projected emissions inventories under CAA sections 172(c)(3) and 182(a)(1)—16865;

(2) Approval of the SBCAPCD's measures 333, 352, 353, T13, T18, T21, and T22, including the District's commitment to adopt and implement the measures by specified dates (if applicable, in the case of the contingency measures) to achieve the identified emission reduction, under CAA section 110(k)(3)—16866 (Table 1);

(3) Approval of the rate-of-progress (ROP) plan for the milestone year 1999, under CAA sections 182(c)(2)—16866 (Table 2);

(4) Approval of the attainment demonstration under CAA sections 182(c)(2)—16867;

(5) Approval of the revised motor vehicle emissions budgets for purposes of transportation conformity under CAA section 176(c)(2)(A)—16867.

In addition, EPA finds that the SBCAPCD has established and implemented a Photochemical Assessment Monitoring Station (PAMS) network meeting the requirements of CAA section 182(c)(1)—16868.

Upon the effective date of our approval of the 1998 CAP, this plan replaces and supersedes the 1994 ozone SIP with the exception of the approved State control measures, the local control measures that are not amended by the 1998 CAP, and the local transportation control measures (TCMs) for which the 1998 CAP augments the TCMs and projects included in the 1994 SIP. [1] Our final approval also makes enforceable the SBCAPCD commitments to adopt and implement the control measures and contingency measures (if applicable) listed in Table 1 (16866), to achieve the specified emissions reductions.

#### 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

[1] We approved Santa Barbara's 1994 ozone plan on January 8, 1997 (62 FR 1187–1190).

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

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 F.R. 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 October 13, 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 regulations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 23, 2000.

**Laura Yoshii,**

*Regional Administrator, Region IX.*

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

## PART 52—[AMENDED]

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

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

### Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(275) to read as follows:

**§ 52.220 Identification of plan.**

* * * * *

(c) * * *

(275) New and amended plan for the following agency was submitted on March 19, 1999, by the Governor's designee.

(i) Incorporation by reference.

(A) Santa Barbara County Air Pollution Control District.

*(1)* Control measures 333, 352, 353, T13, T18, T21, and T22; 1999 rate-of-progress plan; and motor vehicle emissions budgets (cited on page 5–4), as contained in the Santa Barbara 1998 Clean Air Plan.

(ii Additional materials.

(A) Santa Barbara County Air Pollution Control District.

*(1)* Baseline and projected emissions inventories, and ozone attainment demonstration, as contained in the Santa Barbara 1998 Clean Air Plan.

* * * * *

[FR Doc. 00–20535 Filed 8–11–00; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA156–4104a; FRL–6847–3]

## Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Approval of Revisions to Volatile Organic Compounds Regulations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action on revisions to the Commonwealth of Pennsylvania State Implementation Plan (SIP) submitted by the Pennsylvania Department of Environmental Protection (PADEP). The revisions consist of definitions and requirements for coatings used in mobile equipment repair and refinishing. EPA is approving these revisions to the Commonwealth of Pennsylvania's SIP in accordance with the requirements of the Clean Air Act.

**DATES:** This rule is effective on October 13, 2000 without further notice, unless EPA receives adverse written comment by September 13, 2000. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments should be mailed to David L. Arnold, Chief, Ozone & Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Rose Quinto, (215) 814–2182, at the EPA Region III address above, or by e-mail at quinto.rose@epa.gov.

**SUPPLEMENTARY INFORMATION:**

### I. Background

On March 6, 2000 the Commonwealth of Pennsylvania submitted a formal revision to its State Implementation Plan (SIP). The revisions amend Chapter 121 section 121.1 Definitions, and add Chapter 129 section 129.75 Mobile Equipment Repair and Refinishing, pertaining to volatile organic compound (VOC) control requirements for motor vehicle repair and refinishing facilities.

### II. Summary of SIP Revision

The March 6, 2000 submittal amends Chapter 121, section 121.1 to add definitions of terms used in the substantive provisions in Chapter 129. The definitions include: automotive pretreatment, automotive primer-sealer, automotive primer-surfacer, automotive specialty coating, automotive topcoat, antique motor vehicle, classic motor vehicle, mobile equipment, and automotive touch up repair. Airless spray was added for clarification, and automotive elastomeric coating, automotive impact-resistant coating, automotive jambing clearcoat, automotive lacquer, automotive low-gloss coating, and automotive multicolored topcoat were added to make the final rule consistent with Federal regulations.

Section 129.75 establishes allowable VOC content requirements for coatings used in mobile equipment repair and refinishing. Section 129.75(a) applies to a person who applies mobile equipment repair and refining or color matched coatings to mobile equipment or mobile equipment components. Section 129.75(b) establishes exceptions to the general applicability of the rules where the coating is done in an automobile assembly plant or by an individual who does not receive compensation for application of the coatings. Section 129.75(c) establishes the VOC content of automobile refinished coatings: the allowable VOC content (as applied), and the weight of VOC per volume of coating (minus water and non-VOC solvents). Section 129.75(d) provides the methodology for calculating the VOC emissions, which includes documentation concerning the VOC content of the coatings calculated. Section 129.75(e) establishes application techniques and time frames for existing and new facilities. Sections 129.75(f), (g) and (h) establish the requirements for cleaning spray guns associated with this source category and housekeeping, pollution prevention, and training requirements for individuals applying mobile equipment repair and refinishing coatings.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment since the revisions are administrative changes to the state

regulations. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on October 13, 2000 without further notice unless EPA receives adverse comment by September 13, 2000. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

## III. Final Action

EPA is approving, as revisions to the Pennsylvania SIP, the amendments to Chapter 121 General Provisions, section 121.1. Definitions, and the addition of Chapter 129 Standards For Sources, section 129.75 Mobile Equipment Repair and Refinishing, pertaining to volatile organic compound (VOC) control requirements for motor vehicle repair and refinishing facilities. These revisions were submitted by the Commonwealth of Pennsylvania on March 6, 2000.

## IV. Administrative Requirements

### *A. General 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.*).

### *B. Submission to Congress and the Comptroller General*

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

### *C. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action, approving revisions to Pennsylvania volatile organic compounds regulations pertaining to VOC control requirements for motor vehicle repair and refinishing facilities, must be filed in the United States Court of Appeals for the appropriate circuit by October 13, 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 rule 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.

Dated: July 20, 2000.

**Thomas C. Voltaggio,**

*Acting Regional Administrator, Region III.*

40 CFR part 52 is amended as follows:

## PART 52—[AMENDED]

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

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

## Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(148 ) to read as follows:

**§ 52.2020 Identification of plan.**

* * * * *

(c) * * *

(148) Revisions to the Pennsylvania Regulations pertaining to certain VOC regulations submitted on March 6, 2000 by the Pennsylvania Department of Environmental Protection:

(i) Incorporation by reference.

(A) Letter of March 6, 2000 from the Pennsylvania Department of Environmental Protection transmitting the revisions to VOC regulations.

(B) Addition of definitions to 25 PA Code Chapter 121, General Provisions, at section 121.1 Definitions; addition of new section to 25 PA Code Chapter 129, Standards For Sources, section 129.75, Mobile Equipment Repair and

Refinishing. These revisions became effective on November 27, 1999.

(ii) Additional material.

(A) Remainder of the March 6, 2000 submittal.

[FR Doc. 00–20531 Filed 8–11–00; 8:45 am]

BILLING CODE 6560–50–U

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

**[FRL–6848–3]**

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

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final deletion of the Palmetto Recycling Site from the National Priorities List (NPL).

**SUMMARY:** EPA Region IV announces the deletion of the Palmetto Recycling Site (Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). EPA and the South Carolina Department of Health and Environmental Control (SCDHEC) have determined that the Site poses no significant threat to public health or the environment and therefore, further response measures pursuant to CERCLA are not appropriate.

**DATES:** This "direct final" action will be effective October 13, 2000 unless EPA receives significant adverse or critical comments by September 13, 2000. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Written comments may be mailed to Yvonne Jones, (4WD–NSMB) Remedial Project Manager, U.S. Environmental Protection Agency, 61 Forsyth Street, Atlanta, Georgia 30303, (404) 562–8793, Fax (404) 562–8778, email jones.yvonneO@epa.gov. Comprehensive information on this Site is available through the public docket which is available for viewing at the Site Information Repositories at the following locations: U.S. EPA Region IV, Administrative Records, 61 Forsyth Street, Atlanta, Georgia 30303, (404) 562–8862 and the Northeast Regional Library, 7490 Parklane Road, Columbia, South Carolina 29223.

**FOR FURTHER INFORMATION CONTACT:** Yvonne Jones, (4WD–NSMB) Remedial Project Manager, U.S. Environmental Protection Agency, 61 Forsyth Street, Atlanta, Georgia 30303, (404) 562–8793, Fax (404) 562–8778, email jones.yvonneO@epa.gov.

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**



### I. Introduction

The EPA Region IV announces its deletion of the Palmetto Recycling Site, Columbia, Richland County, South Carolina, from the NPL, Appendix B of the NCP, 40 CFR part 300. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of these sites. EPA and SCDHEC have determined that the remedial action for the Site has been successfully executed. EPA will accept comments on this notice thirty days after publication of this notice in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses the history of the Palmetto Recycling Site and explains how the Site meets the deletion criteria. Section V states EPA's action to delete the Site from the NPL unless dissenting comments are received during the comment period.

### II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that sites may be deleted from, or recategorized on the NPL where no further response is appropriate. In making a determination to delete a site from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

(i) Responsible parties or other parties have implemented all appropriate response actions required; or

(ii) All appropriate response under CERCLA has been implemented, and no further action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substance, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, EPA's policy is that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment. In the case of this Site, no hazardous substances remain on-site above health-based levels that prevent unlimited use and unrestricted exposure. Therefore, a five-year review is not required. However, although contaminants are not impacting the groundwater at the Site, groundwater monitoring is required by the Record of Decision to confirm that the remedy remains effective at protecting human health and the environment. Therefore, EPA will conduct a five-year review for the Site to summarize the data obtained from groundwater monitoring. If new information becomes available that indicates a need for further action, EPA will initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the site shall be restored to the NPL without the application of the Hazardous Ranking System.

### III. Deletion Procedures

The following procedures were used for the intended deletion of this Site: (1) All appropriate response under CERCLA has been implemented and no further action by EPA is appropriate; (2) SCDHEC concurred with the proposed deletion decision; (3) A notice has been published in the local newspaper and has been distributed to appropriate federal, state, and local officials and other interested parties announcing the commencement of a 30-day dissenting public comment period on EPA's Direct Final Action to Delete; and, (4) All relevant documents have been made available for public review at the local Site information repositories. EPA is requesting only dissenting comments on the Direct Final Action to Delete.

For deletion of the Site, EPA's Regional Office will accept and evaluate public comments on EPA's Final Notice before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary, responding to each significant comment submitted during the public comment period. Deletion of the Site from the NPL does not itself create, alter, or revoke any individual's rights or obligations and does not preclude eligibility for future response actions. The NPL is designed primarily for informational purposes and to assist Agency management. As mentioned in section II of this document, § 300.425(e)(3) of the NCP

states that the deletion of a site from the NPL does not preclude eligibility for future response actions.

**IV. Basis for Intended Site Deletion**

The following summary provides the Agency's rationale for the proposal to delete this Site from the NPL.

*A. Site Background and History*

The Palmetto Recycling Site is located off Koon Store Road about 8 miles north of Columbia, Richland County, South Carolina. The Site occupies approximately one and one half acres and is bounded on the north by an unnamed tributary of Dry Fork Creek and on the east by Babe Reeves Road. To the west and south of the site are residential areas interspersed with light commercial operations.

Palmetto Recycling, Inc. purchased the property in 1979 to operate a battery recycling company. It is unknown what activities occurred at the Site prior to 1979. From 1979 to 1983, the facility was involved in the reclamation of lead from batteries. Specific neutralization process details are unknown, but at some point, Palmetto Recycling started discharging wastewater to the local sewer system. After discharging wastewater for an unknown period of time, Palmetto Recycling attempted to obtain a discharge permit. In 1981, SCDHEC denied applications by Palmetto Recycling, Inc. to operate a hazardous waste facility and to transport hazardous wastes. After permit applications were denied, some waste liquids were sent off-site to an acid recycler and some were disposed of on-site.

In the early 1980's, a study conducted by SCDHEC identified elevated concentrations of lead and iron in the groundwater samples collected next to the sump. High levels of lead, barium, and chromium were found in the sediment from the unnamed stream that runs north of the Site. The investigation also revealed the presence of elevated concentrations of lead in on-site soils. SCDHEC noted the presence of a five-foot deep, unlined acid pit containing 1,800 gallons of acid waste at the Site, as well as 100 drums of caustic waste and an unstabilized pile of battery casings.

On February 11, 1983, Palmetto Recycling filed for bankruptcy and a trustee was appointed to provide oversight of cleanup activities. In 1984, Palmetto Recycling employees removing equipment from the Site destroyed a section of the roof covering the on-site collection sump that collected wastewater containing lead oxide and sulfuric acid from the wash process. As a result of this incident, sump water percolated through soils adjacent to the pit area. Three removal actions were taken at the Site to address immediate health and environmental risks. On April 25, 1984, 10,800 gallons of contaminated water were collected and taken to a qualifying facility. In April 1984, SCDHEC informed the bankruptcy trustee that additional measures would be necessary to bring the Site under control. Later in 1984, contractors removed and disposed off-site approximately 100 drums containing liquid caustic waste. On October 2, 1985, SCDHEC authorized another contractor to remove site soils contaminated with lead and chromium. A total of 365 tons of soils were removed from various areas on-site and from locations outside the fenced area and placed in off-site landfills during 1985 and 1986. On October 4, 1989, the Site was placed on the National Priorities List (NPL).

In 1992, EPA negotiated with parties it had identified as Potentially Responsible Parties (PRPs) for the Site to conduct the Remedial Investigation/Feasibility Study (RI/FS). An agreement was not reached between EPA and the parties. Therefore, EPA conducted RI Field activities at the Site from April 1993 through July 1994. The FS was completed in November 1994.

Based on the results of the RI/FS reports and the risk assessment, surface soil was the only medium of concern and lead was the only contaminant of concern. Lead levels in soil ranged from 6.3 parts per million (ppm) to 6,400 ppm. The cleanup level for lead contaminated soils of 400 ppm was established to minimize site risks and ensure future protection of groundwater. In March 1995, EPA issued a Record of Decision (ROD) for the Site which selected excavation and off-site disposal of all soil contaminated with lead above the concentration level of 400 ppm. In addition, the ROD required the collection of additional confirmation samples from adjacent residential yards and from Babe Reaves Road to confirm the absence or presence of soil contamination through off-site migration. Groundwater was no longer impacted. However, groundwater monitoring will continue on an annual basis to confirm that the remedy continues to be effective at protecting human health and the environment. The selected remedy eliminated the principal threat posed by conditions at the Site by reducing the potential for human exposure to high concentrations of lead (i.e., greater than the clean-up level of 400 ppm).

In May 1997, a Consent Decree was signed between the United States and one PRP. A Remedial Design for the specific remedial actions was approved by EPA and the South Carolina Department of Health and Environmental Control in April 1998. From November 1998 through January 1999, several components of the Remedial Action were implemented that included verification sampling and analysis, monitoring well abandonment, a structural inspection, an asbestos survey analysis, approval of backfill material and permitting activities. The verification sample test results, together with previous RI and Remedial Design (on-site and residential) test results, were used to further refine excavation boundaries and confirm that residential properties were not contaminated. Sample results showed that lead levels in the adjacent residential yard were below 400 ppm. Revised (reduced) excavation boundaries based on this data were approved by EPA and SCDHEC on December 24, 1998. Between January 11, 1999 and February 3, 1999, a total of 363 drums of Investigation Derived Waste (IDW) type waste were appropriately segregated, characterized and removed off-site to a RCRA qualifying facility. In addition, approximately 6,500 gallons of liquid IDW were removed off-site to a qualifying publicly owned treatment works.

Soil excavation activities began on January 12, 1999. Approximately 947 cubic yards of soil were excavated down to one-foot and removed from the Site. After excavation was completed in each area, a post-excavation survey was performed to verify removal of the top one-foot of soil. Excavated soil and sediment were transported to and treated/disposed at a qualifying Resource Conservation and Recovery Act (RCRA) facility. Backfilling the Site with clean backfilled material provided further assurance that the Site no longer poses any threats to human health or the environment. Construction activities were concluded on February 3, 1999.

Although contaminants are not impacting the groundwater at the Site, groundwater monitoring is required by the Record of Decision to confirm that the remedy remains effective at protecting human health and the environment.

The cleanup levels established in the Record of Decision for soil have been met. In addition, current groundwater monitoring indicates that the groundwater concentrations for lead are below the health-based level of 15 parts per billion (ppb). The concentration levels detected during groundwater

monitoring range from non-detect to 3.2 ppb. Thus, no hazardous substances remain on-site above health-based levels that prevent unlimited use and unrestricted exposure. Therefore, a five-year review is not required. However, as required by the ROD and at the request of SCDHEC, EPA will conduct a five-year review to assess the continued effectiveness of the remedial action and to summarize the data obtained from groundwater monitoring.

**V. Action**

The remedy selected for this Site has been implemented in accordance with the Record of Decision. Therefore, no further response action is necessary. The remedy has resulted in the significant reduction of the long-term potential for release of contaminants, therefore, human health and potential environmental impacts have been minimized. EPA and SCDHEC find that the remedy implemented continues to provide adequate protection of human health and the environment.

SCDHEC concurs with EPA that criteria for deletion of the Site have been met. Therefore, EPA is deleting the Site from the NPL.

This action will be effective October 13, 2000. However, if EPA receives dissenting comments by September 13, 2000, EPA will publish a document that withdraws this action.

**List of Subjects in 40 CFR Part 300**

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

Dated: July 31, 2000.

**Michael V. Peyton,**

*Acting Regional Administrator, US EPA Region IV.*

Part 300, title 40 of chapter I of the Code of Federal Regulations is amended as follows:

**PART 300—[AMENDED]**

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

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

**Appendix B—[Amended]**

2. Table 1 of appendix B to part 300 is amended by removing the entry for "Palmetto Recycling Inc., Columbia, SC."

[FR Doc. 00–20318 Filed 8–11–00; 8:45 am]
BILLING CODE 6560–50–P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

### 49 CFR Part 544

**[Docket No.: 2000–001; Notice 02]**

**RIN 2127–AH77**

## Insurer Reporting Requirements; List of Insurers Required To File Reports

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** This final rule updates the lists of passenger motor vehicle insurers that are required to file reports on their motor vehicle theft loss experiences, pursuant to 49 U.S.C. 33112. Each insurer listed must file a report for the 1997 calendar year not later than October 25, 2000.

**DATES:** *Effective Date:* The final rule is effective August 14, 2000.

*Reporting Date:* Insurers listed in the appendices are required to submit three copies of their reports on CY 1997 experience on or before October 25, 2000. Previously listed insurers whose names are removed by this notice need not submit reports for CY 1997. Insurers newly listed in this final rule must submit their reports for calendar year 1997 on or before October 25, 2000. Under Part 544, as long as an insurer is listed, it must file reports each October 25. Thus, any insurer listed in the appendices as of the date of the most recent final rule must file a report on the following October 25, and on each succeeding October 25, absent a further amendment removing the insurer's name from the appendices.

**FOR FURTHER INFORMATION CONTACT:** Ms. Deborah Mazyck, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Mazyck's telephone number is (202) 366–4809. Her fax number is (202) 493–2290.

**SUPPLEMENTARY INFORMATION:**

**Background**

Pursuant to 49 U.S.C. 33112, Insurer reports and information, NHTSA requires certain passenger motor vehicle insurers to file an annual report with the agency. Each insurer's report includes information about thefts and recoveries of motor vehicles, the rating rules used by the insurer to establish premiums for comprehensive coverage, the actions taken by the insurer to reduce such premiums, and the actions taken by the insurer to reduce or deter theft. Under the agency's implementing regulation, 49 CFR part 544, the following insurers are subject to the reporting requirements: (1) Those issuers of motor vehicle insurance policies whose total premiums account for 1 percent or more of the total premiums of motor vehicle insurance issued within the United States; (2) those issuers of motor vehicle insurance policies whose premiums account for 10 percent or more of total premiums written within any one State; and (3) rental and leasing companies with a fleet of 20 or more vehicles not covered by theft insurance policies issued by insurers of motor vehicles, other than any governmental entity. Pursuant to its statutory exemption authority, the agency has exempted smaller passenger motor vehicle insurers from the reporting requirements.

*A. Small Insurers of Passenger Motor Vehicles*

Section 33112(f)(2) provides that the agency shall exempt small insurers of passenger motor vehicles if NHTSA finds that such exemptions will not significantly affect the validity or usefulness of the information in the reports, either nationally or on a state-by-state basis. The agency may not, however, exempt an insurer under this section if it is considered an insurer only because of section 33112(b)(1); that is, if it is a self-insurer. The term "small insurer" is defined, in section 33112(f)(1)(A) and (B), as an insurer whose premiums for motor vehicle insurance issued directly or through an affiliate, including pooling arrangements established under State law or regulation for the issuance of motor vehicle insurance, account for less than 1 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States. However, that section also stipulates that if an insurance company satisfies this definition of a "small insurer," but accounts for 10 percent or more of the total premiums for all motor vehicle insurance issued in a particular State, the insurer must report about its operations in that State.

As provided in 49 CFR part 544, NHTSA exercises its exemption authority by listing in Appendix A each insurer which must report because it had at least 1 percent of the motor vehicle insurance premiums nationally.

Listing the insurers subject to reporting instead of each insurer exempted from reporting because it had less than 1 percent of the premiums nationally is administratively simpler since the former group is much smaller than the latter. In Appendix B, NHTSA lists those insurers that are required to report for particular States because each insurer had a 10 percent or a greater market share of motor vehicle premiums in those States. In establishing part 544 (52 FR 59, January 2, 1987), the agency stated that Appendices A and B will be updated annually. It has been NHTSA's practice to update the appendices based on data voluntarily provided by insurance companies to A.M. Best, and made available for the agency each spring. The agency uses the data to determine the insurers' market shares nationally and in each state.

*B. Self-Insured Rental and Leasing Companies*

In addition, upon making certain determinations, NHTSA is authorized to grant exemptions to self-insurers, defined in 49 U.S.C. 33112(b)(1) as any person who has a fleet of 20 or more motor vehicles (other than any governmental entity) which are used primarily for rental or lease and which are not covered by theft insurance policies issued by insurers of passenger motor vehicles. Under 49 U.S.C. 33112(e)(1) and (2), NHTSA may exempt a self-insurer from reporting, if the agency determines:

(1) The cost of preparing and furnishing such reports is excessive in relation to the size of the business of the insurer; and

(2) The insurer's report will not significantly contribute to carrying out the purposes of chapter 331.

In a final rule published June 22, 1990 (55 FR 25606), the agency granted a class exemption to all companies that rent or lease fewer than 50,000 vehicles because it believed that reports from only the largest companies would sufficiently represent the theft experience of rental and leasing companies. NHTSA concluded those reports by the many smaller rental and leasing companies do not significantly contribute to carrying out NHTSA's statutory obligations and that exempting such companies will relieve an unnecessary burden on most companies that potentially must report. As a result of the June 1990 final rule, the agency added a new Appendix C that consists of an annually updated list of the self-insurers that are subject to part 544.

Following the same approach, as in the case of Appendix A, NHTSA has included, in Appendix C, each of the relatively few self-insurers subjected to reporting instead of relatively numerous self-insurers exempted. NHTSA updated Appendix C based primarily on information from the publications, Automotive Fleet Magazine and Business Travel News.

**Notice of Proposed Rulemaking**

*1. Insurers of Passenger Motor Vehicles*

On April 7, 2000, NHTSA published a notice of proposed rulemaking (NPRM) to update the list of insurers in Appendices A, B, and C required to file reports (65 FR 18267). Appendix A of the NPRM listed those insurers which must report because each had at least 1 percent of the motor vehicle insurance premiums on a national basis. The list was last amended in a notice published on October 25, 1999 (See 64 FR 57393). Based on the 1997 calendar year data from A.M. Best, NHTSA proposed to reissue Appendix A without change.

Under part 544, each of the 18 insurers listed in Appendix A of the NPRM would have been required to file a report not later than October 25, 2000, setting forth the information required by part 544 for each State in which it did business in the 1997 calendar year. As long as those 18 insurers remain listed, they would be required to submit reports by each subsequent October 25 for the calendar year ending slightly less than 3 years before.

Appendix B of the NPRM listed those insurers that would be required to report for particular States for calendar year 1997, because each insurer had a 10 percent or a greater market share of motor vehicle premiums in those States. Based on the 1997 calendar year A.M. Best's data for market shares, NHTSA proposed to reissue Appendix B without change.

Under part 544, each of the 11 insurers listed in Appendix B of the NPRM would have been required to report no later than October 25, 2000 on their calendar year 1997 activities in every state in which they had a 10 percent or greater market share, and set forth the information required by Part 544. As long as those 11 insurers remain listed, they would be required to submit reports on or before each subsequent October 25 for the calendar year ending slightly less than 3 years before.

*2. Rental and Leasing Companies*

Based on information in Automotive Fleet Magazine and Business Travel News for 1997, the most recent year for which data are available, NHTSA proposed one change in Appendix C. As indicated above, that appendix lists rental and leasing companies required to file reports. Based on the data reported in the above mentioned publications, NHTSA proposed to remove the Penske Truck Leasing Company from Appendix C and add Ford Rent-A-Car System to Appendix C.

Under part 544, each of the 19 companies (including franchisees and licensees) listed in Appendix C would have been required to file reports for calendar year 1997 no later than October 25, 2000, and set forth the information required by part 544. As long as those 19 companies remain listed, they would be required to submit reports on or before each subsequent October 25 for the calendar year ending slightly less than 3 years before.

**Public Comments on Final Determination**

*1. Insurers of Passenger Motor Vehicles*

In response to the NPRM, the agency received no comments. Accordingly, this final rule adopts the proposed changes to Appendices A, B, and C.

**Regulatory Impacts**

*1. Costs and Other Impacts*

This notice has not been reviewed under Executive Order 12866. NHTSA has considered the impact of this final rule and has determined the action not to be "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. This rule implements the agency's policy of ensuring that all insurance companies that are statutorily eligible for exemption from the insurer reporting requirements are in fact exempted from those requirements. Only those companies that are not statutorily eligible for an exemption are required to file reports.

NHTSA does not believe that this rule, reflecting more current data, affects the impacts described in the final regulatory evaluation prepared for the final rule establishing part 544 (52 FR 59, January 2, 1987). Accordingly, a separate regulatory evaluation has not been prepared for this rulemaking action. Using the Bureau of Labor Statistics Consumer Price Index for 1999, the cost estimates in the 1987 final regulatory evaluation were adjusted for inflation. The agency estimates that the cost of compliance is $83,300 for any insurer added to Appendix A, $33,320 for any insurer added to Appendix B, and $9,613 for any insurer added to Appendix C. In this final rule, for Appendix A, the agency made no changes; for Appendix B, the agency made no changes; and for Appendix C, the agency would add one company and remove one company. The

agency therefore estimates that the net effect of this final rule will be no cost to insurers, as a group.

*2. Paperwork Reduction Act*

The information collection requirements in this final rule have been submitted to and approved by the Office of Management and Budget (OMB) pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This collection of information was assigned OMB Control Number 2127–0547 ("Insurer Reporting Requirements") and was approved for use through August 31, 2003.

*3. Regulatory Flexibility Act*

The agency has also considered the effects of this rulemaking under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). I certify that this final rule would not have a significant economic impact on a substantial number of small entities. The rationale for the certification is that none of the companies included in Appendices A, B, or C would be construed to be a small entity within the definition of the RFA. "Small insurer" is defined, in part under 49 U.S.C. 33112, as any insurer whose premiums for all forms of motor vehicle insurance account for less than 1 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States, or any insurer whose premiums within any State, account for less than 10 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the State. This notice would exempt all insurers meeting those criteria. Any insurer too large to meet those criteria is not a small entity. In addition, in this rulemaking, the agency proposes to exempt all "self insured rental and leasing companies" that have fleets of fewer than 50,000 vehicles. Any self insured rental and leasing company too large to meet that criterion is not a small entity.

*4. Federalism*

This action has been analyzed according to the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

*5. Environmental Impacts*

In accordance with the National Environmental Policy Act, NHTSA has considered the environmental impacts of this final rule and determined that it would not have a significant impact on the quality of the human environment.

*6. Civil Justice Reform*

This final rule does not have any retroactive effect, and it does not preempt any State law, 49 U.S.C. 33117 provides that judicial review of this rule may be obtained pursuant to 49 U.S.C. 32909, section 32909 does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

**List of Subjects in 49 CFR Part 544**

Crime insurance, Insurance, Insurance companies, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 544 is amended as follows:

## PART 544—[AMENDED]

1. The authority citation for part 544 continues to read as follows:

**Authority:** 49 U.S.C. 33112; delegation of authority at 49 CFR 1.50.

2. Paragraph (a) of § 544.5 is revised to read as follows:

**§ 544.5 General requirements for reports.**

(a) Each insurer to which this part applies shall submit a report annually not later than October 25, beginning on October 25, 1986. This report shall contain the information required by § 544.6 of this part for the calendar year three years previous to the year in which the report is filed (e.g., the report due by October 25, 2000 would contain the required information for the 1997 calendar year).

3. Appendix A to Part 544 is revised to read as follows:

**Appendix A—Insurers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements in Each State in Which They Do Business**

Allstate Insurance Group, American Family Insurance Group, American Financial Group, American International Group, California State Auto Association, CNA Insurance Group, Erie Insurance Group, Farmers Insurance Group, Berkshire Hathaway/GEICO Corporation Group, Hartford Insurance Group, Liberty Mutual Group, Nationwide Group, Progressive Group, Prudential of America Group, State Farm Group, Travelers PC Group, USAA Group, Zurich Insurance Group-U.S.

4. Appendix B to Part 544 is revised to read as follows:

**Appendix B—Issuers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements Only in Designated States**

Alfa Insurance Group (Alabama), Allmerica P&C Companies (Michigan), Arbella Mutual Insurance (Massachusetts), Auto Club of Michigan Group (Michigan), Commerce Group, Inc. (Massachusetts), Commercial Union Insurance Companies (Maine), Concord Group Insurance Companies (Vermont), Kentucky Farm Bureau Group (Kentucky), Nodak Mutual Insurance Company (North Dakota), Southern Farm Bureau Group (Arkansas, Mississippi), Tennessee Farmers Companies (Tennessee).

5. Appendix C to Part 544 is revised to read as follows:

**Appendix C—Motor Vehicle Rental and Leasing Companies (Including Licensees and Franchisees) Subject to the Reporting Requirements of Part 544**

Alamo Rent-A-Car, Inc., ARI (Automotive Rentals, Inc.), Associates Leasing Inc., AT&T Automotive Services, Inc., Avis, Inc., Budget Rent-A-Car Corporation, Dollar Rent-A-Car Systems, Inc., Donlen Corporation, Enterprise Rent-A-Car, Ford Rent-A-Car Systems, Inc.,[1] GE Capital Fleet Services, Hertz Rent-A-Car Division (subsidiary of Hertz Corporation), Lease Plan USA, Inc., National Car Rental System, Inc., PHH Vehicle Management Services, Ryder System, Inc. (both rental and leasing operations), U-Haul International, Inc. (Subsidiary of AMERCO), USL Capital Fleet Services, Wheels Inc.

Issued on: August 8, 2000.

**Stephen R. Kratzke,**

*Associate Administrator for Safety Performance Standards.*

[FR Doc. 00–20480 Filed 8–11–00; 8:45 am]

BILLING CODE 4910–59–P

[1] Indicates a newly listed company which must file a report beginning with the report due on October 25, 2000.

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 21**

**RIN 1018–AF93**

## Migratory Bird Permits; Determination That the State of Delaware Meets Federal Falconry Standards and Amended List of States Meeting Federal Falconry Standards

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** This rule adds the State of Delaware to the list of States whose falconry laws meet or exceed Federal falconry standards. This action enables residents of the State of Delaware to apply for a Federal/State falconry permit and to practice falconry in that State. This rule also amends the list of States that participate in the cooperative Federal/State permit system by adding Delaware and Vermont. The State of Vermont has recently begun to participate in the cooperative program.

**DATES:** This rule is effective August 14, 2000.

**ADDRESSES:** The complete file for this rule is available for public inspection, by appointment, during normal business hours at the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 634, Arlington, Virginia 22203.

**FOR FURTHER INFORMATION CONTACT:** Jon Andrew, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, telephone 703/358–1714.

**SUPPLEMENTARY INFORMATION:** On April 14, 2000, we published a proposed rule in the **Federal Register** (65 FR 20125) proposing to add the State of Delaware to the list of States whose falconry laws meet or exceed Federal falconry standards. We also proposed to amend the list of States that participate in the cooperative Federal/State permit system by adding Delaware and Vermont.

Regulations in 50 CFR part 21 provide for review and approval of State falconry laws by the Fish and Wildlife Service. A list of States that allow the practice of falconry and whose falconry laws are approved by the Service is found in 50 CFR 21.29(k). As provided in 50 CFR 21.29 (a) and (c), the Director has reviewed certified copies of the falconry regulations adopted by the State of Delaware and has determined that they meet or exceed Federal falconry standards. Federal falconry standards contained in 50 CFR 21.29 (d) through (i) include permit requirements, classes of permits, examination procedures, facilities and equipment standards, raptor marking, and raptor taking restrictions. Delaware regulations also meet or exceed all restrictions or conditions found in 50 CFR 21.29(j), which includes requirements on the number, species, acquisition, and marking of raptors. Therefore, this rule adds the State of Delaware under § 21.29(k) as a State that meets Federal falconry standards. Inclusion of Delaware in this list eliminates the previous restriction that prohibited falconry within that State. The practice of falconry is now authorized in those States.

We are publishing the entire list of States that have met the Federal falconry standards, including the State of Delaware. We believe that publishing this list in its entirety will eliminate any confusion concerning which States have approval for falconry and further indicate which States participate in a cooperative Federal/State permit system program. We are adding asterisks to both Delaware and Vermont to identify them as participants in the cooperative permit program as explained below.

We are making this rule effective immediately. The Administrative Procedure Act (5 U.S.C. 553(d)(1)) allows us to do so because this final rule relieves a restriction that prohibited the State of Delaware from allowing the practice of falconry.

### Why Is This Rulemaking Needed?

The need for these changes to 50 CFR 21.29(k) arose from the expressed desire of the State of Delaware to institute a falconry program for the benefit of citizens interested in the sport of falconry and to participate in a cooperative Federal/State permit system. Accordingly, the State has promulgated regulations that meet or exceed Federal requirements protecting migratory birds. These changes to 50 CFR 21.29(k) were necessary to allow, by inclusion of Delaware within the listing of authorized falconry States, persons in the State of Delaware to practice falconry. This rule also identifies the State of Vermont as a participant in a cooperative Federal/State permit system following that State's addition to the list of approved falconry States on September 7, 1999 (64 FR 48565).

### Did Anyone Comment on the Proposed Rule?

We received two comments on the proposed rule. One comment was from a private individual and the other was from the Director, Division of Fish and Wildlife, Department of Natural Resources and Environmental Control, State of Delaware. Both supported the proposed action.

### NEPA Consideration

In compliance with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(2)(C)), and the Council on Environmental Quality's regulations for implementing NEPA (40 CFR parts 1500–1508), the Service prepared an Environmental Assessment (EA) in July 1988 to support establishment of simpler, less restrictive regulations governing the use of most raptors. This EA is available to the public at the location indicated under the **ADDRESSES** caption. Based on review and evaluation of the proposed rule to amend 50 CFR 21.29(k) by adding Delaware to the list of States whose falconry laws meet or exceed Federal falconry standards, and Delaware and Vermont as participants in the cooperative application program, we have determined that the issuance of this final rule is categorically excluded from NEPA documentation under the Department of the Interior's NEPA procedures in 516 DM 2, Appendix 1.10.

### Endangered Species Act Considerations

Section 7 of the Endangered Species Act (ESA) of 1972, as amended (16 U.S.C. 1531, *et seq.*), provides that, "The Secretary [of the Interior] shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" [and] shall "insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat * * *" Our review pursuant to section 7 concluded that this action is not likely to adversely affect listed species. A copy of this determination is available by contacting us at the address indicated under the **ADDRESSES** caption.

### Other Required Determinations

This rule was not subject to the Office of Management and Budget (OMB) review under Executive Order 12866. The Department of the Interior has determined that this rule would not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act; it will not have an annual effect on the economy of $100 million or more, will

not cause a major increase in costs or prices, and will not adversely affect competition, employment, investment, productivity, or innovation.

We estimate that 20 individuals would obtain falconry permits as a result of this rule, and many of the expenditures of those permittees would accrue to small businesses. The maximum number of birds allowed by a falconer is 3, so the maximum number of birds likely to be possessed is 60. Some birds would be taken from the wild, but captive-bred raptors could be purchased. Using one of the more expensive birds, the northern goshawk, as an estimate, the cost to procure a single bird is less than $5,000, which, with an upper limit of 60 birds, translates into $300,000. Expenditures for building facilities would be less than $32,000 for 60 birds, and for care and feeding less than $60,000. These expenditures, totaling less than $400,000, represent an upper limit of potential economic impact from the addition of Delaware to the list of approved States.

This rule has no potential takings implications for private property as defined in Executive Order 12630. The only effect of this rule on the constituent community is to allow falconers in the State of Delaware to apply for falconry permits. We estimate that no more than 20 people would apply for falconry permits in Delaware. This rule contains information collection requirements that are approved by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The information collection is covered by an existing OMB approval for licenses/permit applications, number 1018–0022. For further details concerning the information collection approval, see 50 CFR 21.4.

We have determined, and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The rule does not have significant Federalism effects pursuant to Executive Order 13132. We also have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988 for civil justice reform, and that the rule does not unduly burden the judicial system.

Regarding Government-to-Government relationships with Tribes, this rulemaking will have no effect on federally recognized Tribes. There are no federally recognized Tribes in the State of Delaware. Furthermore, the revisions to the regulations are of a purely administrative nature affecting no Tribal trust resources.

**List of Subjects in 50 CFR Part 21**

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

**Regulation Promulgation**

For the reasons described in the preamble, part 21, subchapter B, chapter 29 of title 50 of the Code of Federal Regulations, is amended as set forth below:

## PART 21—MIGRATORY BIRD PERMITS

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

**Authority:** Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712(2)).

2. Amend § 21.29 by revising paragraph (k) as follows:

**§ 21.29 Federal falconry standards.**

* * * * *

(k) *States meeting Federal falconry standards.* We have determined that the following States meet or exceed the minimum Federal falconry standards established in this section for regulating the taking, possession, and transportation of raptors for the purpose of falconry. The States that are participants in a cooperative Federal/State permit system are designated by an asterisk (*).

*Alabama, *Alaska, Arizona, *Arkansas, *California, *Colorado, *Delaware, *Florida, *Georgia, *Idaho, *Illinois, *Indiana, *Iowa, *Kansas, *Kentucky, *Louisiana, Maine, Maryland, Massachusetts, *Michigan, *Minnesota, *Mississippi, Missouri, *Montana, *Nebraska, *Nevada, *New Hampshire, *New Jersey, New Mexico, New York, *North Carolina, *North Dakota, *Ohio, Oklahoma, *Oregon, Pennsylvania, Rhode Island, *South Carolina, *South Dakota, *Tennessee, Texas, Utah, *Vermont, *Virginia, *Washington, West Virginia, *Wisconsin, *Wyoming.

Dated: July 14, 2000.

**Stephen C. Saunders,**

*Deputy Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 00–20510 Filed 8–11–00; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 230

[I.D. 062700B]

## Whaling Provisions: Aboriginal Subsistence Whaling Quotas

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

**ACTION:** Notice of aboriginal subsistence whaling quota.

**SUMMARY:** NMFS announces the aboriginal subsistence whaling quota for bowhead whales, and other limitations deriving from regulations adopted at the 1997 Annual Meeting of the International Whaling Commission (IWC). For 2000, the quota is 75 bowhead whales struck. This quota and other limitations will govern the harvest of bowhead whales by members of the Alaska Eskimo Whaling Commission (AEWC).

**DATES:** Effective August 14, 2000.

**ADDRESSES:** Office of Protected Resources, National Marine Fisheries Service, 1315 East West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Cathy Campbell, (202) 482–2652.

**SUPPLEMENTARY INFORMATION:** Aboriginal subsistence whaling in the United States is governed by the Whaling Convention Act (16 U.S.C. 916 *et seq.*), which requires the Secretary of Commerce (Secretary) to publish, at least annually, aboriginal subsistence whaling quotas and any other limitations on aboriginal subsistence whaling deriving from regulations of the IWC.

At the 1997 Annual Meeting of the IWC, the Commission set quotas for aboriginal subsistence use of bowhead whales from the Bering-Chukchi-Beaufort Seas stock. The bowhead quota was based on a joint request by the United States and the Russian Federation, accompanied by documentation concerning the needs of 2 Native groups, Alaska Eskimos and Chukotka Natives in the Russian Far East.

This action by the IWC thus authorized aboriginal subsistence whaling by the AEWC for bowhead whales. This aboriginal subsistence harvest is conducted in accordance with a cooperative agreement between NOAA and the AEWC.

The IWC set a 5-year block quota of 280 bowhead whales landed. For each

of the years 1998 through 2002, the number of bowhead whales struck may not exceed 67, except that any unused portion of a strike quota from any year, including 15 unused strikes from the 1995–1997 quota, may be carried forward. No more than 15 strikes may be added to the strike quota for any 1 year. The 1999 strike quota was 82. At the end of the 1999 harvest, there were 15 unused strikes available for carry-forward, so the combined strike quota for 2000 is also 82 (67 + 15).

The United States and the Russian Federation have concluded an arrangement to ensure that the total quota of bowhead whales landed and struck in 2000 will not exceed the quotas set by the IWC. Under that arrangement, the Russian natives may use no more than 7 strikes, and the Alaska Eskimos may use no more than 75 strikes.

NOAA is assigning 75 strikes to the Alaska Eskimos. The AEWC will allocate these strikes among the 10 villages whose cultural and subsistence needs have been documented in past requests for bowhead quotas from the IWC, and will ensure that its hunters use no more than 75 strikes.

**Other Limitations**

The IWC regulations, as well as the NOAA rule at 50 CFR 230.4(c), forbid the taking of calves or any whale accompanied by a calf.

NOAA rules (at 50 CFR 230.4) contain a number of other prohibitions relating to aboriginal subsistence whaling, some of which are summarized here. Only licensed whaling captains or crew under the control of those captains may engage in whaling. They must follow the provisions of the relevant cooperative agreement between NOAA and a Native American whaling organization. The aboriginal hunters must have adequate crew, supplies, and equipment. They may not receive money for participating in the hunt. No person may sell or offer for sale whale products from whales taken in the hunt, except for authentic articles of Native handicrafts. Captains may not continue to whale after the relevant quota is taken, after the season has been closed, or if their licenses have been suspended. They may not engage in whaling in a wasteful manner.

Dated: August 3, 2000.

**Penelope D. Dalton,**

*Assistant Administrator for Fisheries, National Marine Fisheries Services.*

[FR Doc. 00–20468 Filed 8–11–00; 8:45 am]

BILLING CODE 3510–22–F

# Proposed Rules

Federal Register
Vol. 65, No. 157
Monday, August 14, 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.

## SMALL BUSINESS ADMINISTRATION

### 13 CFR Part 107

### Small Business Investment Companies

**AGENCY:** Small Business Administration.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would modify the management-ownership diversity requirement in SBA's Small Business Investment Company ("SBIC") Program to prohibit the ownership of more than 70% of a leveraged SBIC by any single investor or group of affiliated investors. This action will help to ensure that each new leveraged SBIC has managers that exercise independence in managing the operations of the SBIC.

**DATES:** Submit comments on or before September 13, 2000.

**ADDRESSES:** Address comments to Leonard Fagan, Investment Division, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6300, Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** Leonard W. Fagan, at (202) 205–7583.

**SUPPLEMENTARY INFORMATION:** In 1994, SBA adopted a regulation requiring that all small business investment companies ("SBICs") intending to issue participating securities have independence, or "diversity", between the management and the ownership of the company. 59 FR 16918 (April 8, 1994). This requirement of independence was designed to prevent the types of abuses that SBA had observed in SBICs owned and operated by a single individual or group of individuals. The abuses, which included conflict of interest transactions, misapplication of funds, and other types of self-dealing activities, had resulted in significant losses to SBA.

To satisfy the 1994 management-ownership diversity regulation, at least 30% of the capital of the SBIC had to be owned by investors who were neither Associates nor Affiliates of any Associates of the SBIC (as such terms were defined in 13 CFR parts 107 and 121). In other words, at least 30% of the capital of the SBIC had to be owned by investors who were not part of the SBIC's management team and did not control the SBIC's management team. In general, three such "diversity investors" were required, but a single diversity investor would suffice if the investor was an entity that met certain net worth and regulatory oversight requirements.

The 1994 regulation permitted an SBIC with a parent company (i.e., an investor owning greater than 50% of the SBIC) to treat the parent company's investors as if they were direct investors in the SBIC for purposes of demonstrating diversity. SBA would, in effect, "look-through" to the investors in the parent company for the desired independence from, and oversight of, the management of the SBIC.

In 1996, SBA extended the management-ownership diversity requirement to all new SBICs intending to use SBA financial assistance, or "leverage", whether the leverage was in the form of participating securities or debentures. 61 FR 3177 (January 31, 1996). SBA also replaced the automatic look-through provision described above with a discretionary look-through: SBA, in the exercise of its discretion, could look through to the parent's investors, but such treatment was no longer automatic. This change was in response to the increasing complexity SBA was encountering in "drop-down" SBICs (SBIC subsidiaries of larger companies), where the combination of multi-tiered organizational structures and other factors had led SBA to conclude that the necessary oversight by independent owners might not be present. SBA could still look through to the parent company's investors to find diversity, but would do so only if SBA believed that the result was consistent with the intent of the diversity regulation.

Later in 1996, Congress expressed its support for management-ownership diversity by enacting a statutory provision requiring SBA to ensure that the management of all new SBICs "is sufficiently diversified from and unaffiliated with the ownership of the licensee in a manner that ensures independence and objectivity in the financial management and oversight of the investments and operations of the licensee." 15 U.S.C. 682(c); Pub. L. 104–208, § 208(c)(3) (September 30, 1996). SBA subsequently made minor changes to strengthen the management-ownership diversity regulation. These changes included requiring (1) that the diversity investors be unrelated to each other, (2) that each diversity investor have a significant ownership interest in dollar and percentage terms, and (3) that an SBIC's diversity be evidenced in its paid-in capital, not just its unfunded commitments. 63 FR 5859 (February 5, 1998).

SBA believes that, overall, the management-ownership diversity regulation has been successful in encouraging the presence of investors who are truly independent of management. However, SBA has had concerns with whether independence is assured when a single investor, unrelated to the management team, owns substantially all of an SBIC.

Under the current regulation, to provide diversity the non-management interest is required to be at least 30% of the SBIC, but could be as much as 100% and could be owned by a single entity. This single super-majority investor can provide the required diversity from management as long as the investor does not control, is not controlled by, and is not under common control with, the managers of the SBIC. Thus, for diversity to be provided by a single super-majority investor who is otherwise unrelated to the SBIC's management team, SBA must conclude that the investor does not control the SBIC's managers by virtue of the size of the investor's ownership interest in the SBIC.

In that regard, SBA believes that the degree of influence that can be exerted by a super-majority investor may significantly reduce the management team's ability to act independently and objectively. The larger the size of an investor's ownership interest, the greater the investor's potential influence over the activities of the SBIC. This is true even if the investor is a passive limited partner.

At some ownership level, an investor's power to influence effectively becomes the power to control the managers of the SBIC, and the management team can no longer be said to have the ability to act independently. SBA's experience in administering the existing management-ownership diversity regulation has persuaded it

that it is difficult to objectively establish when that ownership level is reached. However, if the super-majority investor is limited to owning not more than 70%, and there is a 30% diversity investor that is independent of both the management and the super-majority investor, the super-majority investor's degree of potential influence on management becomes acceptable.

Accordingly, SBA proposes to amend the management-ownership diversity regulation, section 107.150, to prohibit ownership of more than 70% of a leveraged SBIC by a single investor or group of affiliated investors.

SBA recognizes that there may be categories of investors who can be permitted to own in excess of 70% of an SBIC without destroying the SBIC's management-ownership diversity. SBA believes that one such category is the traditional investment company—a professionally managed firm organized exclusively to pool capital from more than one source for the purpose of investing in businesses that are expected to generate substantial returns to the firm's investors.

A subsidiary SBIC of such a traditional investment company can offer meaningful management-ownership diversity even if the investment company owns substantially all of the SBIC. This is true for a number of reasons. First, a traditional investment company has managers who are largely unrelated to and unaffiliated with the investors in the firm. These independent managers typically also serve as the managers of the subsidiary SBIC. Second, the managers of a traditional investment company and its subsidiary SBIC are properly authorized and motivated to make investments that, in their independent judgment, are likely to produce significant returns to all investors in the investment company and in the SBIC. Although the managers act independently of the investors in the firm, they are directly accountable to them. Most importantly, a traditional investment company benefits from the use of a subsidiary SBIC only if the SBIC makes profitable investments.

SBICs with other types of super-majority investors do not necessarily present the same degree of management independence and objectivity, plus investor oversight. The objectives of other super-majority investors may include something other than profit maximization at the SBIC level. Large operating companies, for example, may profit from the use of a subsidiary SBIC other than through the financial performance of the SBIC. The SBIC might make strategic investments to support or otherwise benefit the non-investing activities of the operating company, rather than investments intended solely to contribute to the profitability of the SBIC. This would defeat one of the underlying purposes of management-ownership diversity—the protection of SBA's financial interest in the SBIC.

The proposed rule would permit a traditional investment company to own and control more than 70% of an SBIC. SBA welcomes comments and suggestions as to whether a similar exception should be provided for other types of investors in an SBIC.

The 30% test in the current diversity regulation would continue to be required under the proposed regulation, but with slight modifications. First, current paragraph (a)(2), which treats publicly-traded licensees as automatically satisfying the 30% test, would be eliminated. SBA expects that the small number of license applicants intending to be public companies should easily be able to demonstrate their compliance with the 30% test.

Second, the proposed rule would add two new categories to the list of entities currently permitted to serve as the sole (30%) diversity investor in an SBIC, and would clarify one of the existing categories. The current list includes, in paragraph (a)(1)(i), entities that are subject to some satisfactory form of government oversight or regulation. The proposed rule clarifies that this category is intended to capture only those entities whose overall activities are both regulated and periodically examined by a satisfactory governmental authority. U.S. federal and state bank regulators or insurance commissions are examples of satisfactory governmental authorities for this purpose. Regulation of an entity's health and safety activities by the Office of Safety and Health Administration (OSHA), on the other hand, would not be acceptable for this purpose.

The two new categories of entities to be added to paragraph (a)(1) by the proposed rule would cover any Institutional Investor that (1) is listed on the New York Stock Exchange or (2) is publicly-traded and meets the minimum numerical and corporate governance listing standards of that Exchange. Companies satisfying either of these listing standards have sufficient size and public oversight and visibility to justify treating them the same as regulated companies for purposes of the diversity regulation. SBA expects this proposed change to resolve any uncertainty as to the requirements for a publicly-traded company to be considered acceptable to SBA as a single diversity investor under the regulation.

The proposed management-ownership diversity regulation would apply to an existing SBIC only if SBA requires management-ownership diversity as a condition of SBA's approval of the licensee's change of control or if a non-leveraged SBIC wants to be approved as eligible to issue leverage. SBA is proposing to amend section 107.440(c) to clarify that SBA's approval of a change of control of an SBIC may be conditioned upon the licensee's compliance with the diversity regulation, as well as minimum capital requirements, then in effect. This has been SBA's practice since the diversity regulation was first adopted.

**Compliance With Executive Orders 12866, 12988, and 13132, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C. Ch. 35).**

This proposed rule is a significant regulatory action for purposes of Executive Order 12866 and was reviewed by the Office of Management and Budget.

SBA has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612. The purpose of the proposed rule is to redefine and clarify the concept of management-ownership diversity in an SBIC. The proposed rule would not apply to the approximately 365 companies currently licensed as SBICs, except in the insignificant number of cases where a transfer of control of the licensee occurs or where an SBIC that was not licensed with the expectation that it would issue leverage applies for such approval.

For purposes of Executive Order 12988, SBA has determined that this proposed rule is drafted, to the extent practicable, in accordance with the standards set forth in Section 3 of that Order.

For purposes of Executive Order 13132, SBA has determined that this proposed would have no federalism implications.

For purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA has determined that this proposed rule, if adopted in final form, would contain no new reporting or recordkeeping requirements.

**List of Subjects in 13 CFR Part 107**

Investment companies, Loan programs, business, Reporting and recordkeeping requirements, Small businesses.

For the reasons stated above, the SBA proposes to amend 13 CFR part 107 as follows:

## PART 107—SMALL BUSINESS INVESTMENT COMPANIES

1. The authority citation for part 107 continues to read as follows:

**Authority:** 15 U.S.C. 681 *et seq.*, 683, 687(c), 6887b, 687d, 687g and 687m.

2. Revise § 107.150 to read as follows:

**§ 107.150 Management and ownership diversity requirement.**

You must have diversity between your management and your ownership

(1) In order to obtain an SBIC license (unless you do not plan to obtain Leverage),

(2) If at the time you were licensed you did not plan to obtain Leverage, but you now wish to be eligible for Leverage, or

(3) If SBA requires it as a condition of approval of your transfer of Control under § 107.440. To establish diversity you must meet the requirements in paragraphs (a) and (b) of this section, and you must maintain voting rights and diversity in accordance with paragraphs (c) and (d) of this section.

(a) *Percentage ownership requirement.* (1) Except as provided in paragraph (a)(2) of this section, no Person or group of Persons who are Affiliates of one another may own or control, directly or indirectly, more than 70 percent of your Regulatory Capital or your Leverageable Capital.

(2) *Exception.* An investor that is a traditional investment company, as determined by SBA, may own and control more than 70 percent of your Regulatory Capital and your Leverageable Capital. For purposes of this section, a traditional investment company must be a professionally managed firm organized exclusively to pool capital from more than one source for the purpose of investing in businesses that are expected to generate substantial returns to the firm's investors. In determining whether a firm is a traditional investment company for purposes of this section, SBA will also consider:

(i) Whether the managers of the firm are unrelated to and unaffiliated with the investors in the firm;

(ii) Whether the managers of the firm are authorized and motivated to make investments that, in their independent judgment, are likely to produce significant returns to all investors in the firm;

(iii) Whether the firm benefits from the use of the SBIC only through the financial performance of the SBIC; and

(iv) Other related factors.

(b) *Non-affiliation requirement.*—(1) *General rule.* At least 30 percent of your Regulatory Capital and Leverageable Capital must be owned and controlled by three Persons unaffiliated with your management and unaffiliated with each other, and whose investments are significant in dollar and percentage terms as determined by SBA. Such Persons must not be your Associates (except for their status as your shareholders, limited partners, or members) and must not Control, be Controlled by, or be under Common Control with any of your Associates. A single "acceptable" Institutional Investor may be substituted for two or three of the three Persons who are otherwise required under this paragraph. The following Institutional Investors are "acceptable" for this purpose:

(i) Entities whose overall activities are regulated and periodically examined by state, Federal, or other governmental authorities satisfactory to SBA;

(ii) Entities listed on the New York Stock Exchange;

(iii) Entities that are publicly-traded and that meet both the minimum numerical listing standards and the corporate governance listing standards of the New York Stock Exchange;

(iv) Public or private employee pension funds;

(v) Trusts, foundations, or endowments, but only if exempt from Federal income taxation; and

(vi) Other Institutional Investors satisfactory to SBA.

(2) *Look-through for traditional investment company investors.* SBA, in its sole discretion, may consider the requirement in paragraph (b)(1) of this section to be satisfied if at least 30 percent of your Regulatory Capital and Leverageable Capital is owned and controlled indirectly, through a traditional investment company, by Persons unaffiliated with your management.

(c) *Voting requirement.* (1) Except as provided in paragraph (c)(2) of this section, the investors required for you to satisfy diversity may not delegate their voting rights to any Person who is your Associate, or who Controls, is Controlled by, or is under Common Control with any of your Associates, without prior SBA approval.

(2) *Exception.* Paragraph (c)(1) of this section does not apply to investors in publicly-traded Licensees, to proxies given to vote in accordance with specific instructions for single specified meetings, or to any delegation of voting rights to a Person who is neither a diversity investor in the Licensee nor affiliated with management of the Licensee.

(d) *Requirement to maintain diversity.* If you were required to have management-ownership diversity at any time, you must maintain such diversity while you have outstanding Leverage or Earmarked Assets. To maintain management-ownership diversity, you may continue to satisfy the diversity requirement as in effect at the time it was first applicable to you or you may satisfy the management-ownership diversity requirement as currently in effect. If, at any time, you no longer have the required management-ownership diversity, you must:

(1) Notify SBA within 10 days; and

(2) Re-establish diversity within six months. For the consequences of failure to re-establish diversity, see §§ 107.1810(g) and 107.1820(f).

3. In § 107.440, revise paragraph (c) to read as follows:

**§ 107.440 Standards governing prior SBA approval for a proposed transfer of Control.**

* * * * *

(c) Require compliance with any other conditions set by SBA, including compliance with the requirements for minimum capital and management-ownership diversity as in effect at such time for new license applicants.

Dated: August 7, 2000.

**Fred P. Hochberg,**

*Acting Administrator.*

[FR Doc. 00–20477 Filed 8–11–00; 8:45 am]

BILLING CODE 8025–01–U

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 23

**[Docket No. CE162; Notice No. 23–00–03–SC]**

### Special Conditions: Ayres Corporation, Model LM 200, "Loadmaster"; Propulsion

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed special conditions.

**SUMMARY:** This document proposes special conditions for the Ayres Corporation, Model LM 200 airplane. This airplane will have a novel or unusual design feature associated with a 14 CFR part 23 commuter category airplane incorporating a propulsion system that consists of two turboshaft engines driving a single propeller through a combining gearbox. The

applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** Comments must be received on or before September 13, 2000.

**ADDRESSES:** Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Regional Counsel, ACE–7, Attention: Rules Docket, Docket No. CE162, 901 Locust St., Kansas City, Missouri 64106, or delivered in duplicate to the Regional Counsel at the above address. Comments must be marked: CE162. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

**FOR FURTHER INFORMATION CONTACT:** Mr. Brian Hancock, Federal Aviation Administration, Aircraft Certification Service, Small Airplane Directorate, ACE–112, 901 Locust Street, Kansas City, Missouri, 816–329–4143, fax 816–329–4090.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested persons are invited to participate in the making of these proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The proposals described in this notice may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. CE162." The postcard will be date stamped and returned to the commenter.

**Background**

On April 16, 1996, Ayres Corporation applied for a type certificate for their new Model LM 200 and reapplied in May 1997 adding passenger and combi configurations. The Model LM 200 airplane will have a 19,000 pound maximum takeoff weight with a payload capacity about 7,500 pounds. The propulsion system will consist of an LHTEC CTP800–4T powerplant driving a single Hamilton Standard Model 568F–11, 12.9-foot diameter, propeller. The powerplant consists of two LHTEC CTS800 derivative turboshaft engines plus a combining gearbox. The powerplant will be certified to 14 CFR part 33 identified as a twin power section turboshaft assembly. The two turboshaft engines will be certified as part of the twin power section turboshaft assembly (powerplant) and will not have separate individual type certificates. The airplane will be of conventional, semi-monocoque, aluminum construction with a high cantilever wing, fixed gear, mechanical and electro-mechanical controls and will be unpressurized. Certification will include flight into known icing and single pilot, IFR operations. Three interior configurations have been proposed: a cargo configuration (bulk or containerized cargo), a nine-passenger configuration, and "combi" (combination of passenger and cargo).

**Type Certification Basis**

Under the provisions of 14 CFR part 21, § 21.17, Ayres Corporation must show that the Model LM 200 meets the applicable provisions of part 23 as amended by Amendments 23–1 through Amendment 53, effective April 30, 1998.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, part 23) do not contain adequate or appropriate safety standards for the Model LM 200 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Model LM 200 must comply with the part 23 fuel vent and exhaust emission requirements of 14 CFR part 34, the part 23 noise certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy pursuant to § 611 of Public Law 92–574, the "Noise Control Act of 1972."

Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for the Model LM 200 be amended later to include any other model that incorporates the same novel or unusual design feature, these special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

**Novel or Unusual Design Features**

The following definitions will apply to the Ayres Model LM 200 airplane design:

*Powerplant*—The LHTEC model CTP800–4T powerplant, consists of two CTS800 derivative turboshaft engines, a GKN Westland combining gearbox (CGB), and the engine assembly support structure. The powerplant is capable of providing 2,700 shp combined output power at takeoff and 1,350 shp with one engine inoperative. The CTP800–4T powerplant will obtain a part 33 type certificate identifying the powerplant as a "twin power section turboshaft assembly."

*Engine*—An LHTEC CTS800 derivative, non-regenerative, front drive, free turbine power section, which includes compressor, combustor, turbine and accessories group. Each engine of the CTP800–4T is separately controlled by a fully redundant full authority digital electronic control (FADEC). The two engines will only be certified as part of the CTP800–4T powerplant. The CTP800–4T type certificate data sheet will include ratings and limitations for each engine in addition to that of the powerplant.

*Engine Assembly Support Structure*—The supporting structure that connects the two engines to the CGB. This structure will be type certificated as part of the CTP800–4T powerplant under part 33.

*Propulsion System Unit (PSU)*—The Model LM 200 airplane PSU consists of the powerplant plus the airframe mounted non-integrated lubrication system components, which include the CGB oil tank and CGB/engine oil cooler, as well as a single Hamilton Sundstrand Model 568F–11 propeller system.

*Combining Gearbox (CGB)*—All components necessary to transmit power from the two engines to the propeller. This includes couplings, supporting bearings for shafts, brake assemblies, clutches, gearboxes, transmissions, any attached accessory pads or drives, and any cooling fans that are attached to, or mounted on, the CGB. The CGB will be type certificated as part of the CTP800–4T powerplant under part 33.

*Multi-Engine*—For the Model LM 200 and its powerplant configuration, "multi-engine" refers to the twin engine capability and ratings of the CTP800–4T powerplant in regard to type

certification in the commuter category and flight operation.

*One Engine Inoperative (OEI)*—For the LM 200 airplane, "one engine inoperative" refers to a condition in which one engine of the CTP800–4T powerplant is not operational and the operation of the propeller is unchanged.

Part 23 does not contain adequate or appropriate requirements for the Ayres Model LM 200 powerplant installation of twin engines driving a single propeller through a combining gearbox. Issues include preventing unbalance damage to either the engines or the powerplant mounting system, or both, resulting from any engine or propeller single failure or probable combination of failures and the capability to continue safe flight to a landing. The propeller and other non-redundant components must be of sufficient durability to minimize any possibility of a failure that could have catastrophic implications to either the airplane or its propulsion system, or both.

Elements of these proposed special conditions have been developed to supplement part 23 standards that are considered inadequate to address the Model LM 200 airplane design, namely §§ 23.53, 23.67, 23.69, 23.75, 23.77, 23.903, 23.1191, 23.1305, 23.1583, 23.1585 and 23.1587.

Special Conditions addressing the engine isolation requirements of § 23.903 were not included, as the current rule is considered adequate. However, since the design of the multi-engine, single propeller Model LM 200 airplane will be significantly affected by this rule, the following comments are provided. Section 23.903(c) states, "The powerplants must be arranged and isolated from each other to allow operation, in at least one configuration, so that the failure or malfunction of any engine, or the failure or malfunction (including destruction by fire in the engine compartment) of any system that can affect an engine (other than a fuel tank if only one fuel tank is installed), will not: (1) prevent the continued safe operation of the remaining engines; or (2) require immediate action by any crew member for continued safe operation of the remaining engines." This is a fail-safe requirement in that it takes advantage of the redundancy provided by having multiple engines that are physically separated from each other, which is intended to ensure that no single failure affecting one engine will result in the loss of the airplane (also reference § 23.903(b)(1)). In conventional twin turboprop airplanes, this isolation is, in part, provided by the inherent separation of having each engine mounted on opposite sides of the airplane driving its own propeller. Installation of the engines on either side of the airplane automatically provides a degree of separation of critical systems, such as the electrical and fuel systems, and minimizes the effect of high vibration, rotor burst failures, and engine case burn-through from the opposite engine. This separation aids in preventing any single failure from jeopardizing continued safe operation of the airplane. In contrast, the nearness of the engines to each other driving a combining gearbox with a single propeller in the Model LM 200 airplane arrangement is inherently less isolated from certain types of failure modes. As a result, many failure modes that do not pose a significant hazard on conventional multi-engine airplanes could threaten continued safe operation of the Model LM 200 airplane unless specific additional precautions are taken to prevent hazardous secondary effects.

The FAA has reviewed the part 23 standards and identified that §§ 23.53(c), 23.67(c), 23.69, 23.75, and 23.77 are inadequate to address the effects of propeller control system failure modes in a manner consistent with how these sections address specific engine failure conditions. Sections 23.1191(a) and 23.1191(b) do not adequately define the locations of firewalls needed to isolate the engines and CGB of the PSU. Additionally, the FAA has identified that § 23.1305(c) is inadequate because it does not recognize the uniqueness of the Model LM 200 PSU. Furthermore, the FAA has identified that §§ 23.1583(b), 23.1585(c), and 23.1587(a) do not recognize a propeller system installation independent from either engine. Elements of these proposed special conditions have been developed to ensure that these unique aspects of the Model LM 200 airplane are addressed in a manner equivalent to that established by part 23 standards. The FAA's analysis and derivation of each of the special condition requirements is discussed in the Description of Proposed Requirements section below.

**Description of Proposed Requirements**

The Model LM 200 will incorporate the following novel or unusual design features:

*(a) PSU Reliability*

In order to define special conditions with the goal of establishing a safety level acceptable for certification as a limited commuter category airplane, the unique configuration of the Model LM 200 single propeller, twin engine design must be addressed. The Model LM 200 PSU design has eliminated as many single point failures as feasible for this type of configuration; however, certification criteria for the remaining single point failures unique to this configuration must be considered. A System Safety Analysis of the PSU is proposed that will identify and classify all possible failures that could be hazardous or catastrophic to the Model LM 200. The System Safety Analysis will consider such factors as non-redundancy, quality of manufacture and maintenance for continued airworthiness, as well as anticipated human errors, and it will highlight critical procedures that should be considered as required inspection items. Parts identified in the PSU System Safety Analysis whose failure results in a hazardous or catastrophic event will require control via a Critical Parts Plan. Furthermore, critical failure modes that could result in hazardous or catastrophic events should be addressed with appropriate design features to mitigate the potential results of such events.

The critical parts plan should be modeled after plans required by 14 CFR part 29, § 29.602, and related advisory material in Advisory Circular 29–2C for critical rotorcraft components. In addition, best industry practices shall be utilized in the definition and implementation of these critical parts. This plan will draw the attention of the personnel involved in the design, manufacture, maintenance, and overhaul of a critical part to the special nature of the part. The plan should define the details of relevant special instructions to be included in the Instructions for Continued Airworthiness. The Instructions for Continued Airworthiness, required by § 23.1529 should contain, as appropriate, life limits, mandatory overhaul intervals, enhanced inspection limits, periodic ultrasonic (or equivalent) inspections, enhanced annual inspections, and conservative damage limits for return to service and repair for the critical parts identified in accordance with these proposed special conditions.

A means of annunciating hazardous and catastrophic failures to the cockpit should be provided if they are not immediately identifiable to the flight crew. Appropriate inspection intervals must be proposed to address any possible latent failures, which may go undetected.

For those failure modes unique to the non-conventional Model LM 200 design, which have a fail-safe designed backup, either an acceptable test or analysis, or both, must address worst case conditions to substantiate the design.

Methods to periodically check the backup system shall also be provided, as appropriate. In addition, a means of annunciating failure of the primary to the cockpit should be provided if it is not immediately identifiable to the flight crew. Appropriate inspection intervals must be proposed to address any possible latent failures, which may go undetected.

*(b) Powerplant Requirements*

Although rare, high-energy rotor unbalances due to high energy rotating machinery failures, such as a rim separation, can occur in-flight. They are typically followed quickly by either an in-flight shutdown or a pilot-commanded engine shutdown. The proposed special conditions address this short duration following a rotor failure by requiring that any high-energy vibration not affect the airworthiness of the operating engine. These vibrations could otherwise affect the operating engine in areas such as rotation (rubs), compressor surge or stall, damage to engine controls, accessories, mechanical, lubrication, fuel systems, and possible engine misalignment with respect to the gearbox. The magnitudes, frequency, and duration of such a vibration should be included in the powerplant installation manual. In addition, the vibration should not affect the structural integrity of the mounting system of either engine or the combining gearbox.

The CGB includes all parts necessary to transmit power from the engines to the propeller shaft. This includes couplings, supporting bearings for shafts, brake assemblies, clutches, gearboxes, transmissions, any attached accessory pads or drives, and any cooling fans that are attached to, or mounted on, the gearbox. The CGB for this multi-engine installation must be designed with a "continue to run" philosophy. This means that it must be able to power the propeller after failure of one engine or failure in one side of the CGB drive system, including any gear, bearing, or element expected to fail. Common failures, such as oil pressure loss or gear tooth failure, in the CGB must not compromise power output from the propulsion system.

Current engine certification regulations do not adequately address the requirements of a single combining gearbox; therefore, in addition to the engine requirements of § 23.903, the CGB will be required to complete a 200 hour endurance test that is patterned after the rotor drive system requirements of § 29.923. The endurance test is intended to exercise integration of the engines, combining gearbox and loading characteristics of the intended propeller. Additional testing patterned after § 29.927 will address the torque and speed limits. The CGB design, should contain features that include automatic disengagement of any failed engine (reference § 29.917(c)(3)), independent lubrication systems (reference § 29.1027), indicators to alert the pilot of lubrication system failure, and the capability to continue safe flight to a landing for a minimum of one-hour following pilot notification of primary lubrication system failure.

The requirement for continued safe flight to a landing for a minimum of one-hour following pilot notification of primary lubrication system failure stems from similarities between the Model LM 200 propulsion system and that of a typical multi-engine rotorcraft. Transport category A rotorcraft must be capable of sustaining flight for 30-minutes after the crew is notified of a drive system lubrication system failure or loss of lubricant, § 29.927(c). A rotorcraft may autorotate to a small landing area and, therefore, may find a safe landing area much sooner than a 19,000 pound airplane. For this reason, the FAA is similarly proposing that the Model LM 200 demonstrate its ability to sustain flight for one-hour, in accordance with AFM instructions for an emergency landing, after crew notification of a lubrication failure.

The critical parts of the CGB must also undergo a fatigue evaluation patterned after the structural requirements of § 29.571 for transport rotorcraft.

The FAA proposes the CGB should have an Initial Maintenance Interval established similar to the requirements for an engine in § 33.90. The Initial Maintenance Interval will be determined following the completion of the 200 hour CGB endurance test and other proposed CGB tests.

A rotor disc fragment should not be allowed to compromise the structural integrity of the powerplant or engine mounts. Loss of the structural integrity of the powerplant mount would be considered catastrophic for the Model LM 200 design. The powerplant and engine mount principal structural elements should be fail-safe if they could be severed during an uncontained engine failure. All other principal structural elements of the powerplant and engine mounting system should be either fail-safe or damage tolerant.

*(c) Propeller Installation*

With a multi-engine, single propeller installation, the non-redundancy of the propeller system components from the propeller shaft forward becomes quite significant. In the case of the Model LM 200, Ayres Corporation must design against the possibility of a propeller-related failure that could result in catastrophic loss of the airplane. To accomplish this task, Ayres Corporation must substantiate the structural integrity of their design and must establish a critical parts program and a continued airworthiness maintenance and inspection program that ensures that the propeller is maintained in an acceptable manner.

The Model LM 200 airplane's single propeller system must be installed and maintained in such a manner as to substantially reduce or eliminate the occurrence of failures that would preclude continued safe flight and landing. To ensure the propeller installation, production and maintenance programs are sufficient to achieve a high level of reliability, these proposed special conditions include a 2,500 cycle validation test based on enhanced requirements of § 35.41(c). The 2,500 cycles correspond to the FAA's estimated annual usage for a turboprop airplane in commercial service. An airplane cycle includes idle, takeoff, climb, cruise, and descent. The test must utilize production parts installed on the powerplant and should include a wide range of ambient and wind conditions, several full stops, and validation of scheduled and unscheduled maintenance practices. The purpose of this test is to evaluate the system for service wear conditions and start/stop cycles. It is not intended to test the propeller vibratory loads. This evaluation may be accomplished on the airplane in a combination of ground and flight cycles or on a ground test facility. If the testing is accomplished on a ground test facility, the test configuration must include the PSU and all sufficient airframe interfacing system hardware to simulate the actual airplane installation and operation.

On a conventional multi-engine airplane, the flight crew will secure an engine and feather the propeller to minimize effects of propeller imbalance. Propeller imbalance could be caused by blade failures or by propeller system failures such as loss of a de-icing boot, malfunction of a de-icing boot in icing conditions, an oil leak into a blade butt, asymmetric blade pitch, or a failure in a counterweight attachment. The Model LM 200 airplane design does not provide any means to reduce the vibration produced by an unbalanced propeller. Therefore, these proposed special conditions require that the engines, CGB, powerplant and engine mounting system, primary airframe

structure, and critical systems be designed to function safely in the high vibration environment generated by these less severe propeller failures. Ayres Corporation must specify the maximum allowable propeller unbalance. This is the maximum unbalance that will not cause damage to the engines, powerplant and engine mounting system, CGB, primary airframe structure, or to any other critical equipment that would jeopardize the continued safe flight and landing of the airplane. The vibration level caused by this unbalance must not jeopardize the flight crew's ability to continue to operate the airplane in a safe manner. Any part (or parts) whose failure (or probable combination of failures) would result in a propeller unbalance greater than the defined maximum would also be classified as a critical part.

It should be shown by a combination of tests and analyses that the airplane is capable of continued safe flight and landing with the maximum propeller unbalance including collateral damage caused by the unbalance event.

The evaluation should show that, during continued operation for one hour with the declared maximum unbalance, the induced vibrations will not cause damage either to the primary structure of the airplane or to critical equipment that would jeopardize continued safe flight and landing. The degree of flight deck vibration should not prevent the flight crew from operating the airplane in a safe manner. This includes the ability to read and accomplish checklist procedures. This evaluation should consider the effects on continued safe flight and landing from the possible damage to primary structure, including, but not limited to, engine mounts, inlets, nacelles, wing, and flight control surfaces. Consideration should also be given to the effects of vibratory loads on critical equipment (including connectors) mounted on the engine or airframe.

The FAA understands that in the unique design of the Model LM 200 CGB, reverse rotation of the propeller on the ground would engage the sprag clutch. This, in turn, would drive both engines without lubrication of the engine bearings or gearbox causing possible damage to those elements; therefore, a means must be provided to prevent any adverse effects resulting from propeller "wind-milling" on the ground.

The Hamilton Sundstrand Model 586F–11 propeller meets special conditions imposed during the propeller type certification program (Docket Nos. 94–ANE–60 and 94–ANE–61). The propeller special conditions addressed electronic propeller and pitch control systems, a four-pound bird strike, lightning strike and fatigue. If the propeller had not been required to meet those conditions during its type certification program, the FAA would have required similar measures in these Model LM 200 special conditions since the propeller is an especially critical component on this airplane. To meet the airplane requirements for the Model LM 200, the Instructions for Continued Airworthiness may need to be modified.

*(d) Propeller Control System*

For this propeller control system, no probable multiple failures were identified that create a hazardous condition, therefore, these special conditions were written to consider single point failures in the primary propeller control system only.

These proposed special conditions require the propeller control system to be independent of the engines such that a failure of any engine or the engine's control system will not result in failure or inability to control the propeller.

Ayres Corporation plans to address these special conditions by providing a mechanical high pitch stop, which would be set to a "get home" pitch position, thereby preventing the propeller blades from rotating to a feather pitch position when oil pressure is lost in the propeller control system. This would allow the propeller to continue to produce a sufficient level of thrust as a fixed pitch propeller.

In the event the propeller undergoes an uncommanded pitch change, these proposed special conditions require that the Model LM 200 airplane not be placed in an unsafe condition. They also require that an indication of the failure be provided to the flight crew.

*(e) PSU Instrumentation*

On a conventional multi-engine airplane, the pilot has positive indication of an inoperative engine created by the asymmetric thrust condition. Because of the centerline thrust of the Model LM 200 airplane propulsion system installation, the airplane will not yaw when an engine or a portion of the CGB fails. The flight crew will have to rely on other means to determine which engine or CGB element has failed in order to secure the correct engine. Therefore, these proposed special conditions require that a clear indication of an inoperative engine or a failed portion of the CGB must be provided. This is necessary to preclude confusion by the flight crew in reacting to the failure and when taking appropriate action to secure the airplane in a safe condition for continued flight.

Section 23.1305 requires instruments for the fuel system, engine oil system, fire protection system, and propeller control system. This rule is intended for powerplants consisting of a single engine, gearbox, and propeller. To protect the portions of the PSU that are independent of the engines, additional instrumentation, including gearbox oil pressure, oil quantity, oil temperature, propeller speed, propeller blade angle, engine torque, and chip detection, are required.

*(f) Fire Protection, Extinguishing, and Ventilation Systems*

On a conventional twin engine airplane, the engines are sufficiently separated to essentially eliminate the possibility of a fire spreading from one engine to another. In the Model LM 200, the engines are in close proximity, separated only by a ballistic shield and firewall. The fire protection system of the Model LM 200 airplane must include features to isolate each fire zone from any other zone and the airplane in order to maintain isolation of the engines and CGB during a fire. Therefore, these proposed special conditions mandate that the firewall required per § 23.1191 be extended to provide firewall isolation between either engine and the CGB. Furthermore, these special conditions require that, if the potential for fire exists in the CGB compartment, enough fire-extinguishing agents be available to supply the CGB compartment and one engine compartment with the CGB on a dedicated system. These proposed special conditions require that heat radiating from a fire originating in any fire zone must not affect components in adjacent compartments in such a way as to endanger the airplane. If the potential for fire does not exist within the CGB compartment, this must be substantiated by analysis

Each fire zone should be ventilated to prevent the accumulation of flammable vapors. In addition, it must be designed such that it will not allow entry of flammable fluids, vapors, or flames from other fire zones. It should also be designed such that it does not create an additional fire hazard from the discharge vapors.

*(g) Airplane Performance*

Propeller control system failures may not be catastrophic in a conventional commuter category airplane; however, these types of failures should be demonstrated as not being catastrophic for the Model LM 200. To ensure a comparable level of safety to

conventional commuter category airplanes in the event of a propeller control system failure, these proposed special conditions require that the Model LM 200 propulsion system be designed such that the airplane meets the one-engine-inoperative performance requirements of §§ 23.53, 23.67, 23.69, 23.75 and 23.77(c) with the propeller control system failed placing the propeller in the most critical thrust producing condition with both engines operating normally.

*(h) Airplane Flight Manual*

In accordance with the exemption to § 23.3(d), the limitations section of the Airplane Flight Manual will limit the airplane to a maximum of 9 passengers.

Sections 23.1583, 23.1585 and 23.1587 require pertinent information to be included in the Airplane Flight Manual. These rules are not adequate to address critical propeller failures or propeller control system failures on the Model LM 200 airplane. As a result, these proposed special conditions require that the critical procedures and information required by §§ 23.1583(b), 23.1583(c), 23.1585(a), 23.1585(c) and 23.1587(d) include consideration of these critical propeller failures or propeller control system failures in order to ensure a high level of safety for this airplane.

*(i) Suction Defueling*

The Model LM 200 design includes a suction defuel capability not envisaged when part 23 was developed. It is understood that suction defuel is a common feature in part 25 airplanes. The Model LM 200 airplane will have pressure fuel and defuel capability. Pressure defueling essentially entails reversing the pumps on the fueling vehicle and "evacuating" fuel under vacuum from the airplane through the servicing port. Section 23.979 addresses pressure fueling but not suction defueling. Any suction defueling components, in addition to meeting the general requirements for part 23 fuel systems, must also function as intended.

*(j) FADEC Installation*

Each of the engines will be controlled by a fully redundant full authority digital electronic control (FADEC). Each engine will utilize two single channel FADEC's yielding a total of four to service the PSU. Each FADEC is identical containing engine and propeller control capability; however, only two of the four units are wired to control the propeller. Cross-FADEC communication provides automatic enabling of the automatic power reserve in case of a single engine failure during takeoff. During normal operation, one FADEC of each engine controls that engine's operation while the second FADEC remains in hot standby mode, with the outputs deactivated, waiting to assume control. If the controlling unit fails, the unit in standby mode should instantly assume control of the engine and propeller (if applicable), without noticeable discontinuity.

As the sole means of controlling the engine and the primary means of controlling the propeller on the Model LM 200 airplane, the FADEC installation must comply with the system installation requirements of § 23.1309. While this rule was not developed to address the specifics of a FADEC installation, this requirement is consistent with the rule's intent to cover all complex electronic systems that perform critical functions.

**Applicability**

As discussed above, these special conditions are applicable to the Model LM 200. Should Ayres Corporation apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

**Conclusion**

This action affects only certain novel or unusual design features of the Ayres Corporation Model LM 200 airplanes. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

**List of Subjects in 14 CFR Part 23**

Aircraft, Aviation safety, Signs and symbols.

**Citation**

The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.17; and 14 CFR 11.28 and 11.29(b).

**The Proposed Special Conditions**

*Definitions*

For purposes of this certification program and subsequent special conditions, the following definitions will apply:

*Powerplant*—The LHTEC model CTP800–4T powerplant, consists of two CTS800 derivative turboshaft engines, a GKN Westland combining gearbox (CGB), and the engine assembly support structure. The powerplant is capable of providing 2,700 shp combined output power at takeoff and 1,350 shp with one engine inoperative. The CTP800–4T powerplant will obtain a 14 CFR part 33 type certificate identifying the powerplant as a "twin power section turboshaft assembly."

*Engine*—An LHTEC CTS800 derivative, non-regenerative, front drive, free turbine power section, which includes compressor, combustor, turbine and accessories group. Each engine of the CTP800–4T is separately controlled by a fully redundant full authority digital electronic control (FADEC). The two engines will only be certified as part of the CTP800–4T powerplant. The CTP800–4T type certificate data sheet will include ratings and limitations for each engine in addition to that of the powerplant.

*Engine Assembly Support Structure*—The supporting structure that connects the two engines to the CGB. This structure will be 14 CFR part 33 certified as part of the CTP800–4T powerplant.

*Propulsion System Unit (PSU)*—The LHTEC Model CTP800–4T powerplant plus the airframe-mounted non-integrated lubrication system components, which include the CGB oil tank and CGB/engine oil cooler as well as a single Hamilton Sundstrand 568F–11 propeller system.

*Combining Gearbox (CGB)*—All components necessary to transmit power from the engines to the propeller. This includes couplings, supporting bearings for shafts, brake assemblies, clutches, gearboxes, transmissions, any attached accessory pads or drives, and any cooling fans that are attached to, or mounted on, the gearbox. The CGB will be 14 CFR part 33 certified as part of the CTP800–4T powerplant.

*Multi-Engine*—For the Model LM 200 and its powerplant configuration, "multi-engine" refers to the twin engine capability and ratings of the CTP800–4T powerplant in regard to type certification in the commuter category and flight operations.

*One Engine Inoperative (OEI)*—For the Model LM 200 airplane, "one engine inoperative" refers to a condition in which one engine of the CTP800–4T powerplant is not operational and the operation of the propeller is unchanged.

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the Ayres Corporation Model LM 200 airplanes.

1. PSU Reliability

(a) A PSU System Safety Analysis is required and must identify all hazardous or catastrophic failures associated with the unique design of the PSU. The analysis must consider factors

such as lack of redundancy, quality of manufacture and maintenance for continued airworthiness, including consideration of anticipated human errors. Critical procedures must be identified for consideration as required inspection items.

(b) Critical part failures identified in the PSU System Safety Analysis, which result in hazardous or catastrophic events on the airplane, shall be controlled via a Critical Parts Plan. The Critical Parts Plan must be established to ensure that each critical part is designed and then controlled through manufacture and maintained throughout its service life by the following:

(1) Enhanced procurement and manufacturing techniques,

(2) Continued airworthiness requirements,

(3) Conservative life limits.

Additionally, best industry practices shall be utilized in the definition and implementation of these critical parts.

(c) Critical failure modes identified in the PSU System Safety Analysis, which could occur due to the indirect failure of a component or system, should be addressed with appropriate design features to mitigate the potential results of such events.

(d) An appropriate inspection interval and instructions shall be established for any possible latent failure of fail-safe backup components.

(e) All fail-safe designs must be approved by test or analysis under the most adverse operational conditions and failure modes. A means of annunciating failure of the primary system, which could affect the safe operation of the airplane, must be provided to the pilot or maintenance crew.

2. Powerplant Requirements

(a) Vibration.

(1) It must be demonstrated by analysis, test, or combination thereof, that high-energy rotating turbomachinery failures that create high-energy rotor unbalance should not affect the operation of the CGB, the healthy engine by vibration transmitted through the CGB, the integrity of the airframe, powerplant, engine mounts, or the engine assembly support structure and attachments, or prevent continued safe flight and landing.

(2) High-energy fragment and fire shielding and surrounding engine structure and attachments, if attached to the engine, should be included in the rotor dynamics analysis or any test that affects the rotors.

(b) CGB Design, Endurance Testing and Additional Tests.

(1) CGB Design. The CGB must meet the requirements as set forth in paragraphs (b)(2)(i)(A) through (b)(2)(iv).

(i) The CGB must incorporate a device to automatically disengage any engine from the propeller shaft if that engine fails.

(ii) The oil supply for components of the CGB that require continuous lubrication must be sufficiently independent of the lubrication systems of the engine(s) to ensure operation without damage to the CGB, with any engine inoperative. Each independent lubrication system must function properly in the flight attitudes and atmospheric conditions in which an airplane is expected to operate.

(iii) Torque limiting means must be provided on all accessory drives that are located on the CGB in order to prevent the torque limits established for those drives from being exceeded.

(2) CGB Endurance Tests. Each part tested, as prescribed in this section, must be in serviceable condition at the end of the tests. No intervening disassembly that might affect these results may be conducted. An endurance test report explaining the test results and documenting the pre- and post-test wear measurements should be completed.

(i) Endurance tests; general. In addition to the 150-hour powerplant test requirements of § 33.87, the CGB must be tested as prescribed in paragraphs (b)(2)(ii)(B) through (b)(2)(ii)(I), for at least 200 hours plus the time required to meet paragraph (b)(2)(ii)(I). These tests must include the engines as well as the vibration and loading characteristics of the propeller and allowable takeoff imbalance tolerance. For the 200-hour portion, these tests must be conducted as follows:

(A) Twenty each, ten-hour test cycles consisting of the test times and procedures in paragraphs (b)(2)(ii)(B) through (b)(2)(ii)(H); and

(B) The test torque must be determined by actual powerplant limitations.

(ii) Endurance tests; takeoff torque run. The takeoff torque endurance test must be conducted as follows with both engines operating at, or CGB input shafts loaded to, the same conditions:

(A) The takeoff torque run must consist of one hour of alternating runs of five minutes operating at the torque and speed corresponding to takeoff power, and five minutes at as low a powerplant idle speed as practicable. This should be done with no airframe power extractions to produce the highest takeoff torque and lowest idle.

(B) Deceleration and acceleration must be performed at the maximum rate. (This corresponds to a one-second power setting change from idle to takeoff and one second from takeoff to idle setting.) This should also be conducted with no airframe power extractions.

(C) The time duration of all engines at takeoff power settings must total one hour and does not include the time at idle and the time required to go from takeoff to idle and back to takeoff speed.

(iii) Endurance tests; maximum continuous run. Three hours of continuous operation, at the torque corresponding to maximum continuous power and speed, must be conducted with maximum airframe power extractions.

(iv) Endurance tests; 90 percent of maximum continuous run. One hour of continuous operation, at the torque corresponding to 90 percent of maximum continuous power at maximum continuous rotational propeller shaft speed with maximum airframe power extractions.

(v) Endurance tests; 80 percent of maximum continuous run. One hour of continuous operation, at the torque corresponding to 80 percent of maximum continuous power at the minimum rotational propeller shaft speed intended for this power with maximum airframe power extractions.

(vi) Endurance tests; 60 percent of maximum continuous run. Two hours of continuous operation, at the torque corresponding to 60 percent of maximum continuous power at the minimum rotational propeller shaft speed intended for this power with maximum airframe power extractions.

(vii) Endurance tests; engine malfunctioning run. It must be determined whether malfunctioning of components, such as the engine fuel or ignition systems, or unequal engine power distribution can cause dynamic conditions detrimental to the drive system. If so, a suitable number of hours of operation must be accomplished under those conditions, one hour of which must be included in each cycle and the remaining hours of which must be accomplished at the end of 20 cycles. This testing is to be divided between the following four conditions by alternating between cycles: (1) engine #1 "ON"/ engine #2 "IDLE"; (2) engine #1"ON"/ engine #2 "OFF"; (3) engine #1 "IDLE"/ engine #2 "ON"; (4) engine #1 "OFF"/ engine #2 "ON". If no detrimental condition results, an additional hour of operation in compliance with paragraph (B) of this section must be conducted. This will require 100 percent transfer of the airframe air, electrical, and hydraulics to the operating engine

within approved Installation Manual limitations.

(viii) Endurance tests; overspeed run. One hour of continuous operation must be conducted at the torque corresponding to maximum continuous power, and at 110 percent of rated maximum continuous rotational propeller shaft speed. This should be performed without airframe power extractions for highest speed. If the overspeed is limited to less than 110 percent of maximum continuous speed by the speed and torque limiting devices, the speed used must be the highest speed allowable, assuming that speed and torque limiting devices, if any, function properly.

(ix) Endurance tests; one-engine-inoperative application. A total of 160 full differential power applications must be made at takeoff torque and RPM. If, during these tests, it is found that a critical dynamic condition exists, an investigative assessment to determine the cause shall be performed throughout the torque/speed range. In each of the 160 power setting cycles (160 per engine) a full differential power application must be performed. In each cycle, the transition from clutch engagement to disengagement must occur at the critical condition for clutch and shaft wear.

(3) Additional CGB Tests. Following the 200-hour endurance test, and without any intervening major disassembly, additional dynamic, endurance, and operational test and vibratory investigations must be performed to determine that the drive mechanism is safe. The following additional tests and conditions apply:

(i) If the torque output of both engines to the CGB can exceed the highest engine or CGB torque limit, the following tests must be conducted. Under conditions with both engines operating, apply 200 cycles to the CGB for 10 seconds each of an input torque that is at least equal to the lesser of—

(A) The maximum torque used in complying with paragraph (b)(2)(iii)(B) plus 10 percent; or

(B) The maximum torque attainable under normal operating conditions, assuming that any torque limiting devices function properly.

(ii) With each engine alternately inoperative, apply the maximum transient torque attainable under normal operating conditions, assuming that any torque limiting devices function properly. Each CGB input must be tested at this maximum torque for at least one hour.

(iii) The CGB must be subjected to 50 overspeed runs, each 30 plus or minus 3 seconds in duration, at a speed of at least 110 percent of maximum continuous speed, or other maximum overspeed that is likely to occur, plus a margin of speed approved by the Administrator for that overspeed condition. These runs must be conducted as follows:

(A) Overspeed runs must be alternated with stabilizing runs from 1 to 5 minutes duration, each 60 to 80 percent of maximum continuous speed.

(B) Acceleration and deceleration must be accomplished in a period no longer than 10 seconds, and the time for changing speeds may not be deducted from the specified time for the overspeed runs.

(iv) Each part tested, as prescribed in this section, must be in serviceable condition at the end of the tests. No intervening disassembly that might affect test results may be conducted.

(v) If drive shaft couplings are used and shaft misalignment or deflections are probable, loads must be determined in establishing the installation limits affecting misalignment. These loads must be combined to show adequate fatigue life.

(vi) The CGB must be able to continue safe operation, although not necessarily without damage, at a torque and rotational speed prescribed by the applicant that is determined to be the most critical of the anticipated flight conditions for at least one hour after perception by the flight crew of the CGB lubrication system failure or loss of lubricant. The demonstrated torque and rotational speed must be included in the instruction manual for installing and operating the engine required in 14 CFR part 33, § 33.5.

(4) Initial Maintenance Interval. An Initial Maintenance Interval (reference § 33.90) for the CGB shall be determined following completion of the testing required by sections (b)(2)(ii) through (b)(2)(iii).

(5) Fatigue Evaluation. The critical parts of the CGB must be shown by analysis supported by test evidence and, if available, service experience to be of fatigue tolerant design. The fatigue tolerance evaluation must include the requirements of either paragraph (b)(2)(v)(A), (B), or (C) of this section, or a combination thereof, and must include a determination of the probable locations and modes of damage caused by fatigue, considering environmental effects, intrinsic/discrete flaws, or accidental damage. Compliance with the flaw tolerance requirements of paragraph (b)(2)(v)(A) or (B) of this section is required unless the applicant establishes that these fatigue flaw tolerant methods for a particular part cannot be achieved within the limitations of geometry, inspectability, or good design practice. Under these circumstances, the safe-life evaluation of paragraph (C) of this section is required.

(i) Flaw tolerant safe-life evaluation. It must be shown that the critical part, with flaws present, is able to withstand repeated loads of variable magnitude without detectable flaw growth for the following time intervals—

(A) Life of the airplane; or

(B) Within a replacement time furnished in the Instructions for Continued Airworthiness.

(ii) Fail-safe (residual strength after flaw growth) evaluation. It must be shown that the critical part after a partial failure is able to withstand design limit loads without failure within an inspection per the Instructions for Continued Airworthiness. Limit loads are defined in § 23.301(a).

(A) The residual strength evaluation must show that the critical part after flaw growth is able to withstand design limit loads without failure within its operational life.

(B) Inspection intervals and methods must be established as necessary to ensure that failures are detected prior to residual strength conditions being reached.

(C) If significant changes in structural stiffness or geometry, or both, follow from a structural failure or partial failure, the effect on flaw tolerance must be further investigated.

(iii) Safe-life evaluation. It must be shown that the critical part is able to withstand repeated loads of variable magnitude without detectable cracks for the following time intervals—

(A) Life of the airplane; or

(B) Within a replacement time furnished in the Instructions for Continued Airworthiness.

(C) Powerplant and Engine Mounts.

(*1*) All principal structural elements of the powerplant and engine mount structure that could fail as a result of an uncontained engine failure or resulting fire must be fail-safe as defined in § 23.571(b). All other principal structural elements of the powerplant and engine mount system must either be fail-safe or meet the damage tolerance criteria of § 23.574(a).

(*i*) For fail-safe design:

(*A*) The fail-safe structure must be able to withstand the limit loads, considered as ultimate, given in §§ 23.361 and 23.363.

(*B*) If the occurrence of load-inducing propeller control systems malfunctions is less frequent than $1 \times 10^{minus;5}$ occurrences per flight hour, and if it can be demonstrated that failure or partial

failure of a structural element would be obvious, the engine torque loads of § 23.361(a)(3) do not need to be considered in the fail-safe design.

(*ii*) If damage tolerance evaluation is used,

(*A*) The residual strength evaluation must consider the limit loads, considered as ultimate, given in §§ 23.361 and 23.363.

(*B*) If the occurrence of load-inducing propeller control system malfunctions is less frequent than $1 \times 10^{minus;5}$ occurrences per flight hour, the engine torque loads of § 23.362(a)(3) do not need to be considered in the residual strength evaluation.

3. Propeller Installation

(a) The applicant must complete a 2,500 airplane cycle evaluation of the propeller installation. A cycle must include the power levels associated with ground idle, takeoff, climb cruise, and descent. This evaluation may be accomplished on the airplane in a combination of ground and flight cycles or on a ground test facility. If the testing is accomplished on a ground test facility, the test configuration must include sufficient interfacing system hardware to simulate the actual airplane installation, including the engines, CGB and mount system. Each part tested, as prescribed in this section, must be in serviceable condition at the end of the tests. No intervening disassembly, other than normal maintenance (as defined for the installation), that might affect these results may be conducted. A test report explaining the test results and documenting the pre-and post-test condition should be completed.

(b) Propeller Unbalance. It must be shown by a combination of testing and analysis that any single failure or probable combination of failures, not deemed a critical part under paragraph (a)(4), that could cause an unbalanced propeller condition will not cause damage to the engines, CGB, powerplant mount system, primary airframe structure, or to critical equipment that would jeopardize the continued safe flight and landing of the airplane. Furthermore, the degree of flight deck vibration must not jeopardize the crew's ability to continue to operate the airplane in a safe manner. The magnitude and frequency of the vibration should be included in the installation manual. Any part (or parts) whose failure (or combination of failures) would result in a propeller unbalance greater than the defined maximum should also be classified as critical.

(c) A means must be provided to prevent any adverse effect resulting from rotation of the propeller, in either direction, on the ground.

4. Propeller Control System

(a) The propeller control must be independent of the engines, such that a failure in either engine or any engine control system will not result in failure to control the propeller.

(b) The propeller control system must be designed to minimize the occurrence of any single failure that would prevent the propulsion system from producing thrust at a level required to meet §§ 23.53(c), 23.67(c), 23.69, 23.75, and 23.77(c).

(c) An uncommanded propeller pitch change must not result in an unsafe condition and an indication of the failure must be annunciated to the flight crew.

5. PSU Instrumentation

(a) Engine Failure Indication. A means must be provided to indicate when an engine is no longer able to provide torque, or to provide stable torque, to the propeller. This means may consist of instrumentation required by other sections of part 23 or these special conditions if it is determined that those instruments will readily alert the flight crew when a engine is no longer able to provide torque, or to provide stable torque, to the propeller. This indicator must preclude confusion by the flight crew in reacting to the failure and when taking appropriate action to secure the airplane in a safe condition for continued flight.

(b) Engine/Propeller Vibration Exceedance Indication. A means must be provided to indicate when the PSU vibration levels exceed the maximum vibration level defined for continuous operation. Procedures to respond to this exceedance should be included in the AFM.

(c) The engine instrumentation requirements of § 23.1305 (a), (c) and (e) shall apply to each engine as defined in these special conditions.

(d) In addition to the requirements of § 23.1305, the following instruments must be provided:

(1) An oil pressure warning means and indicator for the pressure-lubricated CGB to indicate when the oil pressure falls below a safe value.

(2) A low oil quantity indicator for the CGB, if lubricant is self-contained;

(3) An oil temperature warning device to indicate unsafe CGB temperatures;

(4) A tachometer for the propeller;

(5) A propeller pitch control failure indication;

(6) A torquemeter for each engine if the sum of the maximum torque that each engine is capable of producing exceeds the maximum torque for which the CGB has been certified under 14 CFR part 33; and

(7) A chip detecting and indicating system for the CGB.

6. Fire Protection, Extinguishing and Ventilation Systems

(a) Each engine must be isolated from the other engine and CGB by firewalls, shrouds, or equivalent means. Each firewall or shroud, including applicable portions of the engine couplings, must be constructed such that no hazardous quantity of liquid, gas, or flame can pass between the isolated fire zone of each engine or the CGB compartment.

(b) In addition to the engine fire zones, if the potential for fire exists in the CGB compartment, then the CGB must be in a separate fire zone and must comply with all fire protection requirements of 14 CFR part 23. Enough fire-extinguishing agent will be required for the CGB compartment and at least one engine compartment. A dedicated fire extinguishing system will be required for the CGB compartment. If the potential for fire does not exist within the CGB compartment, this must be substantiated by analysis.

(c) Firewall temperatures under all normal or failure conditions must not result in auto-ignition of flammable fluids and vapors present in the other engine compartment and the CGB compartment.

(d) The CGB compartment ventilation system must be designed such that:

(1) It is ventilated to prevent the accumulation of flammable vapors.

(2) No ventilation opening may be where it would allow the entry of flammable fluids, vapors, or flame from other zones.

(3) Each ventilation means must be arranged so that no discharged vapors will cause an additional fire hazard.

(4) Unless the extinguishing agent capacity and rate of discharge are based on maximum airflow through the compartment, there must be a means to allow the crew to shut off sources of forced ventilation.

7. Cargo or Baggage Compartment Requirements

(a) Flight tests must demonstrate means to exclude hazardous quantities of smoke, flames, or extinguishing agent from any compartment occupied by the crew or passengers.

(b) Cargo compartments shall have either fire or smoke detection provisions, or both, unless the compartment location is such that a fire can be easily detected by the pilots seated at their duty station. The cargo and baggage fire protection must be in

accordance with § 23.855 as well as the following:

(1) The detection system must provide a visual indication to the flight crew within one minute after the start of a fire.

(2) The system must be capable of detecting a fire at a temperature significantly below that at which the structural integrity of the airplane is substantially decreased.

(3) There must be means to allow the crew to check the functioning of each fire detector circuit while in flight.

(4) The detection system effectiveness must be shown for all approved operating configurations and conditions.

(c) The flight crew must have means to shut off the ventilating airflow to, or within, the compartment from the pilot's station on the all-cargo configuration.

(d) Passenger and combi configurations, where the cargo compartment is not accessible to the flight crew, must have an approved built-in fire extinguishing system. The built-in fire extinguishing system shall be controllable from the pilots' station. There must be means to control ventilation and drafts within the inaccessible cargo compartment so that the extinguishing agent can control any fire that may start within the compartment. The built-in fire extinguisher must be installed so that no extinguishing agent likely to enter personnel compartments will be hazardous to the occupants. The discharge of the extinguisher must not cause structural damage. The capacity of the extinguishing system must be adequate for any fire likely to occur in the compartment where used. Consideration must be given to the volume of the compartment and the ventilation rate.

(e) In addition to the hand fire extinguishers required by § 23.851, a hand fire extinguisher must be readily accessible for use in each cargo or baggage compartment that is accessible to crewmembers in flight. Hazardous quantities of smoke, flames, or extinguishing agent must not enter any compartment occupied by the crew or passengers when the access to that compartment is used.

(f) Protective breathing equipment must be installed for crewmembers in each crewmember compartment. Protective breathing equipment must:

(1) Be designed to protect the flight crew from smoke, carbon dioxide, and other harmful gases at the pilot's station and while combating fires in cargo compartments.

(2) Have masks that cover the eyes, nose, and mouth; or masks that cover the nose and mouth plus accessory equipment to cover the eyes.

(3) Allow the flight crew to use the radio equipment and to communicate with each other while at their assigned stations.

(4) Not cause any appreciable adverse effect on vision and must allow corrective glasses to be worn.

(5) Supply protective oxygen of 15 minutes duration per crewmember at a pressure altitude of 8,000 feet with a respiratory minute volume of 30 liters per minute BTPD. If a demand oxygen system is used, a supply of 300 liters of free oxygen at 70° F. and 760 mm. Hg. pressure is considered to be of 15 minute duration at the prescribed altitude and minute volume. If a continuous flow protective breathing system is used (including a mask with a standard rebreather bag) a flow rate of 60 liters per minute at 8,000 feet (45 liters per minute at sea level) and a supply of 600 liters of free oxygen at 70° F. and 760 mm. Hg. pressure is considered to be of 15 minute duration at the prescribed altitude and minute volume. BTPD refers to body temperature conditions (that is, 37° C., at ambient pressure, dry).

(6) Be free from hazards in itself, in its method of operation, and in its effect upon other components.

(7) Have a means to allow the crew to readily determine, during flight, the quantity of oxygen available in each source of supply.

8. Airplane Performance

(a) In addition to the takeoff performance requirements of § 23.53(c), the same requirements must be met with both engines operating normally and the propeller primary control system failed in the most critical thrust producing condition at $V_{EF}$ and above, considering all single point failures.

(b) In addition to the one engine inoperative climb requirements of § 23.67(c), the same requirements must be met with both engines operating normally and the propeller primary control system failed in the most critical thrust producing condition, considering all single point failures.

(c) In addition to the requirements of § 23.69, the steady gradient and rate of climb/descent must be determined at each weight, altitude, and ambient temperature within the operational limits established by the applicant with both engines operating normally and the propeller primary control system failed in the most critical thrust producing condition, considering all single point failures.

(d) In addition to § 23.75, the horizontal distance necessary to land and come to a complete stop from a point 50 feet above the landing surface must be determined as required in § 23.75 with both engines operating normally and the propeller primary control system failed in the most critical thrust producing conditions, considering all single point failures.

(e) The balked landing requirements of § 23.77(c) must be performed with the propeller primary control system failed in the most critical thrust producing condition, considering all single point failures.

9. Airplane Flight Manual

(a) In addition to the requirements of §§ 23.1583(b) and 23.1585(a), a pre-flight visual inspection of the propeller components must be included in the Airplane Flight Manual.

(b) In addition to the requirements of § 23.1585(c), procedures for maintaining or recovering control of the airplane in all conditions identified in section (g) of these special conditions must be included in the Airplane Flight Manual.

(c) The information required by § 23.1583(c)(4) and § 23.1587(d) must be furnished with the propeller control system failed or with one engine inoperative, whichever is more critical.

10. Suction Defueling

(a) The airplane defueling system (not including fuel tanks and fuel tank vents) must withstand an ultimate load that is 2.0 times the load arising from maximum permissible defueling pressure (positive or negative) at the airplane fueling connection.

11. FADEC Installation

(a) The installation of the electronic engine/propeller control (FADEC control system) must comply with the requirements of § 23.1309(a) through (e).

Issued in Kansas City, Missouri on July 19, 2000.

**Michael Gallagher,**

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

[FR Doc. 00–20584 Filed 8–11–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–212–AD]

RIN 2120–AA64

## Airworthiness Directives; Raytheon Model BAe.125, Hawker 800 (U–125A), and Hawker 800XP 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 Model BAe.125, Hawker 800 (U–125A), and Hawker 800XP series airplanes. This proposal would require removal of existing clamps, bedding tapes, and rubber connecting sleeves at the ends of the turbine air discharge duct and the water separator, and replacement of the clamps and rubber connecting sleeves with new, improved components. This action is intended to prevent the turbine air discharge duct or water separator outlet duct from disconnecting from the cold air unit turbine or from the water separator, resulting in the loss of air supply to maintain adequate cabin pressure. Loss of adequate cabin pressure at high altitude would require emergency procedures, such as use of oxygen, auxiliary pressurization, or emergency descent.

**DATES:** Comments must be received by September 28, 2000.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–212–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2000–NM–212–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Raytheon Aircraft Company, 9709 East Central, Wichita, Kansas 67206. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

**FOR FURTHER INFORMATION CONTACT:** Paul C. DeVore, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4142; fax (316) 946–4407.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications 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.

Submit comments using the following format:

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the 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–212–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–212–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

### Discussion

The FAA has received reports indicating that in four instances the turbine air discharge duct became disconnected from the cold air unit and/or from the water separator in flight, resulting in cabin depressurization. The disconnection apparently occurred, because the design of the sleeve connection, with bedding tape installed under the clamps, is prone to slippage. This condition, if not corrected, may lead to the loss of air supply to maintain adequate cabin pressure. Such a loss of cabin pressure at high altitude would require emergency procedures, such as use of oxygen, auxiliary pressurization, or emergency descent.

If cabin depressurization occurs on long overwater flights, descending to a lower altitude may not allow sufficient range to reach a suitable airfield. Descending to a lower altitude would result in higher fuel consumption and, therefore, less range. If the fuel consumption and reserves had been calculated based on a fuel burn rate at a high cruise altitude, and a loss of pressure forced the crew to alter their plan, then the available fuel may no longer allow them to reach their destination or to reach it with sufficient reserves.

### Explanation of Relevant Service Information

The FAA has reviewed and approved Raytheon Service Bulletin SB 21–3377, Revision 1, dated July 2000, which describes procedures for removing the clamps, bedding strips, and rubber connecting sleeves on both ends of the turbine air discharge duct and the water separator and replacing the clamps and connecting sleeves with new, improved components. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

### 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 require accomplishment of the actions specified in the service bulletin described previously.

**Cost Impact**

There are approximately 220 airplanes of the affected design in the worldwide fleet. The FAA estimates that 154 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per airplane to accomplish the proposed installation, and that the average labor rate is $60 per work hour. Required parts would cost approximately $492 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $149,688, or $972 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 proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

**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:

**Raytheon Aircraft Company:** Docket 2000–NM–212–AD.

*Applicability:* Model BAe.125 Series 800A (C–29A and U–125) series airplanes, Hawker 800 (U–125A) series airplanes up to and including serial number 258406, and Hawker 800XP series airplanes up to and including serial number 258459; 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 (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 as indicated, unless accomplished previously.

To prevent the turbine air discharge duct or water separator outlet duct from disconnecting from the cold air unit turbine or from the water separator, resulting in the loss of air supply to maintain adequate cabin pressure, accomplish the following:

**Replacement**

(a) Remove the clamps, bedding tapes, and rubber connecting sleeves at the ends of the air turbine discharge duct and the water separator, and replace the clamps and rubber connecting sleeves with new, improved components, in accordance with the Accomplishment Instructions of Raytheon Service Bulletin SB 21–3377, Revision 1, dated July 2000, at the earliest of the times specified in paragraphs (a)(1), (a)(2), and (a)(3) of this AD.

(1) Prior to any extended over-water operation.

(2) Within the next 300 hours time-in-service after the effective date of this AD.

(3) Within the next six months after the effective date of this AD.

**Note 2:** An extended over-water operation is defined in 14 CFR 1.1 as "* * * an operation over water at a horizontal distance of more than 50 nautical miles from the nearest shoreline. * * *"

**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, Wichita Aircraft Certification Office (ACO), FAA, Small 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, Wichita ACO.

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

**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.

Issued in Renton, Washington, on August 8, 2000.

**Donald L. Riggin,**

*Acting Manager, Transport Airplane Directorate Aircraft Certification Service.*

[FR Doc. 00–20507 Filed 8–11–00; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

### 30 CFR Part 920

**[MD–047–FOR]**

### Maryland Abandoned Mine Land Reclamation Program

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

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

**SUMMARY:** OSM is announcing receipt of a proposed amendment to the Maryland abandoned mine land reclamation program (Maryland program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of a modification to the definition of the term "Government-Financed Construction" at Code of Maryland Regulation (COMAR) 26.20.12.02 and the addition of new section .04 to COMAR 26.20.12. The amendment is intended to revise the Maryland program to be consistent with the corresponding federal regulations.

**DATES:** If you submit written comments, they must be received by 4 p.m. (local time), September 13, 2000. If requested,

a public hearing on the proposed amendment will be held on September 8, 2000. Requests to speak at the hearing must be received by 4 p.m. (local time), on August 29, 2000.

**ADDRESSES:** Mail or hand-deliver your written comments and requests to speak at the hearing to the Pittsburgh Oversight and Inspection Office, at the address listed below.

You may review copies of the Maryland program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the proposed amendment by contacting OSM's Pittsburgh Oversight and Inspection Office.

George Rieger, Manager, Pittsburgh Oversight and Inspection Office, OSM, Appalachian Regional Coordinating Center, 3 Parkway Center, Pittsburgh, Pennsylvania, 15220.

Maryland Bureau of Mines, 160 South Water Street, Frostburg, Maryland, 21532, Telephone: (301) 689–4136.

**FOR FURTHER INFORMATION CONTACT:** George Rieger, Manager, Pittsburgh Oversight and Inspection Office, Telephone: (412) 937–2153.

**SUPPLEMENTARY INFORMATION:**

## I. Background on the Maryland Program

On February 18, 1982, the Secretary of the Interior approved the Maryland program. You can find background information on the Maryland program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the February 18, 1982, **Federal Register** (47 FR 7214). You can find subsequent actions concerning the conditions of approval and program amendments at 30 CFR 920.12, 920.15, and 920.16.

## II. Description of the Proposed Amendment

By letter dated July 10, 2000, (Administrative Record No. MD–582–00), Maryland submitted a proposed amendment to its program at COMAR 26.20.12. Maryland is proposing these changes to make its program as effective as the federal regulations at 30 CFR 707.5, 707.10, 874.10, and 874.17. These sections of the federal regulations describe procedures for financing abandoned mine land reclamation projects that involve the incidental extraction of coal. Maryland is proposing to change the definition of Government-Financed Construction at COMAR 26.20.12.02 B (1)(a) by adding the phrase, "Funding at less than 50 percent may qualify if the construction is undertaken as an approved reclamation project under Environment Article, Title 15, Subtitle 11 Annotated Code of Maryland and 30 CFR Subchapter R."

Maryland is also proposing to change COMAR 26.20.12.by adding section .04 titled, "Government Funded Reclamation Projects." Subsection A of section .04 describes items to be taken into consideration when the Bureau contemplates completing an abandoned mine land reclamation project as government financed construction when the level of funding will be less than 50 percent of the total cost because of planned coal extraction. These considerations include:

(1) The likelihood of nearby or adjacent mining activities creating new environmental problems or adversely affecting existing environmental problems at the site,

(2) The likelihood of reclamation activities at the site adversely affecting nearby or adjacent mining activities, and,

(3) The likelihood of the coal being mined under a permit issued in accordance with Environment Article, Title 15, Subtitle 5, Annotated Code of Maryland.

Subsection B of COMAR 26.20.12.04 describes the information to be taken into account when determining the likelihood of the coal being mined under a permit issued in accordance with Environment Article, Title 15, Subtitle 5, Annotated Code of Maryland. The Bureau is to take into account available information such as:

(1) Coal reserves from existing mine maps or other sources,

(2) Existing environmental conditions,

(3) All prior mining activity on or adjacent to the site,

(4) Current and historic coal production in the area, and

(5) Any known or anticipated interest in the mining site.

Subsection C of COMAR 26.20.12.04 describes the steps the Bureau must take to proceed with the reclamation project after making the determination under Subsection A. The Bureau shall:

(1) Determine the limits on any coal refuse, coal waste, or other coal products which may be extracted under this regulation, and

(2) Delineate the boundaries of the abandoned mine land reclamation project.

Subsection D of COMAR 26.20.12.04 requires the Bureau to include documentation in the abandoned mine land project file for the:

(1) Determinations made under Subsections A and C of this regulation,

(2) Information taken into account in making the determinations, and

(3) Names of the persons making the determinations.

Subsection E of COMAR 26.20.12.04 provides that for each abandoned mine land reclamation project to be approved under this regulation, the Bureau shall:

(1) Characterize the site in terms of mine drainage, active slides, and slide prone areas, erosion and sedimentation, vegetation, toxic materials, and hydrologic balance,

(2) Ensure that the reclamation project is conducted in accordance with the provisions of Environment Article, Title 15, Subtitle 11, Annotate Code of Maryland and 30 CFR Subchapter R,

(3) Develop specific site reclamation requirements including performance bonds, when appropriate, in accordance with State procedures, and

(4) Require the contractor conducting the reclamation to provide, prior to the time the reclamation project begins, applicable documents that clearly authorize the extraction of coal and payments of royalties.

Subsection F of COMAR 26.20.12.04 provides that the Bureau shall require a reclamation contractor who extracts coal beyond the limits of the incidental coal specified in § C of this regulation to obtain a permit for the coal in accordance with Environment Article, Title 15, Subtitle 5, Annotated Code of Maryland.

## III. Public Comment Procedures

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

*Written Comments:* If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

*Electronic Comments:* Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include "Attn: SPATS NO. MD–047–FOR" and your name and return address in your Internet message. If you do not receive

a confirmation that we have received your Internet message, contact the Pittsburgh Oversight and Inspection Office at (412) 937–2153.

*Availability of Comments:* Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at the OSM Administrative Record Room (see **ADDRESSES**). 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.

*Public Hearing:* If you wish to speak at the public hearing, you should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m. (local time), on August 29, 2000. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who testifies at a public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**.

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

**Procedural Determinations**

*Executive Order 12866—Regulatory Planning and Review*

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

*Executive Order 12630—Takings*

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart federal regulation.

*Executive Order 13132—Federalism*

This rule does not have federalism implications. SMCRA delineates the roles of the federal and state governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that state laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA, and section 503(a)(7) requires that state programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

*Executive Order 12988—Civil Justice Reform*

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

*National Environmental Policy Act*

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed state regulatory program provision does not constitute a major federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

*Paperwork Reduction Act*

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

*Regulatory Flexibility Act*

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

*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the state submittal which is the subject of this rule is based upon counterpart federal regulations for which an analysis was prepared and a determination made that the federal

regulation was not considered a major rule.

*Unfunded Mandates*

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

**List of Subjects in 30 CFR Part 920**

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 4, 2000.

**Allen D. Klein,**

*Regional Director, Appalachian Regional Coordinating Center.*

[FR Doc. 00–20549 Filed 8–11–00; 8:45 am]

BILLING CODE 4310–05–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[PA156–4104b; FRL–6847–2]**

### Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Approval of Revisions to Volatile Organic Compounds Regulations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania. The revisions consist of definitions and requirements for coatings used in mobile equipment repair and refinishing. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A more detailed description of the state submittal and EPA's evaluation are included in a Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by September 13, 2000.

**ADDRESSES:** Written comments should be addressed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103, and the Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Rose Quinto, (215) 814–2182, at the EPA Region III address above, or by e-mail at quinto.rose@epa.gov.

**SUPPLEMENTARY INFORMATION:** For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: July 20, 2000.

**Thomas C. Voltaggio,**

*Acting Regional Administrator, Region III.*

[FR Doc. 00–20532 Filed 8–11–00; 8:45 am]

BILLING CODE 6560–50–U

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

**[FRL–6848–4]**

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

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed deletion of the Palmetto Recycling Site from the National Priorities List (NPL).

**SUMMARY:** The EPA proposes to delete the Palmetto Recycling Site from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). The EPA has determined that the site poses no significant threat to public health or the environment and therefore, further response measures pursuant to CERCLA are not appropriate.

We are publishing this rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no dissenting comments. A detailed rationale for this approval is set forth in the direct final rule. If no dissenting comments are received, no further activity is contemplated. If EPA receives dissenting comments, the direct final action will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

**DATES:** Comments concerning this Action must be received by September 13, 2000.

**ADDRESSES:** Written comments may be mailed to Yvonne Jones, (4WD–NSMB) Remedial Project Manager, U.S. Environmental Protection Agency, 61 Forsyth Street, Atlanta, Georgia 30303, (404) 562–8793, Fax (404) 562–8778, email jones.yvonneO@epa.gov. Comprehensive information on this Site is available through the public docket which is available for viewing at the Site Information Repositories at the following locations: U.S. EPA Region IV, Administrative Records, 61 Forsyth Street, Atlanta, Georgia 30303, (404) 562–8862 and the Northeast Regional Library, 7490 Parklane Road, Columbia, South Carolina 29223.

**FOR FURTHER INFORMATION CONTACT:** Yvonne Jones, (4WD–NSMB) Remedial Project Manager, U.S. Environmental Protection Agency, 61 Forsyth Street, Atlanta, Georgia 30303, (404) 562–8793, Fax (404) 562–8778, email jones.yvonneO@epa.gov.

**SUPPLEMENTARY INFORMATION:** For additional information, see the Direct Final Action which is located in the Rules section of this **Federal Register**.

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

Dated: July 31, 2000.

**Michael V. Peyton,**

*Acting Regional Administrator, EPA Region IV.*

[FR Doc. 00–20319 Filed 8–11–00; 8:45 am]

BILLING CODE 6560–50–U

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[FRL–6849–7]

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of intent to delete the release from the Route 940 Drum Dump from the National Priorities List (NPL).

**SUMMARY:** The Environmental Protection Agency (EPA) Region III announces its intent to delete the release from the Route 940 Drum Dump (Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substance Pollution Continency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, EPA and the Pennsylvania Department of Environmental Protection (PADEP) have determined that the Site poses no significant threat to public health or the environment and, therefore, further remedial measures pursuant to CERCLA are not appropriate.

**DATES:** Comments concerning this Site may be submitted on or before September 13, 2000.

**ADDRESSES:** Comments may be mailed to Donna Santiago, (3HS22), Remedial Project Manager, U.S. Environmental Protection Agency, Region III, 1650 Arch St., Philadelphia, PA 19103, 215–814–3222, Fax 215–814–3002, e-mail santiago.donna@epa.gov. Comprehensive information on this Site is available through the public docket which is available for viewing at the Site information repositories at the following locations: U.S. EPA Region III, Administrative Records, 1650 Arch St., Philadelphia, PA 19103, 215–566–3157; and Tobyhanna Township Municipal Building, State Ave, Pocono Pines, PA 15065.

**FOR FURTHER INFORMATION CONTACT:** Donna Santiago (3HS22), U.S. Environmental Protection Agency, Region III, 1650 Arch St., Philadelphia, PA 19103, 215–814–3222, Fax 215–814–3002, e-mail santiago.donna@epa.gov.

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**



### I. Introduction

The U.S. Environmental Protection Agency (EPA) Region III announces its intent to delete the release from the Route 940 Drum Dump, Pocono Summit, Monroe County, Pennsylvania, from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, and requests comments on the deletion. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of these sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the site warrant action.

EPA and the Commonwealth of Pennsylvania have determined that the remedial action for the Site has been successfully executed. EPA will accept comments on the proposal to delete the release from the NPL for thirty days after publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses the Route 940 Drum Dump and explains how the Site meets the deletion criteria.

### II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with PADEP, whether any of the following criteria has been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Even when the release is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, EPA is required, by statue or policy, to conduct a subsequent review of the site at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment. In the case of this Site, EPA conducted a five year review in 1997. Based on this review, EPA determined that conditions at the Site remain protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the site shall be restored to the NPL without the application of the Hazard Ranking System (HRS).

### III. Deletion Procedures

The following procedures were used for the intended deletion of the Site:

(1) All appropriate response under CERCLA has been implemented and no further action by EPA is appropriate; (2) The Pennsylvania Department of Environmental Protection (PADEP) concurred with the proposed deletion; (3) A notice has been published in the local newspaper and has been distributed to appropriate Federal, State, and local officials and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete; and, (4) All relevant documents have been made available for public review in the local Site information repository.

For deletion of the release from the NPL, EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary, responding to each significant comment submitted during the public comment period.

Deletion of the release from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management. As mentioned in Section II of this document, § 300.425(e)(3) of the NCP states that the deletion of a release from a site from the NPL does not preclude eligibility for future response actions.

A deletion occurs when the Regional Administrator places a final action in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by the Regional Office.

### IV. Basis for Intended Site Deletion

The following summary provides the Agency's rationale for the proposal to delete this release from the NPL.

*Site Background and History*

The Route 940 Drum Dump (Site) is located in Tobyhanna Township near Pocono Summit, Monroe County, Pennsylvania. The Site consists of a grass-covered open clearing consisting of approximately 2.5 acres. Landmark International purchased the property in 1976 from the J.E.M. Partnership, which had owned the property since 1974. Between 1974 and 1978, approximately 600 drums of unknown contents from an unknown source were stored on the site. In 1978 the property owner arranged for removal of the drums. However in 1983 it was discovered that some of the drums had been buried on site and the contents of some of the drums were dumped on the surface of the ground on Site. The US EPA and PADEP initiated investigations and discovered rusted remains of several crushed 55-gallon drums in shallow trenches. Following EPA and PADEP response actions at the Site, Landmark conducted further investigations and actions at the Site in 1983. Contaminated soils were excavated and approximately 3000 tons of contaminated soil were removed from the Site. In 1987 an additional 4,000 cubic yards of contaminated soil were removed from the Site. In 1985 the Site was proposed for inclusion on the National Priorities List, 40 CFR part 300, and was finalized in July 1987.

In 1987, Landmark entered into a Consent Order with PADEP to undertake an RI/FS for the Site. In 1990, Landmark's performance of the RI/FS pursuant to the consent order was suspended due to non-compliance. The Site was subsequently turned back to EPA and a fund lead RI/FS was initiated. EPA's goals for Site investigation were to identify risks posed by the Site, to develop remedial alternatives to address those risks, and to protect human health and the environment. There were no principal threats identified at this Site based on the EPA criteria. As part of the RI a risk assessment was conducted to evaluate the potential impacts of the Site on human health and the environment. Upon review of the baseline risk assessment, it was determined that under the various risk scenarios evaluated for contaminants of concern at the Site, the Site contaminants did not pose any risks or threat to human health or the environment which would warrant EPA undertaking a remedial action. It should be noted that while there are naturally occurring metals, which at the concentrations detected in groundwater samples could potentially pose a health threat to those who use it as a drinking water source, EPA can take no action. Under the Superfund Law, EPA is unable to address any risks that are posed by naturally occurring elements within an area except in conjunction with the remediation of any Site related contamination that is not naturally occurring. The Record of Decision (ROD) for the Site was signed in 1992. The selected remedial action in the ROD was, No Action. Under this alternative EPA will not undertake any type of remedial action since there were no site related risks which would warrant EPA to implement a remedial action.

**Response Actions**

The 1992 ROD which identifies No Action as the selected remedy indicates that EPA will not undertake any type of remedial action since there were no site related risks which would warrant EPA to implement a remedial action. It has been determined that the previous actions which were completed by EPA, PADEP and Landmark have remediated the Site to the point where the residual risks posed by the Site are below health-based standards and therefore do not warrant any further remedial action.

**Monitoring**

The 1992 ROD for the Site required that ground water monitoring be conducted for a period of at least five years to assure that changes have not occurred which would pose a risk to human health or the environment. Five years of annual ground water monitoring activities have been conducted at the Site. Monitoring results at the Site indicate that the selected alternative identified in the 1992 ROD remains protective of human health and the environment.

**Five-Year Review**

EPA completed a five-year review report in 1997, where it evaluated the results of the monitoring activities at the Site. This report concluded that the Route 940 Site is protective of human health and the environment. Specifically, the 1997 five-year review recommended to continue monitoring activities at the Site for an additional year as required in the ROD to assess the continued effectiveness of the remedial action.

**Applicable Deletion Criteria**

The remedy selected for this Site has been implemented in accordance with the Record of Decision. Therefore, no further response action is necessary. The remedy has resulted in the significant reduction of the long-term potential for release of contaminants, therefore, human health and potential environmental impacts have been minimized. EPA and the Commonwealth of Pennsylvania find that the remedy implemented continues to provide adequate protection of human health and the environment.

Dated: August 3, 2000.

**Thomas C. Voltaggio,**

*Acting Regional Administrator, Region 3.*

[FR Doc. 00–20426 Filed 8–11–00; 8:45 am]

BILLING CODE 6560–50–U

---

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 46 CFR Part 67

### [USCG–1999–6095]

### RIN 2115–AF88

## Citizenship Standards for Vessel Ownership and Financing; American Fisheries Act; Correction

**AGENCY:** Coast Guard, DOT.

**ACTION:** Correction to proposed rule.

**SUMMARY:** This document corrects the heading and preamble to a notice of proposed rulemaking published in the **Federal Register** of July 27, 2000. The rule proposed amending citizenship requirements for fishing vessels of less than 100 feet in length that are eligible for a fishery endorsement. This correction clarifies the correct docket number and Regulation Identification Number (RIN) for this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** For questions on this proposed rule, call Patricia J. Williams, Coast Guard, telephone 304–271–2400. For questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

**Need for Correction**

As published, the notice of proposed rulemaking contains errors that create confusion for the Docket Management Facility and for you, if you are addressing the notice with your comments.

**Correction**

In proposed rule FR Doc. 00–18941, beginning on page 46137 in the issue of July 27, 2000, make the following corrections:

1. In the heading on page 46137, in second column, replace the Regulation Identification Number (RIN) with 2115–AF88.

2. In the heading on page 46137, in the second column, replace the Agency Docket Number with USCG–1999–6095.

3. On page 46137, in the second and third columns, under the **ADDRESSES** and "Request for Comments" headings respectively, replace (USCG–1999–6713) with (USCG–1999–6095).

Dated: August 9, 2000.

**Joseph J. Angelo,**

*Director of Standards, Acting Assistant Commandant for Marine Safety and Environmental Protection.*

[FR Doc. 00–20593 Filed 8–11–00; 8:45 am]

**BILLING CODE 4910–15–U**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Chapter I

**[CC Docket No. 94–54; FCC 00–253]**

### CMRS Interconnection and Resale Obligations

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; denial.

**SUMMARY:** This document considers whether facilities-based commercial mobile radio service (CMRS) providers should be required to interconnect with CMRS resellers' switches or with each others' networks. Specifically, the Commission denies requests for mandatory interconnection between resellers' switches and CMRS providers' networks. This action is taken to resolves issues raised in the Second Notice of Proposed Rulemaking in this proceeding concerning whether facilities-based commercial mobile radio service (CMRS) providers should be required to interconnect with CMRS resellers' switches or with each others' networks.

**FOR FURTHER INFORMATION CONTACT:** Peter Wolfe, 202–418–1310.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Fourth Report and Order (Fourth R&O) in CC Docket No. 94–54; FCC 00–253, adopted July 20, 2000, and released July 24, 2000. The complete text of this Fourth R&O is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS, Inc.), CY-B400, 445 12th Street, SW., Washington, DC.

**Synopsis of the Fourth R&O**

1. The Commission, in this Fourth R&O resolves issues raised in 1995 in the Second Notice of Proposed Rulemaking (NPRM) in this proceeding (60 FR 20949, April 28, 1995) concerning whether facilities-based commercial mobile radio service (CMRS) providers should be required to interconnect with CMRS resellers' switches or with each others' networks. Specifically, the Commission adopts its tentative conclusion in the NPRM and denies requests for mandatory interconnection between resellers' switches and CMRS providers' networks. In the absence of any specific State interconnection requests pending before the Commission, we also decline to take action preempting state requirements. Finally, the Commission adopts it's tentative conclusion in the NPRM and decline to impose general interconnection obligations between the networks of facilities-based CMRS providers. Consistent with the interconnection provisions of the 1996 Telecommunications Act, as interpreted in the First Report and Order in CC Dockets No. 96–98 and 95–185 (61 FR 45476, August 29, 1996), the Commission concludes generally that efficient CMRS interconnection will be achieved between facilities-based CMRS providers through voluntary agreements.

*Ordering Clauses*

2. Accordingly, the Cellular Service Inc. and ComTech Mobile Telephone Company request for a policy statement recognizing the right of resellers to interconnection is denied.

3. This proceeding is terminated.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 00–20522 Filed 8–11–00; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 17

**RIN 1018–AGO4**

### Endangered and Threatened Wildlife and Plants; Reopening of the Comment Period on the Proposed Listing of the Buena Vista Lake Shrew

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; notice of reopening of comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), provide notice of the reopening of the comment period for the proposed listing of the Buena Vista Lake shrew (*Sorex ornatus relictus*) as endangered. The comment period has been reopened in order to provide all interested parties additional opportunity to submit oral or written comments on the proposal, and request a public hearing, on the proposed rule. Comments previously submitted need not be resubmitted as they will be incorporated into the public records as a part of this reopening and will be fully considered in the final rule.

**DATES:** We will accept comments from all interested parties until October 13, 2000. Public hearing requests must be received by Setpember 28, 2000.

**ADDRESSES:** If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods.

1. You may submit written comments and information to the Field Supervisor, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room W–2605, Sacramento, California 95825.

2. You may hand-deliver written comments to our Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room W–2605, Sacramento, California 95825.

3. You may send comments by electronic mail (e-mail) to fw1bvshrew@fws.gov. Please submit comments in ASCII file format and avoid the use of special characters and encryption. Please include "Attn: RIN 1018–AGO4" and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Sacramento Fish and Wildlife Office, at telephone 916–414–6600.

Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room W–2605, Sacramento, California 95825.

**FOR FURTHER INFORMATION CONTACT:** Dwight Harvey, Sacramento Fish and Wildlife Office (see **ADDRESSES** section) (telephone 916/414–6600; facsimile 916/414–6710).

**SUPPLEMENTARY INFORMATION:**

**Background**

The Buena Vista Lake shrew is found in marshes and sloughs within a site formerly known as the Kern Lake Preserve, Kern County, California. This subspecies may also occur in the Tulare Basin and at Kern National Wildlife Refuge, but the status and identity of animals at these other sites is unknown. No more than 38 individuals have been observed at Kern Lake Preserve since 1986. The only known extant Buena Vista Lake shrew population is threatened primarily by agricultural activities and potential impacts to local hydrology, uncertainty of water delivery, possible toxic effects from selenium poisoning, and random naturally occurring events.

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are sought. Comments are sought particularly regarding:

(1) Biological, commercial, or other relevant data concerning any threat (or lack thereof) to the Buena Vista Lake shrew;

(2) The location of any additional populations of this subspecies and habitat association (including specific vegetation and soil type), and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*);

(3) Additional information concerning the range, distribution, and population size and genetics of this subspecies;

(4) Current or planned activities in the subject area and their possible impacts on this subspecies; and

(5) Additional relevant information concerning the life-history, habits, and dispersal of this subspecies.

We published a proposed rule in the **Federal Register** (65 FR 35033) on June 1, 2000 to list the Buena Vista Lake shrew (*Sorex ornatus relictus*) as endangered. The original comment period closed on July 31, 2000. We are reopening the comment period in order to provide the public an additional opportunity to provide written or oral comment on the proposal.

Our practice is to make comments available for public review during regular business hours, including names and home addresses of respondents. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish for 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.

Author: The primary author of this notice is Dwight Harvey (see **ADDRESSES** section).

**Authority:** The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 4, 2000.

**Elizabeth H. Stevens,**

*Manager-California/Nevada Operations Office.*

[FR Doc. 00–20605 Filed 8–11–00; 8:45 am]

**BILLING CODE 4310–55–U**

---

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

## Endangered and Threatened Wildlife and Plants: Announcement of Public Informational Meetings and Public Hearings for the Proposal to Reclassify and Remove the Gray Wolf From the List of Endangered and Threatened Species and To Establish Special Regulations for Threatened Gray Wolves

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Announcement of public informational meetings and public hearings.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) announces the locations and times of public informational meetings that have been scheduled to provide information on the proposal to reclassify and delist the gray wolf and establish special regulations for threatened gray wolves. We also are announcing the locations and times of public hearings scheduled to receive verbal public comments on the proposal.

**DATES:** See **SUPPLEMENTARY INFORMATION.**

**ADDRESSES:** See **SUPPLEMENTARY INFORMATION.**

**FOR FURTHER INFORMATION CONTACT:** Direct all comments, questions or requests for additional information to us by using the Gray Wolf phone line: 612–713–7337, facsimile: 612–713–5292, electronic mail: graywolfmail@fws.gov, website: http://midwest.fws.gov/wolf, or write to Gray Wolf Questions, U.S. Fish and Wildlife Service, Federal Building, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056.

**SUPPLEMENTARY INFORMATION:** We will hold public informational meetings at the following locations. All meetings will be held from 1 to 3 p.m. and from 6 to 8 p.m. and will use an open house format, including a slide presentation that will run approximately every half hour.

Denver, Colorado, on August 15, 2000, at the Holiday Inn at Hampden, 7390 W. Hampden Avenue, (Lakewood).

Grand Junction, Colorado, on August 16, 2000, at the Holiday Inn, 755 Horizon Drive.

Salt Lake City, Utah, on August 17, 2000, at the Hilton Salt Lake City Center, 255 South West Temple.

Helena, Montana, on August 31, 2000, at Cavanaugh's Colonial Hotel-Best Western, 2301 Colonial Drive.

Kalispell, Montana, on September 6, 2000, at the West Coast Inn, 20 North Main Street.

Missoula, Montana, on September 7, 2000, at the Best Western Grant Creek Inn, 5280 Grant Creek Road.

Casper, Wyoming, on September 12, 2000, at the Casper Events Center, #1 Events Drive.

Bozeman, Montana, on September 14, 2000, at the Wingate Inn, 2305 Catron Street.

We will hold public hearings at the following locations. All hearings will be held from 1 to 3 p.m. and from 6 to 8 p.m.

Salt Lake City, Utah, on October 12, 2000, at the Hilton Salt Lake City Center, 255 South West Temple.

Helena, Montana, on October 18, 2000, at Cavanaugh's Colonial Inn—Best Western, 2301 Colonial Drive.

Denver, Colorado, on October 26, 2000, at the Holiday Inn at Hampden, 7390 W. Hampden Avenue, (Lakewood).

**Background**

On July 13, 2000, we published a proposed regulation (65 FR 43450) to reclassify and remove the gray wolf from the list of Endangered and Threatened Wildlife and Plants. The proposal also includes three special regulations for those distinct populations segments of gray wolves that would become classified as threatened. This proposal would affect all the conterminous 48 States except Minnesota. Due to the complexity and

wide geographic scope of the proposal, we are scheduling public informational meetings and public hearings at a number of locations. The locations and times of public informational meetings and public hearings in the Midwest, Northwest, and Northeast, were published on July 26, 2000 (65 FR 45956). We will publicize the locations and times of any additional public informational meetings or public hearings in subsequent notices.

The purpose of the public informational meetings is to provide additional opportunities for the public to gain information and ask questions about the proposal. These informational sessions should assist interested parties in preparing substantive comments on the proposal.

The public hearings will be the only method for comments and data to be presented verbally for entry into the public record of this rulemaking and for our consideration during our final decision. Comments and data also can be submitted in writing or electronically, as described in the July 13, 2000, proposal and in the **FOR FURTHER INFORMATION CONTACT** section above.

## Author

The author of this notice is Patricia Worthing, U.S. Fish and Wildlife Service, Denver, Colorado.

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

Dated: August 8, 2000.

**Susan E. Baker,**

*Regional Director, Denver, Colorado.*

[FR Doc. 00–20501 Filed 8–11–00; 8:45 am]

**BILLING CODE 4310–55–P**

# Notices

Federal Register
Vol. 65, No. 157
Monday, August 14, 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

### Agricultural Marketing Service

**[Docket No. DA–00–05]**

### United States Standards for Grades of Swiss Cheese, Emmentaler Cheese; Correction

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Notice; Correction.

**SUMMARY:** The Agricultural Marketing Service (AMS) published in the **Federal Register** of July 20, 2000 (65 FR 45018) a document (DA–00–05) soliciting comments on a proposal to change the United States Standards for Grades of Swiss Cheese, Emmentaler Cheese. Several errors appeared in the document. The Internet address for AMS' Dairy Programs Home Page was incorrectly listed; a typographical error appears in proposed text for the eye size requirements of Grade B Swiss cheese; the discussion of proposed changes to flavor defect allowances in Grade C Swiss cheese references an incorrect table; and the proposed definition text and discussion of the "small eyed" defect was incomplete. This document corrects these errors.

**DATES:** August 14, 2000.

**FOR FURTHER INFORMATION CONTACT:** Duane R. Spomer, Chief, Dairy Standardization Branch, AMS/USDA/Dairy Programs, Room 2746-South, P.O. Box 96456, Washington, DC 20090–6456; telephone (202) 720–7473; fax (202) 720–2643; email Duane.Spomer@usda.gov

**SUPPLEMENTARY INFORMATION:**

#### Background

The Department of Agriculture (Department) published a Notice (DA–00–05) in the **Federal Register** of July 20, 2000 (65 FR 45018). The Notice (issued on July 12, 2000) solicited comments on a proposal to change the United States Standards for Swiss Cheese, Emmentaler Cheese. AMS is proposing changes that would: (1) increase the allowable eye size in Grade A Swiss cheese and define an allowable eye size range for Grade B Swiss cheese; (2) remove the maximum size recommendation for cheeses produced in rindless blocks; (3) add more clarity to the color requirements for Grades A and B Swiss cheese; (4) correct minor errors that currently exist in the tables; and (5) make minor editorial changes that will make the standard more uniform in appearance and easier to use. These changes are being proposed to strengthen the standard by providing Swiss cheese characteristics that incorporate changes in consumer preferences and facilitate the use of automated portioning and packaging equipment. Editorial changes were also proposed to provide consistency with other dairy product standards. This Correction Notice is necessary in order to correct several minor errors which appeared in the original publication. The due date for comments on the proposed changes (September 18, 2000) is unchanged.

#### Correction

This **Federal Register** Notice makes corrections to the Notice published on July 20, 2000 (65 FR 45018). The Department makes the following corrections:

(1) In the first column, under "Addresses" (FR page 45019), the last paragraph, which begins, "The current United States Standards, along with * * *", change "www.ams.usda.gov/dairystand.htm" to "www.ams.usda.gov/dairy/stand.htm".

(2) In the text of (b)(3) Eyes and Texture (FR page 45022), second column, under "proposed", change "$1\frac{1}{16}$" to "$1\frac{3}{16}$".

(3) In the text of (c)(1) Flavor (FR page 45023), third column, under "discussion," change "Table III" to "Table I".

(4) In the text for (h)(4) small eyed (FR page 45029), second column, under "proposed," change "$1\frac{1}{16}$" to "$\frac{3}{8}$". In the third column of that page, the "discussion" of the proposed text is revised to read "We propose this change to reflect the proposed lower eye size limit and for editorial clarity of the standard."

**Authority:** (7 U.S.C. 1621–1627).

Dated: August 8, 2000.

**Kathleen A. Merrigan,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 00–20491 Filed 8–11–00; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

**[Docket No. 00–074–1]**

### Rangeland Grasshopper and Mormon Cricket Control Activities

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** We are advising the public that we intend to prepare an environmental impact statement regarding the Animal and Plant Health Inspection Service's rangeland grasshopper and Mormon cricket control activities. The environmental impact statement will analyze the potential environmental effects of various efforts by the agency to control grasshoppers and Mormon crickets on rangelands in the United States. We invite the public to comment on what issues we should address in the environmental impact statement.

**DATES:** We will consider all comments that we receive by September 13, 2000.

**ADDRESSES:** Please send your comment and three copies to: Docket No. 00–074–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 00–074–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are

available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ron P. Milberg, Operations Officer, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1231; (301) 734–8247.

**SUPPLEMENTARY INFORMATION:**

## Background

Grasshoppers and Mormon crickets are members of the Class Insecta, Order Orthoptera, which contains several hundred species, although only about 35 species are perennial pests of plants. Grasshoppers and Mormon crickets have the potential for sudden and explosive population increases, which can be so extreme that all vegetation is consumed in outbreak situations. These infestations are often so extensive that individual land managers alone cannot control the damage.

The Animal and Plant Health Inspection Service (APHIS) conducts grasshopper and Mormon cricket control activities at the request of States and individuals who are unable to control infestations of grasshoppers and Mormon crickets on rangelands. Rangelands that are affected by grasshopper and Mormon cricket infestations are located in the Western United States.

Significant new information and new grasshopper and Mormon cricket control techniques have become available since we last prepared an environmental impact statement (EIS) relative to APHIS' rangeland grasshopper and Mormon cricket control activities (USDA–APHIS–FEIS; Rangeland Grasshopper Cooperative Management Program; see 52 FR 8938, March 20, 1987). Based on the availability of the new information and techniques, we are planning to prepare a new EIS relative to APHIS' activities related to the control of rangeland grasshoppers and Mormon crickets. The EIS will examine the environmental effects of control alternatives available to the agency, including a no action alternative. It will be used for planning and decisionmaking and to inform the public about the environmental effects of APHIS' rangeland grasshopper and Mormon cricket control activities. It will also provide an overview of APHIS activities to which we can tier site-specific analyses and environmental assessments.

We are asking for written comments that identify significant environmental issues that we should analyze in the EIS. We invite comments from the public, including private industry, as well as Federal, State, and local governments that have an interest in APHIS' rangeland grasshopper and Mormon cricket control activities.

In the event that Federal land management agencies elect to conduct an analysis of all available rangeland grasshopper and Mormon cricket management alternatives (e.g., chemical control, biological control, range management, integrated pest management, etc.), APHIS will cooperate with those agencies by providing information and analyses related to its rangeland grasshopper and Mormon cricket control activities. Otherwise, APHIS will prepare an EIS analyzing only those control alternatives reasonably available to APHIS, along with a no action alternative.

This notice and the upcoming EIS are intended to fulfill the requirements of the National Environmental Policy Act. We will publish a notice announcing the availability of the draft EIS for review in the **Federal Register**. The notice will also request comments on the draft EIS.

This notice is issued in accordance with: (1) The National Environmental Policy Act (NEPA) (42 U.S.C. 4231 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 7th day of August 2000.

**Bobby R. Acord,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 00–20488 Filed 8–11–00; 8:45 am]

**BILLING CODE 3410–34–P**

---

## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

**[Docket No. 00–027N]**

### Availability of Materials on In-Distribution Activities and Initiatives

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is announcing the availability of materials from the June 9, 2000, public meeting on in-distribution (ID) activities and initiatives and is providing an opportunity for public comment on those materials and on the matters presented at the public meeting. The June 9 meeting was held to discuss the Agency's strategy for addressing the safety of meat and poultry products during distribution and to provide an overview and update on the ID Project.

**DATES:** The materials will be available in the FSIS docket room and on the FSIS web site. Persons are invited to review and submit comments on the materials. Comments should be received by September 13, 2000.

**ADDRESSES:** Submit one original and two copies of written comments to FSIS Docket Clerk, Docket #00–027N, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102 Cotton Annex Building, 300 12th Street, SW., Washington, DC 20250–3700. All comments submitted in response to this notice will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Ms. Mary Cutshall, National HACCP Small and Very Small Plant Coordinator, at (202) 720–3219, by FAX (202) 690–0824, or by e-mail: *mary.cutshall@usda.gov.*

**SUPPLEMENTARY INFORMATION:** As part of the implementation of FSIS' Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) System final rule (July 25, 1996; 61 FR 38806), the Agency is committed to developing strategies that address food safety hazards throughout the entire food production chain.

Under the Federal Meat Inspection Act and the Poultry Products Inspection Act, FSIS has the authority and responsibility to ensure the safety of meat and poultry products during in-plant production and also through transportation, storage, and other handling. Traditionally, the Agency has assigned the greater majority of its resources to inspection activities in meat and poultry slaughter and processing plants.

FSIS now is looking at strategies for monitoring the safety of meat and poultry products after they leave an inspected plant. One of these strategies is through the ID Project, which explores the effects of redeployment of inspection personnel outside the plant. The Agency has assigned 10 inspection personnel to the ID Project.

FSIS also is working with the State of Minnesota to develop an alternative strategy for addressing food safety hazards and other problems presented by federally inspected product in distribution. Under this approach, the State will advise FSIS of adulterated or misbranded federally inspected

products that State inspectors find at retail, distribution, and warehouse centers in the course of their regular inspection activities.

FSIS requests public comment on its current thinking about how to ensure that meat and poultry products in distribution do not become adulterated or misbranded and continue to qualify to bear USDA's mark of inspection. FSIS explained its current thinking at the June 9 public meeting.

**Additional Public Notification**

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to more than 300 organizations and individuals. In addition, the update is available on-line through the FSIS web page located at http://www.fsis.usda.gov. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to Agency constituents or stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

Done in Washington, DC, on: July 28, 2000.

**Thomas J. Billy,**

*Administrator.*

[FR Doc. 00–20548 Filed 8–11–00; 8:45 am]

BILLING CODE 3410–DM–P

## COMMISSION ON CIVIL RIGHTS

### Amended Notice of Public Meeting of the Delaware Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Delaware Advisory Committee to the Commission which was to have convened at 2 p.m. and adjourned at 6 p.m. on August 25, 2000, has a new time and new location. The Committee will convene at 12:30 p.m. and adjourn at 4 p.m. on August 25, 2000, at the City Council Chambers, City of Newark Municipal Building, 220 Elkton Road, Newark, Delaware, 19715–0390. The notice was originally published in the **Federal Register** on Thursday, July 27, 2000, FR Doc. 00–18984, Vol. 65, No. 145, Page 45146.

Persons desiring additional information, or planning a presentation to the Committee, should contact Edward Darden, Civil Rights Analyst of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 8, 2000.

**Lisa M. Kelly,**

*Special Assistant to the Staff Director, Regional Programs Coordination Unit.*

[FR Doc. 00–20563 Filed 8–9–00; 4:16 pm]

BILLING CODE 6335–01–P

## DEPARTMENT OF COMMERCE

### Bureau of the Census

### Advance Monthly Retail Sales 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 October 13, 2000.

**ADDRESSES:** Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 6086, 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: Scott Scheleur, Bureau of the Census, Room 2626–FOB 3, Washington, D.C. 20233–6500, (301) 457–2713.

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

The Advance Monthly Retail Sales Survey (MARTS) provides an early indication of current retail sales activity at the United States level. Policymakers such as the Federal Reserve Board need to have the most timely estimates in order to anticipate economic trends and act accordingly. The Bureau of Economic Analysis (BEA), the Council of Economic Advisors (CEA), and other government agencies and businesses use the data to formulate economic policy and make decisions. These estimates have a high BEA priority because of their timeliness. There would be approximately a month delay in the availability of these data if this survey were not conducted. Data are collected monthly from small, medium, and large size businesses, selected using a stratified random sampling procedure. The MARTS sample is re-selected periodically, generally at two year intervals. Small and medium-size retailers are requested to participate for those two years, after which they are replaced with new panel members. Smaller firms have less of a chance for selection due to our sampling procedure. Firms canvassed in this survey are not required to maintain additional records and carefully prepared estimates are acceptable if book figures are not available. The change in the response burden is a result of a larger sample size. The sample was increased from 4,100 to 4,500 to improve the quality of the estimates.

This request is for the clearance of four similar report forms SM–44(00)A; SM–44(00)AE; SM–44(00)AS & SM–72(00)A which will be replacing the form B–104 previously used to collect data in this survey on the Standard Industrial Classification (SIC) basis. The new forms will enable us to collect information on the North American Industry Classification System (NAICS) basis. All forms request similar data items but a variety of forms are needed to address either a firm's specific kind-of-business or to ask if and when the firm began selling through an Internet site and to separately report the value of any Internet sales.

**II. Method of Collection**

We will collect this information by mail, FAX and telephone follow-up.

**III. Data**

*OMB Number:* 0607–0104.
*Form Number:* SM–44(00)A, SM–44(00)AE, SM–44(00)AS & SM–72(00)A.
*Type of Review:* Regular Submission.
*Affected Public:* Retail Businesses.
*Estimated Number of Respondents:* 4,500.
*Estimated Time Per Response:* .0833 hrs (5 minutes).
*Estimated Total Annual Burden Hours:* 4,500 hours.
*Estimated Total Annual Cost:* The cost to the respondent is estimated to be $81,900, based on annual response burden of 4,500 hours and a rate of $18.20 per hour to complete the form.
*Respondent's Obligation:* Voluntary.
*Legal Authority:* Title 13, United States Code, 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: August 8, 2000.

**Madeleine Clayton,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 00–20483 Filed 8–11–00; 8:45 am]

BILLING CODE 3510–07–P

## DEPARTMENT OF COMMERCE

### Bureau of Export Administration

### Sensors and Instrumentation Technical Advisory Committee; Notice of Open Meeting

The Sensors and Instrumentation Technical Advisory Committee will meet on September 21, 2000, 9:00 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street & Pennsylvania Avenue, N.W., Washington, D.C. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to sensors and instrumentation equipment and technology.

**Agenda**

1. Election of Chairman.

2. Presentation on definitions to be added to the Commerce Control List and the Wassenaar Arrangement.

4. Discussion on licensing policy issues.

The meeting will be open to the public and a limited number of seats will be available. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Ms. Lee Ann Carpenter, OSIES/EA/BXA MS:3876, U.S. Department of Commerce, 14th St. & Constitution Ave., N.W., Washington, D.C. 20230.

For more information or copies of the minutes, contact Lee Ann Carpenter on (202) 482–2583.

Dated: August 7, 2000.

**Lee Ann Carpenter,**

*Committee Liaison Officer.*

[FR Doc. 00–20479 Filed 8–11–00; 8:45 am]

BILLING CODE 3510–JT–M

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[Docket 24–98]**

### Foreign-Trade Zone 169—Manatee County, FL, Application for Subzone Status, Aso Corporation (Bandages); Reopening of Comment Period

Notice is hereby given that the comment period regarding the application of the Manatee County Port Authority, grantee of FTZ 169, requesting special-purpose subzone status for the adhesive bandages manufacturing facility of Aso Corporation, located in Sarasota County, Florida (63 FR 26776, 5/14/98), has been reopened until August 28, 2000, to accept additional information from the applicant and interested parties.

Dated: August 8, 2000.

**Dennis Puccinelli,**

*Executive Secretary.*

[FR Doc. 00–20558 Filed 8–11–00; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[Docket 46–2000]**

### Foreign-Trade Zone 86—Tacoma, Washington Application For Foreign-Trade Subzone Status Matsushita Kotobuki Electronics Industries of America, Inc. (9- and 13-inch Television/Video Cassette Recorder Combination Units) Vancouver, Washington

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Tacoma, Washington, grantee of FTZ 86, requesting special-purpose subzone status for the manufacturing and warehousing facilities (9- and 13-inch television/video cassette recorder combination ("TV/VCR") units) of Matsushita Kotobuki Electronics Industries of America, Inc. (MKA), located at sites in Vancouver, Washington. The application indicates that MKA's Vancouver facilities also produce TV/VCR units in sizes larger than the 9- and 13-inch units, but that the company is not seeking authority to produce the larger sizes under FTZ procedures. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on August 2, 2000.

The MKA facilities are located at four sites in Vancouver, Washington (five buildings and two trailers, 427,300 sq. ft. total): *Site #1* (one manufacturing building, one warehouse building and two office trailers/282,800 sq. ft.)—located at 2001 Kotobuki Way; *Site #2* (one warehouse building/8,500 sq. ft.)—located across the street from 2001 Kotobuki Way; *Site #3* (one warehouse building/108,000 sq. ft.)—located at 3201 Lower Port Road; and *Site #4* (one warehouse building/28,000 sq. ft.)—located at 1923 Elevator Way.

The facilities (475 full-time employees and 160–180 contract employees) are used for the assembly and warehousing of MKA's TV/VCR units. Some of the components used in the manufacturing process are purchased from abroad, and account for 72% to 73% of finished product value. The imported components and their duty rates are as follows: 9-inch cathode

ray tube (7.5% duty rate); 13-inch cathode ray tube (7.5%); speakers (4.9%); remote control (2.7%); and TV/VCR chassis (duty-free).

Zone procedures would exempt MKA from Customs duty payments on foreign components used in export production. FTZ procedures will help MKA to implement a more efficient and cost-effective system for handling Customs requirements. On its domestic sales, MKA would be able to choose the lower duty rate that applies to the finished products (duty-free) for the foreign components noted above. The company also could benefit from duty savings on scrap and waste resulting from the production process. FTZ status may also make a site eligible for benefits provided under state/local programs. The application indicates that the savings from zone procedures would help improve the facilities' international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is October 13, 2000. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to October 30, 2000.

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 4008, 14th and Pennsylvania Avenue, N.W., Washington, DC 20230.

U.S. Department of Commerce Export Assistance Center, One World Trade Center, 121 SW Salmon Street, Suite 242, Portland, OR 97204.

Dated: August 4, 2000.

**Dennis Puccinelli,**

*Executive Secretary.*

[FR Doc. 00–20559 Filed 8–11–00; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–825]**

### Sebacic Acid From the People's Republic of China: Final Results of Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of final results of antidumping duty administrative review.

**SUMMARY:** On April 10, 2000, the Department of Commerce published the preliminary results of administrative review of the antidumping duty order on sebacic acid from the People's Republic of China. The products covered by this order are all grades of sebacic acid which include but are not limited to CP Grade, Purified Grade, and Nylon Grade. The review covers two manufacturers/exporters. The period of review is July 1, 1998, through June 30, 1999.

Based on our analysis of the comments received, we have made changes in 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 the Review."

**EFFECTIVE DATE:** August 14, 2000.

**FOR FURTHER INFORMATION CONTACT:** Christopher Priddy or Shawn Thompson, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482–1130 or (202) 482–1776, respectively.

**SUPPLEMENTARY INFORMATION:**

#### The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR Part 351 (1999).

#### Background

On April 10, 2000, the Department published the preliminary results of administrative review of the antidumping duty order on sebacic acid from the People's Republic of China (PRC). *See Sebacic Acid from the People's Republic of China: Preliminary Results of Antidumping Administrative Review*, 65 FR 18968 (April 10, 2000). The review covers two exporters and their respective manufacturers. The period of review (POR) is July 1, 1998, through June 30, 1999.

We invited parties to comment on the preliminary results of review. At the request of certain interested parties, we held a public hearing on June 2, 2000. The Department has conducted this administrative review in accordance with section 751 of the Act.

#### Scope of Review

The product covered by this review is sebacic acid. The products covered by this review are all grades of sebacic acid, a dicarboxylic acid with the formula (CH2)8(COOH)2, which include but are not limited to CP Grade (500ppm maximum ash, 25 maximum APHA color), Purified Grade (1000ppm maximum ash, 50 maximum APHA color), and Nylon Grade (500ppm maximum ash, 70 maximum ICV color). The principal difference between the grades is the quantity of ash and color. Sebacic acid contains a minimum of 85 percent dibasic acids of which the predominant species is the C10 dibasic acid. Sebacic acid is sold generally as a free-flowing powder/flake.

Sebacic acid has numerous industrial uses, including the production of nylon 6/10 (a polymer used for paintbrush and toothbrush bristles and paper machine felts), plasticizers, esters, automotive coolants, polyamides, polyester castings and films, inks and adhesives, lubricants, and polyurethane castings and coatings.

Sebacic acid is currently classifiable under subheading 2917.13.00.30 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding remains dispositive.

#### Separate Rates

Tianjin Chemicals Import and Export Corporation (Tianjin) and Guangdong Chemicals Import and Export Corporation (Guangdong) have requested separate, company-specific antidumping duty rates. In the *Preliminary Results*, we found that Tianjin and Guangdong had met the criteria for the application of separate antidumping duty rates. *See Sebacic Acid from the People's Republic of China: Preliminary Results of Antidumping Administrative Review*, 65 FR 18968, 18968–69 (April 10, 2000)

(*Preliminary Results*). We have not received any other information since the preliminary results which would warrant reconsideration of our separate rates determination with respect to these companies. We therefore determine that Tianjin and Guangdong should be assigned individual dumping margins in this administrative review.

With respect to Sinochem International Chemicals Company, Ltd. (SICC) and Sinochem Jiangsu Import and Export Corporation (Jiangsu), which did not respond to the Department's questionnaire, we determine that these companies do not merit separate rates. The Department assigns a single rate to companies in a non-market economy, unless an exporter demonstrates an absence of government control. We determine that SICC and Jiangsu are subject to the country-wide rate for this case because these companies failed to demonstrate an absence of government control.

**Use of Facts Available**

As explained in the preliminary results, the use of facts available is warranted in this case because SICC and Jiangsu, which are part of the PRC entity (*see* "Separate Rates" section above), have failed to respond to the original questionnaire and have refused to participate in this administrative review. Therefore, in accordance with sections 776(a)(2)(A) and (C) of the Act, we find that the use of total facts available is appropriate for SICC and Jiangsu. Furthermore, in the preliminary results we determined that SICC and Jiangsu did not cooperate to the best of their ability with our requests for necessary information. Therefore, in accordance with section 776(b) of the Act, we applied adverse inferences when selecting among the facts available. As adverse facts available in this proceeding, in accordance with the Department's practice, we preliminarily assigned SICC, Jiangsu, and all other exporters subject to the PRC-wide rate the petition rate of 243.40 percent, which is the PRC-wide rate established in the less than fair value (LTFV) investigation, and the highest dumping margin determined in any segment of this proceeding. As explained in the preliminary results, we determined that this margin was corroborated in accordance with section 776(c) of the Act in the LTFV investigation. *See Preliminary Results*, 65 FR at 18969–70. There is no evidence on the record which warrants revisiting this issue in these final results, and no interested party submitted comments on our use of adverse facts available. Accordingly, we continue to use the petition rate from the LTFV investigation of 243.40 percent.

**Analysis of Comments Received**

All issues raised in the case briefs by parties to this administrative review are addressed in the "Issues and Decision Memorandum" (Decision Memo) from Richard W. Moreland, Deputy Assistant Secretary, Import Administration, to Troy H. Cribb, Acting Assistant Secretary for Import Administration, dated August 8, 2000, which is 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.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at www.ia.ita.doc.gov/frn/summary/countrylist.htm under the heading "China." The paper copy and electronic version of the Decision Memo are identical in content.

**Changes Since the Preliminary Results**

Based on our analysis of comments received, we have made certain changes in the margin calculations. We have also corrected certain programming and clerical errors in our preliminary results, where applicable. Any programming or clerical errors are discussed in the relevant sections of the Decision Memorandum.

**Final Results of Review**

We determine that the following percentage weighted-average margin percentages exist for the period July 1, 1998, through June 30, 1999:

| Manufacturer/exporter | Margin (Percent) |
|---|---|
| Guangdong Chemicals Import and Export Corporation | 6.64 |
| Tianjin Chemicals Import and Export Corporation | 0.44 |
| PRC Country-Wide Rate | 243.40 |

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), we have calculated exporter/importer-specific assessment rates. We divided the total dumping margins for the reviewed sales by their total entered value for each importer. We will direct Customs to assess the resulting percentage margins against the entered Customs values for the subject merchandise on each importer's entries under the relevant order during the review period.

**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 sebacic acid from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) For Guangdong, the cash deposit rate will be the rate indicated above; (2) for Tianjin, the cash deposit rate will be zero because Tianjin's margin is *de minimis*; (3) for companies previously found to be entitled to a separate rate and for which no review was requested, the cash deposit rates will be the rate established in the most recent review of that company; (4) for all other PRC exporters of subject merchandise, the cash deposit rates will be the PRC country-wide rate indicated above; and (5) the cash deposit rate for non-PRC exporters of subject merchandise from the PRC 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 also 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 the subsequent assessment of doubled antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305 or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: August 8, 2000.

Troy H. Cribb,

*Acting Assistant Secretary for Import Administration.*

**Appendix—Issues in Decision Memo**

*Comments*

Acceptance of the Respondents' April 28, 2000, Surrogate Value Submission
2. Capryl Alcohol Valuation
3. Water Valuation
4. Activated Carbon and Macropore Resin Valuation
5. Caustic Soda Valuation
6. Capryl Alcohol and Glycerine Purity Level Adjustments
7. Hengshui Dongfeng Chemical Factory's Castor Seed Freight Valuation and Electricity Valuation
8. International Freight Valuation
9. Brokerage and Handling Valuation
10. Castor Oil and Castor Seed Valuation
11. Phenol Valuation

[FR Doc. 00–20561 Filed 8–11–00; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–851–802]**

## Notice of Antidumping Duty Order: Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From the Czech Republic

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** August 14, 2000.

**FOR FURTHER INFORMATION CONTACT:** Dennis McClure, AD/CVD Enforcement, Office 6, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0984.

### The Applicable Statute and Regulations

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 ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("the Department") regulations refer to the regulations codified at 19 CFR part 351 (2000).

### Scope of Order

For purposes of this order, the products covered are seamless carbon and alloy (other than stainless) steel standard, line, and pressure pipes and redraw hollows produced, or equivalent, to the ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, and the American Petroleum Institute (API) 5L specifications and meeting the physical parameters described below, regardless of application. The scope of this order also includes all products used in standard, line, or pressure pipe applications and meeting the physical parameters described below, regardless of specification. Specifically included within the scope of this order is seamless pipes and redraw hollows, less than or equal to 4.5 inches (114.3 mm) in outside diameter, regardless of wall-thickness, manufacturing process (hot finished or cold-drawn), end finish (plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish.

The seamless pipes subject to this order are currently classifiable under the subheadings 7304.10.10.20, 7304.10.50.20, 7304.31.30.00, 7304.31.60.50, 7304.39.00.16, 7304.39.00.20, 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.51.50.05, 7304.51.50.60, 7304.59.60.00, 7304.59.80.10, 7304.59.80.15, 7304.59.80.20, and 7304.59.80.25 of the HTSUS.

*Specifications, Characteristics, and Uses:* Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the ASTM A–106 standard may be used in temperatures of up to 1000 degrees Fahrenheit, at various ASME code stress levels. Alloy pipes made to ASTM A–335 standard must be used if temperatures and stress levels exceed those allowed for ASTM A–106. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A–106 standard.

Seamless standard pipes are most commonly produced to the ASTM A–53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements. If exceptionally low temperature uses or conditions are anticipated, standard pipe may be manufactured to ASTM A–333 or ASTM A–334 specifications.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification.

Seamless water well pipe (ASTM A–589) and seamless galvanized pipe for fire protection uses (ASTM A–795) are used for the conveyance of water.

Seamless pipes are commonly produced and certified to meet ASTM A–106, ASTM A–53, API 5L–B, and API 5L–X42 specifications. To avoid maintaining separate production runs and separate inventories, manufacturers typically triple or quadruple certify the pipes by meeting the metallurgical requirements and performing the required tests pursuant to the respective specifications. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A–106 pressure pipes and triple or quadruple certified pipes is in pressure piping systems by refineries, petrochemical plants, and chemical plants. Other applications are in power generation plants (electrical-fossil fuel or nuclear), and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. A minor application of this product is for use as oil and gas distribution lines for commercial applications. These applications constitute the majority of the market for the subject seamless pipes. However, ASTM A–106 pipes may be used in some boiler applications.

Redraw hollows are any unfinished pipe or "hollow profiles" of carbon or alloy steel transformed by hot rolling or cold drawing/hydrostatic testing or other methods to enable the material to be sold under ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, and API 5L specifications

The scope of this order includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, with the exception of the specific exclusions discussed below, and whether or not also certified to a non-covered specification. Standard, line, and pressure applications and the above-listed specifications are defining characteristics of the scope of this order. Therefore, seamless pipes meeting the physical description above, but not produced to the ASTM A–53, ASTM A–

106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, and API 5L specifications shall be covered if used in a standard, line, or pressure application, with the exception of the specific exclusions discussed below.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in ASTM A–106 applications. These specifications generally include ASTM A–161, ASTM A–192, ASTM A–210, ASTM A–252, ASTM A–501, ASTM A–523, ASTM A–524, and ASTM A–618. When such pipes are used in a standard, line, or pressure pipe application, with the exception of the specific exclusions discussed below, such products are covered by the scope of this order.

Specifically excluded from the scope of this order are boiler tubing and mechanical tubing, if such products are not produced to ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, and API 5L specifications and are not used in standard, line, or pressure pipe applications. In addition, finished and unfinished OCTG are excluded from the scope of this order, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line or pressure applications.

With regard to the excluded products listed above, the Department will not instruct Customs to require end-use certification until such time as petitioner or other interested parties provide to the Department a reasonable basis to believe or suspect that the products are being used in a covered application. If such information is provided, we will require end-use certification only for the product(s) (or specification(s)) for which evidence is provided that such products are being used in covered applications as described above. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that seamless pipe produced to the A–161 specification is being used in a standard, line or pressure application, we will require end-use certifications for imports of that specification. Normally we will require only the importer of record to certify to the end use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the merchandise subject to this scope is dispositive.

**Antidumping Duty Order**

On August 3, 2000, in accordance with section 735(d) of the Act, the International Trade Administration ("ITC") notified the Department that a U.S. industry is materially injured within the meaning of section 735(b)(1)(A) of the Act by reason of imports of certain small diameter carbon and alloy seamless standard, line and pressure pipe ("small diameter seamless pipe") from the Czech Republic. In addition, the ITC found that critical circumstances do not exist.

Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct the United States Customs Service ("U.S. Customs") to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price of the merchandise for all relevant entries of small diameter seamless pipe from the Czech Republic in the above-referenced antidumping duty order. These antidumping duties will be assessed on all unliquidated entries of imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after February 4, 2000, the date of publication of the preliminary determination in the **Federal Register**. Because the ITC did not find that critical circumstances exist with respect to imports of small diameter seamless pipe from the Czech Republic, the Department will direct U.S. Customs to refund all cash deposits and release all bonds collected on imports of small diameter seamless pipe from the Czech Republic entered, or withdrawn from warehouse, during the 90-day period prior to the publication of the preliminary antidumping duty determination (i.e., from November 6, 1999, through February 3, 2000). On or after the date of publication of this notice in the **Federal Register**, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties, cash deposits based on the rates listed below.

| Manufacturer/exporter | Margin (percent) |
|---|---|
| Nova Hut, a.s | 39.93 |
| All Others | 32.26 |

This notice constitutes the antidumping duty order with respect to small diameter seamless pipe from the Czech Republic, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, Room B–099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 351.211.

Dated: August 8, 2000.

**Troy H. Cribb,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 00–20557 Filed 8–11–00; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–580–811]**

### Notice of Final Results of Antidumping Duty Administrative Review: Steel Wire Rope From the Republic of Korea

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** August 14, 2000.

**FOR FURTHER INFORMATION CONTACT:** Jim Kemp or Edward Easton, at (202) 482–1276 or (202) 482–3003, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

**The Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department) regulations are to 19 CFR part 351 (1999).

**Final Results**

We determine that, for certain producers/exporters, sales of steel wire rope from the Republic of Korea (Korea) have been made below normal value (NV). The margins exist for the period March 1, 1998, through February 28, 1999, and are shown in the "Final Results of Review" section of this notice.

**Case History**

On April 7, 2000, the Department published in the **Federal Register** the

preliminary results of the 1998–99 administrative review of the antidumping duty order on steel wire rope from Korea. *See Notice of Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Antidumping Duty Administrative Review and Intent to Revoke Antidumping Duty Order in Part: Steel Wire Rope from the Republic of Korea*, 65 FR 18296 (April 7, 2000). At that time, we rescinded our review with respect to Boo Kook Corporation, Hanboo Wire Rope Inc., Kwangshin Rope, Seo Hae Industrial and Dae Heung Industrial Company. We gave interested parties an opportunity to comment on our preliminary results. The petitioners, the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers, filed a case brief on May 8, 2000, and one respondent, Jinyang Wire Rope (Jinyang), filed a rebuttal brief on May 15, 2000. There was no request for a public hearing. The period of review (POR) is March 1, 1998, through February 28, 1999. We have conducted this administrative review in accordance with section 751 of the Act.

**Scope of Review**

The product covered by this review is steel wire rope. Steel wire rope encompasses ropes, cables, and cordage of iron or carbon steel, other than stranded wire, not fitted with fittings or made up into articles, and not made up of brass-plated wire. Imports of these products are currently classifiable under the following Harmonized Tariff Schedule (HTSUS) subheadings: 7312.10.9030, 7312.10.9060, and 7312.10.9090. Excluded from this review is stainless steel wire rope, i.e., ropes, cables and cordage other than stranded wire, of stainless steel, not fitted with fittings or made up into articles, which is classifiable under HTSUS subheading 7312.10.6000. Although HTSUS subheadings are provided for convenience and the Customs Service purposes, the written description of the scope of this review is dispositive.

**Revocation**

On March 31, 1999, Kumho Wire Rope Manufacturing Co., Ltd. (Kumho) submitted a letter to the Department requesting revocation of the order with respect to its sales of the subject merchandise. At the preliminary results of this review, the Department preliminarily determined to revoke the order with respect to Kumho as provided under section 351.222(b)(3) of the regulations. However, the Department now finds that the issue of revocation has been rendered moot for the following reasons. First, the U.S. International Trade Commission (ITC) determined in a sunset review pursuant to 751(c) of the Act that revocation of the order on steel wire rope from Korea would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Certain Steel Wire Rope from Japan, Korea and Mexico*, 65 FR 136 (January 3, 2000). Based on the ITC's sunset determination, revocation of the order on steel wire rope from Korea became effective January 1, 2000. *See* 65 FR 3205 (January 20, 2000). Thus, a revocation decision on this proceeding with respect to Kumho would not affect any entries after that date. Second, although Kumho may have had exports during the interim period between the end of this review period and the effective date of revocation, (a) entries of such exports would have been made at a zero cash deposit rate, (b) the opportunity to request a review of those entries has passed without a review request, and (c) those entries are subject to automatic assessment under 19 CFR 351.212 (c) as a result of (b). Consequently, there are no entries which would be affected by a revocation decision in this review and, therefore, it is not necessary for the Department to revoke the order with respect to Kumho.

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs by parties to this antidumping proceeding are addressed in the *Issues and Decision Memorandum for the Sixth Administrative Review of Steel Wire Rope from Korea* from Holly Kuga, Acting Deputy Assistant Secretary, Import Administration, to Troy H. Cribb, Acting Assistant Secretary for Import Administration, dated, August 7, 2000, (*Decision Memorandum*) 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 Memorandum*, 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 with the Department's Central Records Unit, room B–099 of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the World Wide Web at *http://ia.ita.doc.gov*. The paper copy and electronic version of the Decision Memorandum are identical in content.

**Changes Since the Preliminary Determination**

We have excluded two observations in the U.S. sales database from our margin calculation for Jinyang because the transactions have dates of sale prior to the POR. *See Decision Memorandum* at Comment 2. We have made no changes to Kumho's margin calculation since the preliminary determination.

**Final Results of Review**

As a result of this review, we determine that the following margins exist for the period March 1, 1998, through February 28, 1999:

| Manufacturer/exporter | Margin (percent) |
|---|---|
| Dae Kyung Metal Co., Ltd | * 136.72 |
| Dong-Il Steel Manufacturing Co., Ltd | * 136.72 |
| Dong Young | * 136.72 |
| Jinyang Wire Rope, Inc | 3.25 |
| Korea Sangsa Company | * 136.72 |
| Kumho Wire Rope Mfg. Co., Ltd | 0.06 |
| Myung Jin Company | * 136.72 |
| Sungsan Special Steel Processing | * 136.72 |
| Yeonsin Metal | * 136.72 |

* Adverse facts available rate.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated importer-specific assessment rates by dividing the dumping margin found on the subject merchandise examined by the entered value of such merchandise. We will direct the Customs Service to assess antidumping duties by applying the assessment rate to the entered value of the merchandise entered during the POR, except where the assessment rate is *de minimis* (*see* 19 CFR 351.106(c)(2)). The Department will issue appraisement instructions on each exporter directly to the Customs Service.

As explained in the section on "Revocation," the Department has revoked the antidumping duty order for this case, effective January 1, 2000. Therefore, we have instructed the Customs Service to terminate suspension of liquidation for all entries of subject merchandise made after January 1, 2000. We will issue additional instructions directing the Customs Service to liquidate all entries of steel wire rope made after January 1, 2000, without regard to antidumping duties.

This notice serves as a final reminder to importers of their responsibility 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 the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d)(1). 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.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: August 7, 2000.

**Troy H. Cribb,**

*Acting Assistant Secretary for Import Administration.*

**Appendix: Issues Covered in the Decision Memorandum**

1. Inclusion of Jinyang as a Respondent
2. Sales Made Prior to the Period of Review
3. Total Facts Available for Jinyang's Packing Expense

[FR Doc. 00–20556 Filed 8–11–00; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[C–580–842]**

### Notice of Countervailing Duty Order: Structural Steel Beams From the Republic of Korea

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** August 14, 2000.

**FOR FURTHER INFORMATION CONTACT:** Eric B. Greynolds or Tipten Troidl, Office of AD/CVD Enforcement VI, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–2786.

**The Applicable Statute and Regulations**

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 ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("the Department) regulations refer to the regulations codified at 19 CFR part 351 (2000).

**Scope of Order**

The products covered are doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These products (Structural Steel Beams) include, but are not limited to, wide-flange beams (W shapes), bearing piles (HP shapes), standard beams (S or I shapes), and M-shapes.

All products that meet the physical and metallurgical descriptions provided above are within the scope of this order unless otherwise excluded. The following products, are outside and/or specifically excluded from the scope of this order: Structural steel beams greater than 400 pounds per linear foot or with a web or section height (also known as depth) over 40 inches.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, 7228.70.6000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise in this order is dispositive.

**Countervailing Duty Order**

In accordance with section 705(d) of the Act, on July 3, 2000, the Department published in the **Federal Register** its final affirmative determination in the countervailing duty investigation of structural steel beams from the Republic of Korea (65 FR 41051). On August 4, 2000, the International Trade Commission ("ITC") notified the Department of its final determination, pursuant to section 705(b)(1)(A)(i) of the Act, that an industry in the United States is materially injured or threatened with material injury by reason of imports of certain structural steel beams from the Republic of Korea.

Therefore, countervailing duties will be assessed on all unliquidated entries of structural steel beams from the Republic of Korea entered, or withdrawn from warehouse, for consumption on or after July 3, 2000, the date on which the Department published its final affirmative countervailing duty determinations in the **Federal Register**.

On or after the date of publication of this notice in the **Federal Register**, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the countervailable subsidy rates noted below. The All Others rates apply to all producers and exporters of structural steel beams from the Republic of Korea not specifically listed below. The cash deposit rates are as follows:

| Company | Net subsidy rate (percent) |
|---|---|
| Kangwon Industries Ltd | [1] 3.88 |
| Dongkuk Steel Mill Co., Ltd | [1] 1.34 |
| All Others Rate | [1] 3.87 |

[1] *Ad valorem.*

The steel producer Inchon Iron & Steel Co., Ltd. is excluded from the suspension of liquidation because it received a *de minimis* net subsidy of 0.15 percent *ad valorem*.

This notice constitutes the countervailing duty order with respect to structural steel beams from the Republic of Korea, pursuant to section 706(a) of the Act. Interested parties may contact the Central Records Unit, for copies of an updated list of countervailing duty orders currently in effect.

This countervailing duty order is published in accordance with section 706(a) of the Act and 19 CFR 351.211.

Dated: August 8, 2000.

**Troy H. Cribb,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 00–20560 Filed 8–11–00; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 080400E]**

### Gulf of Mexico Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Gulf of Mexico Fishery Management Council will convene a

public meeting of the Reef Fish Stock Assessment Panel (RFSAP).

**DATES:** This meeting will begin at 9:00 a.m. on Monday, August 28, and conclude by 3:00 p.m. on Friday, September 1, 2000.

**ADDRESSES:** The meeting will be held at NMFS Southeast Fisheries Science Center, 75 Virginia Beach Drive, Miami, FL.

**FOR FURTHER INFORMATION CONTACT:** Steven Atran, Population Dynamics Statistician, Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619; telephone: 813–228–2815.

**SUPPLEMENTARY INFORMATION:** The RFSAP will convene to review the following information provided by NMFS:

1. 2000 Greater amberjack stock assessment
2. 2000 Update to the 1998 vermilion snapper stock assessment
3. 1999 Red grouper stock assessment with corrected tables
4. Draft red snapper restoration scenario
5. Microsoft Excel spreadsheet for calculating biological targets and thresholds for groupers and tilefish

Based on its review of the greater amberjack and red grouper stock assessments, and the vermilion snapper assessment update, the RFSAP may recommend a range of allowable biological catch (ABC) for 2001 for each stock, and may recommend management measures to achieve the ABC. In the NMFS October 1999 Report to Congress on the Status of Fisheries of the United States, the greater amberjack stock was classified as not overfished, based on the previous stock assessment in 1996. However, there were concerns that the sampling program had excluded older and larger fish, making the results of that assessment questionable. The red grouper stock was classified as status unknown due to problems discovered with the age and growth data used in the 1993 assessment. A new assessment in 1999, initially reviewed by the RFSAP in the Fall of 1999, indicated that the red grouper stock was overfished. However, the Council's Standing and Special Reef Fish Scientific and Statistical Committee (SSC) had a number of concerns about the data and methods used by NMFS. The NMFS response to the SSC concerns will be part of the RFSAP's reevaluation of the 1999 red grouper assessment. The vermilion snapper stock was classified as not overfished based on a 1998 assessment, but some model scenarios from the assessment suggested that the stock was being fished at a rate that could result in it becoming overfished. It was therefore classified by NMFS as approaching an overfished condition.

The RFSAP will also review a draft red snapper restoration scenario proposed by NMFS, which would allow for a transition from a constant annual catch strategy to a constant fishing mortality rate strategy, and would provide for reevaluation of the stock at five-year intervals. The RFSAP will also review a method developed by NMFS, using a Microsoft Excel spreadsheet, for determining management targets and thresholds for groupers and tilefish based on the technical guidance recommended by NMFS for compliance with the Sustainable Fisheries Act of 1996. The resulting RFSAP recommendations will be presented to the Council's Socioeconomic Panel, Reef Fish Advisory Panel, and SSC, and to the Council at its November 13–16, 2000 meeting in Biloxi, MS.

The RFSAP is composed of biologists who are trained in the specialized field of population dynamics. They advise the Council on the status of stocks and, when necessary, recommend a level of ABC needed to prevent overfishing or to effect a recovery of an overfished stock. They may also recommend catch restrictions needed to attain management goals.

Although other non-emergency issues not on the agendas may come before the RFSAP 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 RFSAP 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

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by August 21, 2000.

Dated: August 7, 2000.

**Richard W. Surdi,**

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

[FR Doc. 00–20467 Filed 8–11–00; 8:45 am]

**BILLING CODE 3510–22–F**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 080800D]**

### New England Fishery Management Council; Public Meetings

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) is scheduling a public meeting of its Habitat Committee in September, 2000. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** The meeting will held on Thursday, September 7, 2000, at 9:30 a.m.

**ADDRESSES:** The meeting will be held at the Holiday Inn, 31 Hampshire Street, Mansfield, MA; telephone: (508) 339–2200.

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

**SUPPLEMENTARY INFORMATION:** The committee will continue its discussion of habitat issues related to the development of Amendments 10 and 13 to the Sea Scallop and Groundfish Fishery FMP's, respectively. The committee will also discuss the priorities for the 2001 Habitat Annual Review Report and discuss a report by the Atlantic States Marine Fisheries Commission on fishing gear impacts to submerged aquatic vegetation.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council 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 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 final action to address the emergency.

### 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 dates.

Dated: August 8, 2000.

**Richard W. Surdi,**

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

[FR Doc. 00–20551 Filed 8–11–00; 8:45 am]

**BILLING CODE 3510–22–F**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 080800E]**

### New England Fishery Management Council; Public Meetings

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The New England Fishery Management Council (NEFMC) is scheduling a public meeting of its Mid-Atlantic Fishery Management Council (MAFMC) Plans Committee in September, 2000. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** The meeting will held on Wednesday, September 6, 2000, at 9:30 a.m.

**ADDRESSES:** The meeting will be held at the Holiday Inn, 31 Hampshire Street, Mansfield, MA; telephone: (508) 339–2200.

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

**SUPPLEMENTARY INFORMATION:** The committee will review and discuss current developments of the MAFMC, as they relate to NEFMC concerns and fisheries. The committee will also receive an update on specifications proposed by the MAFMC for the 2001 fishing year.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council 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 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 final action to address the emergency.

**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 dates.

Dated: August 8, 2000.

**Richard W. Surdi,**

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

[FR Doc. 00–20552 Filed 8–11–00; 8:45 am]

**BILLING CODE 3510–22–F**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 080400D]**

### North Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of committee meetings.

**SUMMARY:** The North Pacific Fishery Management Council's (NPFMC) Halibut Subsistence Committee will meet in Anchorage, AK.

**DATES:** The meeting will be held on September 7, 2000.

**ADDRESSES:** The meeting will be held at the Anchorage Sheraton Hotel, 401 E. 6th Avenue, Anchorage, AK.

*Council address:* North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

**FOR FURTHER INFORMATION CONTACT:** Jane DiCosimo, NPFMC, 907–271–2809.

**SUPPLEMENTARY INFORMATION:** The meeting will begin at 9:00 a.m. on Thursday, September 7, in the Executive Board Room at the Sheraton Anchorage Hotel, and conclude at noon. The committee will review a draft of the halibut subsistence analysis and provide recommendations for final Council action in October.

Although non-emergency issues not contained in this agenda may come before this Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those specifically identified in the agenda 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 Helen Allen, 907–271–2809, at least 5 working days prior to the meeting date.

Dated: August 7, 2000.

**Richard W. Surdi,**

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

[FR Doc. 00–20466 Filed 8–11–00; 8:45 am]

**BILLING CODE 3510–22–F**

## DEPARTMENT OF COMMERCE

### National Telecommunications and Information Administration

**[Docket No. 000623194–0221–02]**

**RIN 0660–XX09**

### Notice; Request for Comments on Global Positioning System/ Ultrawideband Measurement Plan

**AGENCY:** National Telecommunications and Information Administration, U.S. Department of Commerce.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Institute for Telecommunication Sciences (ITS) and the Office of Spectrum Management (OSM) of the National Telecommunications and Information Administration (NTIA) invite interested parties to review and comment on a proposed measurement plan to assess the potential mechanisms and the extent of any interference to Global Positioning System (GPS) receivers from ultrawideband (UWB) transmission systems.[1] The GPS/UWB Measurement Plan will be placed on the NTIA homepage at <http://www.ntia.doc.gov/osmhome/uwbtestplan/gpstestfr.htm>. Interested parties may also obtain a copy of the measurement plan from OSM or ITS.

**DATES:** Interested parties are invited to submit comments on the GPS/UWB

[1] NTIA recently sought public comment on a test plan covering the effects of UWB signals on selected Federal radio receivers other than GPS receivers. See Notice and Request for Comments on Ultrawideband Systems Test Plan, 65 FR 40614 (June 30, 2000). That notice and comments received in response to that notice are also available on NTIA's homepage at <http://www.ntia.doc.gov/osmhome/uwbtestplan/>.

Measurement Plan no later than August 29, 2000.

**SUBMISSION OF DOCUMENTS:** The Department invites the public to submit comments on GPS/UWB Measurement Plan in paper or electronic form. Comments may be mailed to Steve Jones, Office of Spectrum Management, National Telecommunications and Information Administration, Room 6725 HCHB, 1401 Constitution Ave., NW, Washington, DC 20230. Paper submissions should include a diskette in ASCII, WordPerfect (please specify version) or Microsoft Word (please specify version) format. Diskettes should be labeled with the name and organizational affiliation of the filer, and the name version of the word processing program used to create the document.

In the alternative, comments may be submitted electronically to the following electronic mail address: <gpsuwb@ntia.doc.gov>. Comments submitted via electronic mail should be submitted in one or more of the formats specified above.

**FOR FURTHER INFORMATION CONTACT:** Steve Jones, Office of Spectrum Management, telephone: (202) 482–0110; or electronic mail: <skjones@ntia.doc.gov>; or Randy Hoffman, Institute for Telecommunication Sciences, telephone: (303) 497–3582; or electronic mail: <rhoffman@its.bldrdoc.gov>. Media inquiries should be directed to the Office of Public Affairs, National Telecommunications and Information Administration, at (202) 482–7002.

**SUPPLEMENTARY INFORMATION:**

## Background

Recent advances in microcircuit and other technologies have resulted in the development of pulsed radar and communications systems with very narrow pulse widths and very wide bandwidths. These UWB systems have instantaneous bandwidths of at least 25 percent of the center frequency of the device. UWB systems can perform a number of useful telecommunication functions that make them very appealing for both the commercial and government applications. These systems have very wide information bandwidths, are capable of accurately locating nearby objects, and can use processing technology with UWB pulses to "see through objects" and communicate using multiple propagation paths. However, the bandwidths of UWB devices are so wide that, although their average power levels, in many cases, are low enough to be authorized under the unlicensed device regulations of the NTIA and the Federal Communications Commission (FCC), some of the systems emit signals in bands in which such transmissions are not permitted because of potential harmful effects on critical radiocommunication services.

The GPS is a critical radiocommunication system. GPS is presently used by aviation for en-route and non-precision approach and landing phases of flight. The Wide Area Augmentation System (WAAS) for Category I precision approach service and the Local Area Augmentation System (LAAS) for Category II/III precision approach service are planned to be available for public use. GPS is also in the final stage of approval as an international aviation standard. Companion GPS-based applications for runway incursion and ground traffic management are also underway. Additionally, GPS-based public safety systems and services are being fielded. Planned systems, such as Enhanced 9–1–1 and personal location and medical tracking devices are expected to be commercially available in the near future. The U.S. telecommunications and power distribution systems are also dependent upon GPS for network synchronization timing. Moreover, GPS is a powerful enabling technology that has created new industries and new industrial practices fully dependent upon GPS signal reception.

Since GPS has such a pivotal role in many critical systems, NTIA has undertaken this measurement program to develop information to evaluate the potential for interference from UWB transmission systems to GPS receivers used for different applications. The GPS/UWB Measurement Plan identifies the GPS receivers to be considered; identifies the UWB transmission system parameters to be considered; proposes a GPS receiver performance metric and criterion; and develops general measurement procedures for calibration and assessing the interference potential.

## Questions for Public Comment

Interested parties are requested to submit comments on any of the technical issues in the GPS/UWB Measurement Plan. In addition, comments are requested on the questions below to assist NTIA in refining the measurement plan. Comments should cite the number of the question(s) being addressed. Please provide any references to support the responses to the questions.

1. Are the candidate GPS receivers identified in the measurement plan representative of the different technologies and user applications?

2. Are the UWB transmission system parameters identified in the measurement plan representative of the parameters for UWB transmission systems envisioned for use by the public?

3. Is pseudo-range error a performance metric for aviation GPS receivers that operate in accordance with Technical Standard Order (TSO) C–129a? If so what is the limit on pseudo-range error?

4. If pseudo-range error is not an applicable performance metric for GPS receivers that operate in accordance with TSO–C129a, what performance metric should be used? What is associated performance criteria?

5. Is a performance metric of time to reacquire a satellite applicable to GPS receivers used for terrestrial applications (e.g., public safety)? If so what is the associated performance criteria?

6. A reacquisition time of 1 second has been proposed by at least one GPS receiver manufacturer for terrestrial applications. Due to the latency inherent in the GPS receiver can a 1 second reacquisition time be accurately measured?

7. What are the performance metrics and associated criteria for GPS receivers used for surveying, maritime. and recreational applications?

**Kathy D. Smith,**

*Chief Counsel.*

[FR Doc. 00–20595 Filed 8–11–00; 8:45 am]

**BILLING CODE 3510–60–P**

---

## DEPARTMENT OF COMMERCE

### National Telecommunications and Information Administration

**[Docket Number 000801222–0222–01]**

**RIN 0660–XX10**

### Notice of Public Meeting

**AGENCY:** National Telecommunications and Information Administration, U.S. Department of Commerce.

**ACTION:** Notice of Public Meeting.

**SUMMARY:** The National Telecommunications and Information Administration (NTIA) will host a public workshop to examine technological tools and developments that can enhance consumer privacy online. In partnership with the Internet Education Foundation, NTIA will also host a Technology Fair to demonstrate the use and capabilities of a broad spectrum of online privacy technologies.

Information regarding the Online Privacy Technologies Workshop and

Technology Fair will be available on NTIA's homepage at <http://www.ntia.doc.gov/ntiahome/privacy/>.

**DATES:** The workshop and technology fair will be held 9 a.m.–4 p.m. on September 19, 2000.

**ADDRESSES:** The workshop and technology fair will be located at the U.S. Department of Commerce Main Auditorium and Lobby, 1401 Constitution Avenue, NW., Washington, DC, 20230 (entrance on 14th Street between Constitution and Pennsylvania Avenues).

**FOR FURTHER INFORMATION CONTACT:** For further information about the workshop, contact either Judy Kilpatrick at NTIA, Department of Commerce, 1401 Constitution Avenue, NW., Room 4701, Washington, DC 20230, telephone (202) 482–1866, facsimile (202) 482–0023, or e-mail <privtech@ntia.doc.gov>; or Wendy Lader at NTIA, Department of Commerce, 1401 Constitution Avenue, NW, Room 4725, Washington, DC 20230, phone (202) 482–1880, facsimile (202) 482–8058, or e-mail <privtech@ntia.doc.gov>.

For further information about the technology fair, contact Tim Lordan at Internet Education Foundation, 1634 I Street, NW, Suite 1107, Washington, DC 20006, phone (202) 638–4370, or e-mail <tim@neted.org>.

**SUPPLEMENTARY INFORMATION:**

## Background

With the rapid increase in online usage and transactions, the protection of online consumer privacy has become a critical issue. The Administration has urged industry to comply with fair information practice principles in connection with any collection, use, or dissemination of personal information. These principles involve the provision of notice, choice, access, security, and enforcement by any web site that collects personal information. Consistent with A Framework for Global Electronic Commerce and these principles, the Administration has strongly advocated development and adoption of privacy policies and self-regulatory codes of conduct developed by the private-sector to protect consumer privacy. This private-sector led approach takes advantage of the unique ability of the private sector to respond quickly to the changing privacy concerns and needs of consumers in a period of rapid technological change and growth in electronic commerce. On a global basis, private sector led, self-regulatory approaches may also provide a more certain enforcement mechanism than legislation in the absence of identical national laws.

These efforts, in conjunction with limited sector-specific legislation, have helped protect the privacy of online users. There is now debate, however, about whether these steps go far enough. The Federal Trade Commission, in its May 2000 report on Fair Information Practices in the Electronic Marketplace, determined that broad, non-sector specific privacy legislation, along with continuing self-regulatory programs, are now necessary to ensure adequate protection of consumer privacy online. The Administration has indicated that legislation may well be appropriate in the next Congress if the private sector is unable to increase significantly the number of websites that observe good privacy practices. A number of bills have been introduced in Congress that would regulate how privacy should be protected online. Whether or not such legislation is enacted, technology tools will play a key role in how Internet users protect their personal information. The Administration has encouraged the development of new technologies that will help online consumers protect their personal information. A wide variety of privacy enhancing technologies are just now becoming available to consumers, or are still in development.

Emerging privacy enhancing technologies reflect a variety of approaches to data protection. Some technologies act as "infomediaries" by helping users manage their online identities, allowing users to keep personally identifying information in personal data stores for release when authorization is given. Other technologies act as anonymity tools that prevent online communications from being linked back to the user. Still other technology tools are designed to work with the Platform for Privacy Preferences (P3P), a standard being developed by the World Wide Web Consortium (W3C) that enables browsers to automatically read a website's privacy policy and, based upon an individual user's set preferences, allow or disallow access to their personal information.

Despite activity in this area, many of these tools are not yet widely known or understood. This workshop and technology fair is intended to provide a forum to expand public awareness of these tools and to explain how they can help protect online privacy, whether in a regulated or a self-regulatory environment.

## Workshop Agenda

The workshop is scheduled to begin at 9:00 a.m. and end at 4:00 p.m. The tentative schedule for the workshop is as follows:

The first panel will provide an overview and demonstration of the various kinds of consumer-oriented privacy technologies available or being developed in the marketplace. The second panel will offer a detailed examination and analysis of the Platform for Privacy Preferences (P3P) standard being developed by the World Wide Web Consortium (WC3). The third panel will explore how privacy technologies introduced during the first two panels address the fair information practice principles of notice, choice, access, security and enforcement.

Following a lunch break, the workshop's fourth panel will examine the role that privacy enhancing technologies play in the current self-regulatory environment for online privacy, as well as the role they may play in a more regulatory scheme, whether domestic or international in nature. This panel will also examine the development of privacy technology tools that are intended to enhance children's privacy online. This schedule is subject to change prior to the workshop. Current information on the workshop's agenda will be available on NTIA's homepage at <http://www.ntia.doc.gov/ntiahome/privacy/>.

The Technology Fair will take place throughout the day and allow participants and attendees to view and gain hands-on experience with available or developing technologies that serve to protect consumer privacy online. Current information on the technology fair will be available on the Internet Education Foundation's homepage at <http://www.neted.org>.

*Public Participation and Access:* The Online Privacy Technologies Workshop and Technology Fair is open to the public, free-of-charge, on a first-come, first-served basis and is physically accessible to people with disabilities. To facilitate entry into the Department of Commerce building, please have a photo identification available and/or a U.S. Government building pass, if applicable. Any member of the public wishing to attend and requiring special services, such as sign language interpretation or other ancillary aids, should contact Wendy Lader at least five (5) days prior to the Workshop at telephone (202) 482–1880 or e-mail <privtech@ntia.doc.gov>.

**Kathy Smith,**

*Chief Counsel.*

[FR Doc. 00–20596 Filed 8–11–00; 8:45 am]

**BILLING CODE 3510–69–P**

## DEPARTMENT OF COMMERCE

### Technology Administration

### National Medal of Technology Nomination Evaluation Committee (NMTNEC)

**AGENCY:** Technology Administration, Department of Commerce.

**ACTION:** Notice of recruitment for additional members for NMTNEC.

**SUMMARY:** The Department of Commerce, Technology Administration (TA), requests nominations of individuals for appointment to the National Medal of Technology Nomination Evaluation Committee (NMTNEC). The Committee provides advice to the Secretary on the implementation of Public Law 96–480 (15 U.S.C. 3711) under the Federal Advisory Committee Act, 5 U.S.C. app. 2. Public Law 105–309; 15 U.S.C. 3711, Section 10, approved by the 105th Congress in 1998, added the National Technology Medal for Environmental Technology. The terms of several current members have expired and the period of nominations will identify their replacement.

**DATES:** Please submit nominations on or before September 15, 2000.

**ADDRESSES:** Submit nominations to the National Medal of Technology Program Office, Technology Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Room 4226, Washington, DC 20230. Materials may be faxed to 202–501–8153.

**FOR FURTHER INFORMATION CONTACT:** Andrew J. Fowell, Acting Director, 202–482–5572.

**SUPPLEMENTARY INFORMATION:** The National Medal of Technology was rechartered on December 8, 1999 for a period of two years to provide advice to the Secretary on the implementation of Public Law 96–480 (15 U.S.C. 3711) under the Federal Advisory Committee Act, 5 U.S.C. app. 2. The National Medal of Technology Nomination Evaluation Committee (NMTNEC) serves as an advisory body to the Under Secretary of Technology in his capacity as Chair of the Steering Committee, which reports directly to the Secretary of Commerce. Members are responsible for reviewing nominations and making recommendations for the nation's highest honor for technological innovation, awarded annually by the President of the United States. Members of the NMTNEC have an understanding of, and experience in, developing and utilizing technological innovation and/or they are familiar with the education, training, employment and management of technological human resources.

Under the Federal Advisory Committee Act, membership in a committee constituted under the Act must be balanced. To achieve balance, the Department is seeking additional nominations of candidates from small, medium-sized, and large businesses or with special expertise in the following subsectors of the technology enterprise:

(1) Infrastructure & Transportation/Telecommunications;

(2) Biomedical/Pharmaceutical/Health;

(3) Human Resources/Education; and

(4) Other (including manufacturing, process, environmental technology, transportation).

Typically, committee members are present or former Chief Executive Officers or other senior leaders of corporations; presidents or distinguished faculty of universities; or senior executives of non-profit organizations. They offer stature by virtue of their positions and also possess first-hand knowledge of the forces driving future directions for their industries or fields of expertise. The Committee as a whole is balanced in representing geographical, professional, and diversity interests. Nominees must be U. S. citizens, must be able to fully participate in meetings pertaining to the review and selection of finalists for the National Medal of Technology, and must uphold the confidential nature of an independent peer review and competitive selection process.

The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse NMTNEC membership.

**Cheryl L. Shavers,**

*Under Secretary of Commerce for Technology, Technology Administration.*

[FR Doc. 00–20496 Filed 8–11–00; 8:45 am]

**BILLING CODE 3510–18–U**

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Amendment of Export Visa Requirements for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured In the People's Republic of China

August 8, 2000.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs providing for the use of a new textile export license/commercial invoice printed on light green paper.

**EFFECTIVE DATE:** January 1, 2001.

**FOR FURTHER INFORMATION CONTACT:** Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The Governments of the United States and the People's Republic of China have agreed to amend the existing export visa requirements to provide for the use of a new textile export license/commercial invoice, issued by the Government of the People's Republic of China, for shipments of goods produced or manufactured in China and exported from China on and after January 1, 2001. The new license/invoice shall be printed on light green background paper. The light green form replaces the light blue background form currently in use. The visa stamp is not being changed at this time.

Shipments of textile and apparel products which are produced or manufactured in China and exported from China during the period January 1, 2001 through January 31, 2001 may be accompanied by a visa printed on either the light blue background paper or the light green background paper as described above.

See 62 FR 15465, published on April 1, 1997.

**Richard B. Steinkamp,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

**August 8, 2000.**

Commissioner of Customs,
*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on March 27, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive establishes an export visa arrangement for certain cotton, wool, man-made fiber, silk blend, and other vegetable fiber textiles and textile products, produced or manufactured in the People's Republic of China.

Effective on January 1, 2001, for products exported from China on or after January 1, 2001, you are directed to amend the March 27, 1997 directive to provide for the use of export licenses/commercial invoices issued by the Government of the People's Republic of China which are printed on light green

background paper. The light green form will replace the light blue background form currently being used.

To facilitate implementation of this amendment to the export licensing system, you are directed to permit entry of textile products, produced or manufactured in China and exported from China during the period January 1, 2001 through January 31, 2001, for which the Government of the People's Republic of China has issued an export license/commercial invoice printed on either the light blue background paper or the light green background paper as described above.

Products exported on and after February 1, 2001 must be accompanied by an export visa issued by the Government of the People's Republic of China on the light green license/invoice form.

The requirements for ELVIS (Electronic Visa Information System) remain unchanged.

Shipments entered or withdrawn from warehouse according to this directive which are not accompanied by an appropriate export visa shall be denied entry and a new visa must be obtained.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

**Richard B. Steinkamp,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 00–20597 Filed 8–11–00; 8:45 am]

BILLING CODE 3510–DR–F

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Adjustment of import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

August 9, 2000.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs adjusting limits.

**EFFECTIVE DATE:** August 15, 2000.

**FOR FURTHER INFORMATION CONTACT:** Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 64 FR 71982, published on December 22, 1999). Also see 64 FR 50495, published on September 17, 1999.

**Richard B. Steinkamp,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

**August 9, 2000.**

Commissioner of Customs,
*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on September 13, 1999, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on January 1, 2000 and extends through December 31, 2000.

Effective on August 15, 2000, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

| Category | Adjusted twelve-month limit [1] |
|---|---|
| 338/638 | 1,161,351 dozen. |
| 339/639 | 1,369,645 dozen |
| 342/642 | 555,847 dozen. |

[1] The limits have not been adjusted to account for any imports exported after December 31, 1999.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

**Richard B. Steinkamp,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 00–20598 Filed 8–11–00; 8:45 am]

BILLING CODE 3510–DR–F

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Department of Defense Wage Committee; Notice of Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that closed meetings of the Department of Defense Wage Committee will be held on September 5, 2000; September 12, 2000; September 19, 2000; and September 26, 2000, at 10:00 a.m. in Room A105, The Nash Building, 1400 Key Boulevard, Rosslyn, Virginia.

Under the provisions of section 10(d) of Public Law 92–463, the Department of Defense has determined that the meetings meet the criteria to close meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning the meetings may be obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301–4000.

Dated: August 7, 2000.

**C. M. Robinson,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 00–20472 Filed 8–11–00; 8:45 am]

BILLING CODE 5001–10–M

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### Privacy Act of 1974; System of Records

**AGENCY:** Department of the Air Force, DOD.

**ACTION:** Notice to Delete Records Systems.

**SUMMARY:** The Department of the Air Force proposes to delete two systems of records notices from its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

**DATES:** The action will be effective on September 13, 2000 unless comments are received that would result in a contrary determination.

**ADDRESSES:** Send comments to the Air Force Access Programs Manager,

Headquarters, Air Force Communications and Information Center/ITC, 1250 Air Force Pentagon, Washington, DC 20330–1250.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Anne Rollins at (703) 588–6187.

**SUPPLEMENTARY INFORMATION:** The Department of the Air Force's records systems notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed amendments are not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which would require the submission of a new or altered system report for each system. The specific changes to the record system being amended are set forth below followed by the notice as amended, published in its entirety.

Dated: August 7, 2000.

**C.M. Robinson,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**F044 AFSG A**

**SYSTEM NAME:**

Aerospace Physiology Personnel Career Information System *(June 11, 1997, 62 FR 31793).*

Reason: Records have been destroyed.

**F065 AF AFC G**

**SYSTEM NAME:**

Civilian Pay Records *(June 11, 1997, 62 FR 31793).*

Reason: These records are now covered under the Defense Finance and Accounting Service Privacy Act notice T335, Defense Civilian Pay System.

[FR Doc. 00–20474 Filed 8–11–00; 8:45 am]

**BILLING CODE 5001–10–F**

## DEPARTMENT OF DEFENSE

### Department of the Army

### Armed Forces Epidemiological Board (AFEB)

**AGENCY:** Office of The Surgeon General, DoD.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with section 10(a)(2) of Public Law 92–463, The Federal Advisory Committee Act, this announces the forthcoming AFEB subcommittee meeting. This Board will meet from 0730–1600 on Tuesday, 12 September, and 0730–1300 on Wednesday, 13 September 2000. The purpose of the meeting is to address pending and new Board issues, provide briefings for Board members on topics related to ongoing and new Board issues, conduct subcommittee meetings, and conduct an executive working session. The meeting location will be at the Walter Reed Army Institute of Research, Forest Glenn, Maryland. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before or file statements with the committee at the time and in the manner permitted by the committee.

**FOR FURTHER INFORMATION CONTACT:** COL Benedict Diniega, AFEB Executive Secretary, Armed Forces Epidemiological Board, Skyline Six, 5109 Leesburg Pike, Room 682, Falls Church, Virginia 22041–3258, (703) 681–8012/4.

**SUPPLEMENTARY INFORMATION:** None.

**Gregory D. Showalter,**

*Army Federal Register Liaison Officer.*

[FR Doc. 00–20565 Filed 8–11–00; 8:45 am]

**BILLING CODE 3710–08–M**

## DEPARTMENT OF DEFENSE

### Department of the Army

### Committee Meeting Notice

**AGENCY:** United States Army School of the Americas (USARSA), Training and Doctrine Command (TRADOC), U.S. Army, DoD.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following committee meeting:

*Name of Committee:* USARSA Subcommittee of the Army Education Advisory Committee.

*Date of Meeting:* 22–24 August 2000.

*Place of Meeting:* USARSA, Building 35, Fort Benning, Georgia.

*Time of Meeting:* 0900–1700 on 22 and 23 August, 0900–1200 on 24 August 2000.

**FOR FURTHER INFORMATION CONTACT:** All communications regarding this subcommittee should be addressed to LTC Bruce T. Gridley, U.S. Army School of the Americas, ATTN: ATZB–SAZ–CS, Ft. Benning, Georgia 31905–6245.

**SUPPLEMENTARY INFORMATION:** *Proposed Agenda:* Presentation by the Commanding General, Training and Doctrine Command on the Subcommittee's report of the previous meeting and issues requested from that meeting.

1. Purpose of Meeting: This is the eighth USARSA Subcommittee meeting. The subcommittee will receive a report from the Commander, Training and Doctrine Command, and briefings they requested as a result of the seventh subcommittee meeting.

2. Meeting of the Advisory Committee is open to the public. Due to space limitations, attendance may be limited to those persons who have notified the Committee Management Office in writing at least 5 days prior to the meeting date of their intent to attend.

3. Any member of the public may file a written statement with the committee before, during, or after the meeting. To the extent that time permits, the subcommittee chairman may allow public presentations of oral statements at the meeting.

**Gregory D. Showalter,**

*Army Federal Register Liaison Officer.*

[FR Doc. 00–20564 Filed 8–11–00; 8:45 am]

**BILLING CODE 3710–08–M**

## DEPARTMENT OF DEFENSE

### Department of the Army

### Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Disposable Pulse Oximeter Assembly and Protective Cover Therefor

**AGENCY:** U.S. Army Medical Research and Materiel Command, DoD.

**ACTION:** Notice.

**SUMMARY:** In accordance with 37 CFR 404.6, announcement is made of the availability for licensing of U.S. Patent Application Serial Number 09/389,353 entitled "Disposable Pulse Oximeter Assembly and Protective Cover Therefor" and filed September 3, 1999. Foreign rights are also available. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

**ADDRESSES:** Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, Maryland 21702–5012.

**FOR FURTHER INFORMATION CONTACT:** Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808 or telefax (301) 619–5034.

**SUPPLEMENTARY INFORMATION:** This invention is a protective covering to protect off-the-shelf disposable pulse oximeter sensors from bodily or surgical fluids. The protective covering will envelop or encase the inserted pulse oximeter sensor up to a point on the connection cable extending from the

pulse oximeter sensor. The protective covering is a polypropylene, rubber, or similar material which is tapered from the large width at the entrance to the narrower width at the blind end. The protective covering is bilaminar in nature to contain a substantially rectangular pulse oximeter.

Gregory D. Showalter,
*Army Federal Register Liaison Officer.*
[FR Doc. 00–20568 Filed 8–11–00; 8:45 am]
BILLING CODE 3710–08–M

## DEPARTMENT OF DEFENSE

### Department of the Army

### Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Method for Monitoring Arterial Oxygen Saturation

**AGENCY:** U.S. Army Medical Research and Materiel Command, DoD.

**ACTION:** Notice.

**SUMMARY:** In accordance with 37 CFR 404.6, announcement is made of the availability for licensing of U.S. Patent Application Serial Number 09/389,352 entitled "Method For Monitoring Arterial Oxygen Saturation" filed on September 9, 1999. Foreign rights are also available. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

**ADDRESSES:** Commander, U.S. Army Medical Research and Material Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, Maryland 21702–5012.

**FOR FURTHER INFORMATION CONTACT:** Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7807 or telefax (301) 619–5034.

**SUPPLEMENTARY INFORMATION:** A method for taking reflectance oximeter readings within the nasal cavity and oral cavity and down through posterior pharynx. The method utilizes a reflectance plus oximeter sensor that is resistant to bodily fluids to contact one of these capillary beds for the taking of readings and then forwarding of these readings to an oximeter for display. The method includes inserting a reflectance pulse oximeter sensor into a cavity within a subject's skull and contacting a capillary bed in the cavity with the reflectance plus oximeter sensor.

Gregory D. Showalter,
*Army Federal Register Liaison Officer.*
[FR Doc. 00–20569 Filed 8–11–00; 8:45 am]
BILLING CODE 3710–08–M

## DEPARTMENT OF DEFENSE

### Department of the Army

### Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Nasopharyngeal Airway With Reflectance Pulse Oximeter Sensor

**AGENCY:** U.S. Army Medical Research and Materiel Command, DoD.

**ACTION:** Notice.

**SUMMARY:** In accordance with 37 CFR 404.6, announcement is made of the availability for licensing of U.S. Patent Application Serial Number 09/389,354 entitled "Nasopharyngeal Airway with Reflectance Pulse Oximeter Sensor", filed September 3, 1999. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

**ADDRESSES:** Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, Maryland 21702–5012.

**FOR FURTHER INFORMATION CONTACT:** Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808 or telefax (301) 619–5034.

**SUPPLEMENTARY INFORMATION:** A combined nasopharyngeal airway and pulse oximeter sensor capable of monitoring the posterior pharynx, posterior soft palate or nasal mucosa. The nasopharyngeal airway includes a thickened wall section over approximately one-third of its circumference. Pulse oximeter sensor elements may include a light source, which emits light at wavelengths around 660 nm (red) and around 940 nm (near infrared) and a light detector. The pulse oximeter sensor elements may be connected to a pulse oximeter monitor (spectrophotometer) or other external device for analysis.

Gregory D. Showalter,
*Army Federal Register Liaison Officer.*
[FR Doc. 00–20567 Filed 8–11–00; 8:45 am]
BILLING CODE 3710–08–M

## DEPARTMENT OF DEFENSE

### Department of the Army

### Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Pulse Oximeter Sensor With a Combination Oropharyngeal Airway and Bite Block

**AGENCY:** U.S. Army Medical Research and Materiel Command, DoD.

**ACTION:** Notice.

**SUMMARY:** In accordance with 37 CFR 404.6, announcement is made of the availability for licensing of U.S. Patent Application Serial Number 09/389,355 entitled "Pulse Oximeter Sensor With a Combination Oropharyngeal Airway and Bite Block," filed September 3, 1999. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

**ADDRESSES:** Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, Maryland 21702–5012.

**FOR FURTHER INFORMATION CONTACT:** Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808 or telefax (301) 619–5034.

**SUPPLEMENTARY INFORMATION:** A combined oropharyngeal airway/bite block having pulse oximeter sensor elements capable of monitoring the posterior pharynx, the soft palate, the hard palate, and the buccal surface. The oropharyngeal airway portion has a thickened wall to house the pulse oximeter sensor elements and provide sufficient material to form grooves in the distal end. The grooves are utilized when the invention is turned on its side to act as a bite block with the grooves engaging the teeth of the patient. The pulse oximeter sensor elements include a light source, which emits light at wavelengths of about 660 nm and about 940 nm, and a light detector. The pulse oximeter sensor elements are in communication with a spectrophotometer for analysis.

Gregory D. Showalter,
*Army Federal Register Liaison Officer.*
[FR Doc. 00–20566 Filed 8–11–00; 8:45 am]
BILLING CODE 3710–08–M

## DEPARTMENT OF DEFENSE

### Department of the Army

### Privacy Act of 1974; System of Records

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice to Amend and Delete Systems of Records.

**SUMMARY:** The Department of the Army is proposing to delete two systems of records notices and amend one in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

**DATES:** This proposed action will be effective without further notice on September 13, 2000 unless comments are received which result in a contrary determination.

**ADDRESSES:** Privacy Act System Notice Manager, Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, Stop 5603, Ft. Belvoir, VA 22060–5603.

**FOR FURTHER INFORMATION CONTACT:** Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390.

**SUPPLEMENTARY INFORMATION:** The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in their entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: August 7, 2000.

**C.M. Robinson,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**Deletions:**

**SYSTEM IDENTIFIER AND NAME:**

A0600–8b NGB, Standard Installation/Division Personnel System Army National Guard (SIDPERS–ARNG) *(October 18, 1999, 64 FR 56195).*

Reason: Records are being incorporated into A0600–8–23 DAPE, Standard Installation/Division Personnel System.

**SYSTEM IDENTIFIER AND NAME:**

A0600–8TAPC, Standard Installation/Division Personnel System (SIDPERS) *(February 22, 1993, 58 FR 10002).*

Reason: Records are being incorporated into A0600–8–23 DAPE, Standard Installation/Division Personnel System.

**Amendment**

**A0600–8 DAPE**

**SYSTEM NAME:**

Standard Installation/Division Personnel System—USAR *(February 22, 1993, 58 FR 10002).*

**CHANGES:**

**SYSTEM IDENTIFIER:**

Delete entry and replace with 'A0600–8–23 DAPE'.

**SYSTEM NAME:**

Delete entry and replace with 'Standard Installation/Division Personnel System'.

**SYSTEM LOCATION:**

Delete entry and replace with 'National Guard records are located at the Army National Guard Readiness Center, 111 South George Mason Drive, Arlington, VA 22204–1382.

Reserve Component records are located at the U.S. Army Reserve Components Personnel and Administration Center, 9700 Page Boulevard, St. Louis, MO 63132–5200.

Regular Army records are located at the Army Information Processing Centers located in Chambersburg, PA 17201–4150; Huntsville, AL 35898–7340; Rock Island, IL 61299–7210; and St. Louis, MO 63120–1798.'

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Delete entry and replace with 'All active duty Army personnel, personnel attached from National Guard and/or Army reserve members of the Army National Guard, and individuals currently assigned to a U.S. Army Reserve unit'.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Delete entry and replace with 'Name, Social Security Number, sex, race, citizenship, status, religious denomination, marital status, number of dependents, date of birth, physical profile, ethnic group, grade and date of rank, term of service for enlisted personnel, security clearance, service agreement for non–regular officers, promotion data and dates, special pay and bonus, unit of assignment and identification code, military occupational specialty, civilian occupation, additional skill identifiers, civilian and military education levels, languages, military qualification, assignment eligibility, availability and termination date thereof, security status, suspension of favorable personnel action indicator, Privacy Act disputed record indicator, and similar relevant data'.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Delete entry and replace with '5 U.S.C 301, Departmental Regulations; 10 U.S.C. 3013, Secretary of the Army; Army Regulation 600–8–23, Standard Installation/Division Personnel System Database Management; and E.O 9397 (SSN)'.

**PURPOSE(S):**

Delete entry and replace with 'To support personnel management decisions concerning the selection, distribution and utilization of all personnel in military duties, strength accounting and manpower management, promotions, demotions, transfers, and other personnel actions essential to unit readiness; to identify and fulfill training needs; and to support automated interfaces with authorized information systems for pay, mobilization, and other statistical reports'.

* * * * *

**SAFEGUARDS:**

Delete entry and replace with 'Access to data and data storage is controlled and accessible only to authorized personnel and authorized personnel with password capability for the electronic media access'.

* * * * *

**SYSTEM MANAGER(S) AND ADDRESS:**

Delete entry and replace with 'National Guard: Chief, National Guard Bureau, Army National Guard Readiness Center, 111 South George Mason Drive, Arlington, VA 22204–1382.

Reserve Component: Deputy Chief of Staff for Personnel, Headquarters, Department of the Army 300 Army Pentagon, Washington, DC 20310–0300.

Regular Army: Commander, U.S. Army Personnel Center, 200 Stovall Street, Alexandria, VA 22332–0400.'

**NOTIFICATION PROCEDURE:**

Delete entry and replace with 'Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the appropriate address below:

National Guard individuals should address inquiries to the National Guard Bureau, Army National Guard Readiness Center, 111 South George Mason Drive, Arlington, VA 22204–1382.

Reserve individuals should address inquiries to the Commander of the Army Headquarters in which the unit is located.

Regular Army individuals should address inquiries to their local Commander.

All individuals should furnish full name, service identification number, current address and telephone number, signature, and specific information concerning the event or incident that will assist in locating the record.

Personal visits may be made. Individual must furnish proof of identity.'

**RECORD ACCESS PROCEDURES:**

Individuals seeking to access information about themselves contained in this system should address written inquiries appropriate address below:

National Guard individuals should address inquiries to the National Guard Bureau, Army National Guard Readiness Center, 111 South George Mason Drive, Arlington, VA 22204–1382.

Reserve individuals should address inquiries to the Commander of the Army Headquarters in which the unit is located.

Regular Army individuals should address inquiries to their local Commander.

All individuals should furnish full name, service identification number, current address and telephone number, signature, and specific information concerning the event or incident that will assist in locating the record.

Personal visits may be made. Individual must furnish proof of identity.

* * * * *

**A0600–8–23 DAPE**

**SYSTEM NAME:**

Standard Installation/Division Personnel System.

**SYSTEM LOCATION:**

National Guard records are located at the Army National Guard Readiness Center, 111 South George Mason Drive, Arlington, VA 22204–1382.

Reserve Component records are located at the U.S. Army Reserve Components Personnel and Administration Center, 9700 Page Boulevard, St. Louis, MO 63132–5200.

Regular Army records are located at the Army Information Processing Centers located in Chambersburg, PA 17201–4150; Huntsville, AL 35898–7340; Rock Island, IL 61299–7210; and St. Louis, MO 63120–1798.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All active duty Army personnel, personnel attached from National Guard and/or Army reserve members of the Army National Guard, and individuals currently assigned to a U.S. Army Reserve unit.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Name, Social Security Number, sex, race, citizenship, status, religious denomination, marital status, number of dependents, date of birth, physical profile, ethnic group, grade and date of rank, term of service for enlisted personnel, security clearance, service agreement for non-regular officers, promotion data and dates, special pay and bonus, unit of assignment and identification code, military occupational specialty, civilian occupation, additional skill identifiers, civilian and military education levels, languages, military qualification, assignment eligibility, availability and termination date thereof, security status, suspension of favorable personnel action indicator, Privacy Act disputed record indicator, and similar relevant data.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C 301, Departmental Regulations; 10 U.S.C. 3013, Secretary of the Army; Army Regulation 600–8–23, Standard Installation/Division Personnel System Database Management; and E.O 9397 (SSN).

**PURPOSE(S):**

To support personnel management decisions concerning the selection, distribution and utilization of all personnel in military duties, strength accounting and manpower management, promotions, demotions, transfers, and other personnel actions essential to unit readiness; to identify and fulfill training needs; and to support automated interfaces with authorized information systems for pay, mobilization, and other statistical reports.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

*In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:*

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Magnetic tapes, discs, microfiche, punched cards, and computer printouts.

**RETRIEVABILITY:**

By Name, Social Security Number, or other individually identifying characteristics.

**SAFEGUARDS:**

Access to data and data storage is controlled and accessible only to authorized personnel and authorized personnel with password capability for the electronic media access

**RETENTION AND DISPOSAL:**

Records are maintained one year in records holding area or current file area then retired to National Personnel Records Center. Maintained there for 75 years then destroyed.

**SYSTEM MANAGER(S) AND ADDRESS:**

National Guard: Chief, National Guard Bureau, Army National Guard Readiness Center, 111 South George Mason Drive, Arlington, VA 22204–1382.

Reserve Component: Deputy Chief of Staff for Personnel, Headquarters, Department of the Army 300 Army Pentagon, Washington, DC 20310–0300.

Regular Army: Commander, U.S. Army Personnel Center, 200 Stovall Street, Alexandria, VA 22332–0400.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the appropriate address below:

National Guard individuals should address inquiries to the National Guard Bureau, Army National Guard Readiness Center, 111 South George Mason Drive, Arlington, VA 22204–1382.

Reserve individuals should address inquiries to the Commander of the Army Headquarters in which the unit is located.

Regular Army individuals should address inquiries to their local Commander.

All individuals should furnish full name, service identification number, current address and telephone number, signature, and specific information concerning the event or incident that will assist in locating the record.

Personal visits may be made. Individual must furnish proof of identity.

**RECORD ACCESS PROCEDURES:**

Individuals seeking to access information about themselves contained in this system should address written inquiries appropriate address below:

National Guard individuals should address inquiries to the National Guard Bureau, Army National Guard Readiness Center, 111 South George Mason Drive, Arlington, VA 22204–1382.

Reserve individuals should address inquiries to the Commander of the Army Headquarters in which the unit is located.

Regular Army individuals should address inquiries to their local Commander.

All individuals should furnish full name, service identification number, current address and telephone number, signature, and specific information concerning the event or incident that will assist in locating the record.

Personal visits may be made. Individual must furnish proof of identity.

**CONTESTING RECORD PROCEDURES:**

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

National Guard and Reserve Component: From the individual, individual's personnel and pay files, other Army records and reports.

Regular Army: From individual, commanders, Army records and documents, other Federal agencies.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

[FR Doc. 00–20473 Filed 8–11–00; 8:45 am]

**BILLING CODE 5001–10–F**

## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

### Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Dredge and Fill Permit Application for the Farmland Hydro LP (FHLP) Proposed Mine Project in Hardee County, Florida

**AGENCY:** U.S. Army Corps of Engineers, Department of Defense.

**ACTION:** Notice of intent.

**SUMMARY:** Pursuant to section 404 of the Clean Water Act, (33 U.S.C. 1344) the U.S. Army Corps of Engineers has regulatory authority to permit the discharge of dredge and fill material into wetlands and other waters of the United States. In compliance with its responsibilities under the National Environmental Policy Act (NEPA) of 1969, (41 U.S.C. 4321 *et seq.*) the Jacksonville District, U.S. Army Corps of Engineers intends to prepare a DEIS in conjunction with review of a dredge and fill permit application for the FHLP Hardee County Mine Project.

**FOR FURTHER INFORMATION CONTACT:** Ronald H. Silver, (904) 232–2502, West Permits Branch, Regulatory Division, P.O. Box 4970, Jacksonville, Florida 32232–0019.

**SUPPLEMENTARY INFORMATION:** FHLP proposes to construct and operate a phosphate rock mine within its 15,000-acre property in Hardee County near the rural community of Ona, Florida. The phosphate rock will be converted elsewhere to a form that can be used as an essential crop nutrient or for other applications such as consumer products.

The project will include mining, clay storage, reclamation, and a beneficiation plant for washing and refinement of the rock, including various support facilities. FHLP proposes to use electric draglines to remove and set aside the surface soils overlying the ore ("overburden"), and excavate the phosphate ore ("matrix") for beneficiation.

After excavation by the dragline, the matrix is mixed with water to form a slurry, which is then pumped through pipelines to the beneficiation facility. During beneficiation, the phosphate rock is separated from the sand and clay, which are returned to the mine for use in reclamation.

Areas proposed for mining include wetlands and related areas under Corps jurisdiction pursuant to section 404 of the Clean Water Act. This project has been proceeding under the "ecosystem management team permitting" ("team permitting") process established by state law. The Corps, the U.S. Environmental Protection Agency (EPA) and the U.S. Fish and Wildlife Service (FWS) have been participating in the identification of issues, review and approval of methodologies for site assessment, and the evaluation of existing conditions within the project boundaries. FHLP is preparing applications for consideration by the permitting team and has advised the Corps of its intent to submit an application for approval under section 404 for mining, reclamation and enhancement of wetlands and related areas. The Corps has determined that a site specific DEIS will be prepared prior to issuance of section 404 authorization for these activities.

Some areas of the site are being proposed for enhancement as part of the mitigation for mining impacts or "net ecosystem benefits" as required by the state team permitting program. Impacts to these areas resulting from enhancement efforts, including benefits, will be evaluated. Other wetland areas will be preserved and considered in the assessment of the project.

Current site conditions have been evaluated using methodologies for assessment of wetlands function and boundaries, wildlife habitat and usage (including protected species), surface water quality and flow, ground water conditions, and impacts from agriculture and other man-induced changes.

*Alternatives:* One aspect of team permitting has been a focused and continuing effort to involve the public, through working groups and public meetings. Members of the local community, environmental groups and potentially affected neighboring interests have been invited to participate and have given substantial input to the identification of issues and alternatives. The alternatives analysis conducted to date will be utilized in the preparation of the DEIS.

Alternatives to be considered include the following:

*No Action Alternative:* As required by the CEQ Regulations, the Corps must consider the implications of the "No Action" alternative (no issuance of required section 404 permits).

*Alternative mining and clay disposal scenarios:* The agency permitting team members have considered a number of alternative mining and clay disposal scenarios, with various degrees and patterns of wetlands preservation, disturbance and reclamation and various effects on the economic viability of the project. These alternatives have also included different alignments for a proposed wildlife corridor system to be established through a combination of preservation, enhancement and reclamation of wetlands and upland systems.

*Alternative water supply sources and water management:* Members of the permitting team have suggested analysis of options for water supply other than the traditional use of groundwater. This alternatives review will consider ways of reducing or avoiding dependence on groundwater resources.

*Alternative mining and reclamation methodologies:* Options for plant site location, matrix excavation and transport, ore processing, effluent disposal, waste clay and sand disposal, reclamation, and product transport will be evaluated.

*Postponement of Action:* Delay of the proposed action will be reviewed.

Other alternatives identified under the scoping process will also be addressed.

*Issues:* The EIS will consider impacts on wetlands, protected species, fish and wildlife values, conservation, flood hazards, floodplain values, land use, recreation, water supply and

conservation, water quality, energy needs, health, economics, historic properties, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people, and other issues identified through scoping, public involvement, and interagency coordination.

*Scoping:* Public meetings have been conducted since mid-1998 under the Ecosystem Management/Team Permitting process established in sections 403.075 and 403.0752, Florida Statutes. Issues raised by public participants in the Team Permitting process will be incorporated into the scoping process. At this time, there are no plans for a public scoping meeting. Alternatives noted above are considered to be the primary areas of review at this time, although affected federal, state and local governments and governmental agencies, affected Indian tribes and other interested private organizations and parties are strongly encouraged to support additional alternatives for consideration and otherwise submit comments on the scope of the DEIS.

*Public Involvement:* We invite the participation of affected federal, state and local agencies, affected Indian tribes, and other interested private organizations and parties by submitting written comments to the information contact provided in this notice.

*Coordination:* The proposed action is being coordinated with the U.S. Fish and Wildlife (FWS) and the National Marine Fisheries Service under Section 7 of the Endangered Species Act, with the FWS under the Fish and Wildlife Coordination Act, and with the following State of Florida agencies: State Historic Preservation Officer, Fish & Wildlife Conservation Commission, Department of Environmental Protection, Bureau of Mine Reclamation.

*Other Environmental Review and Consultation:* The proposed action would involve application (to the State of Florida) for Water Quality Certification pursuant to Section 401 of the Clean Water Act, and certification of State lands, easements, and rights of way.

*DEIS Preparation:* It is estimated that the DEIS will be available to the public on or about February 28, 2001.

Dated: August 1, 2000.

**John R. Hall,**

*Chief, Regulatory Division.*

[FR Doc. 00–20570 Filed 8–11–00; 8:45 am]

BILLING CODE 3710–AJ–M

## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

### Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Dredge and Fill Permit Application for the IMC Phosphate Company's (IMC) Proposed Ona Mine Project in Hardee County, Florida

**AGENCY:** U.S. Army Corps of Engineers, Department of Defense.

**ACTION:** Notice of intent.

**SUMMARY:** Pursuant to section 404 of the Clean Water Act, the U.S. Army Corps of Engineers has regulatory authority to permit the discharge of dredge and fill material into wetlands and other waters of the United States. In compliance with its responsibilities under the National Environmental Policy Act (NEPA) of 1969, the Jacksonville District, U.S. Army Corps of Engineers intends to prepare a DEIS as a result of the dredge and fill permit application for the IMC Ona Mine Project.

**FOR FURTHER INFORMATION CONTACT:** Ronald H. Silver, (904) 232–2502, West Permits Branch, Regulatory Division, P.O. Box 4970, Jacksonville, Florida 32232–0019.

**SUPPLEMENTARY INFORMATION:** IMC proposes to construct and operate a surface mine for the recovery of phosphate rock from its 20,595-acre property in western Hardee County near the rural community of Ona, Florida. Phosphate rock is the source of the element phosphorous, which is essential to life and for which there is no substitute. Phosphate rock recovered from the Ona Mine will be shipped to manufacturers who convert it to concentrated fertilizers used in high-yield agriculture.

The project proposed by IMC envisions that initially, only mining and reclamation will occur on the Ona property, with beneficiation and shipment of the phosphate rock occurring at the existing IMC's beneficiation plant at the Fort Green Mine in Polk and Hardee Counties. At a later date, which is as yet undetermined, a beneficiation plant consisting of a washer, a flotation plant, product inventory, a shipping facility, and miscellaneous support facilities will be constructed at the proposed plant site, and the portion of the Ona Mine's phosphate reserve which has not been mined at that time will be processed at the new plant. There will be no chemical plant, gypsum stack or rock dryer at the Ona Mine site.

Over many decades, significant portions of the Ona Mine property have been converted to agricultural use, chiefly as improved pasture. The natural ecosystems on most of these agricultural lands have been degraded or improved for agricultural activities. IMC proposes to mine these areas and to reclaim them to an appropriate blend of agricultural and habitat values. However, there are also some areas of less disturbance, which have the significant ecological value. Of these, IMC proposes not to mine about 4,900 acres of ecologically significant area, or approximately 24 percent of the gross acreage of the Ona Mine property.

IMC intends to use the "opencast" variant of surface mining as its standard technique for development of the Southeast Tract, wherein large electrically-powered excavators ("draglines") first remove and set aside the soils overlying the ore ("overburden"), and then excavate the phosphate ore ("matrix").

The matrix is placed by the dragline into a shallow depression at the ground surface, where the matrix is disaggregated and converted to a slurry by mixing it with water. The matrix slurry is transported by electrically powered pumps through pipelines to the beneficiation facility, where the phosphate rock is separated from the sand and clay with which it is found in the ore. The sand and clay are returned to the mine for use in reclamation, again by pipelines as slurries.

Three distinct methods of reclamation will be used in creation of the post-reclamation landscape. These are known as: (1) The sand fill with overburden cap method, (2) the shaped overburden method, and (3) the crustal development methods for reclamation of clay settling areas.

*Alternatives:* Alternatives considered include no action, mining a portion of the area only-based on identification of critical concerns, important natural resources, and sensitive ecological areas; in addition, alternatives will take into consideration: mining method, matrix transport, matrix processing, waste sand and clay disposal, process water sources, water management plan, reclamation, and wetland preservation. Various alternatives are available to satisfy the objectives of each of these components. Other alternatives that might be identified under the scoping process will also be addressed.

*Issues:* The EIS will consider impacts on protected species, health, conservation, economics, aesthetics, general environmental concerns, wetlands (and other aquatic resources), historic properties, fish and wildlife

values, flood hazards, floodplain values, land use, navigation, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people, and other issues identified through scoping, public involvement and interagency coordination.

*Scoping:* Public meetings have been conducted since early 1998 as part of the Ecosystem Management Permitting System as provided in Chapter 403.075, Florida Statutes. The process was facilitated by the Conflict Resolution Consortium of Florida State University and implemented by the Ecosystem Management Team made up of representatives of permitting entities, and by the Public Work Group composed of representatives of non-permitting government agencies, conservation and public interest groups, and unaffiliated interested parties. The issues raised by public participants at these meetings will be incorporated into the scoping process. At this time, there are no plans for a public scoping meeting. However, all parties are invited to participate in the scoping process by identifying concerns, issues, studies needed, alternatives, procedures, and other matters related to the scoping process and forwarding them to the information contact provided in this notice.

*Public Involvement:* We invite the participation of affected federal, state and local agencies, affected Indian tribes, and other interested private organizations and parties by submitting written comments to the information contact provided in this notice.

*Coordination:* The proposed action is being coordinated with the U.S. Fish and Wildlife (FWS) and the National Marine Fisheries Services under Section 7 of the Endangered Species Act, with the FWS under the Fish and Wildlife Coordination Act, and with the following State of Florida agencies: State Historic Preservation Officer, Fish & Wildlife Conservation Commission, Department of Environmental Protection, Bureau of Mine Reclamation.

*Other Environmental Review and Consultation:* The proposed action would involve application (to the State of Florida) for Water Quality Certification pursuant to Section 401 of the Clean Water Act, and certification of State lands, easements, and rights of way.

*DEIS Preparation:* It is estimated that the DEIS will be available to the public on or about January 31, 2001.

Dated: August 1, 2000.

**John R. Hall,**

*Chief, Regulatory Division.*

[FR Doc. 00–20571 Filed 8–11–00; 8:45 am]

BILLING CODE 3710–AJ–M

## DEPARTMENT OF EDUCATION

### Privacy Act of 1974; Computer Matching Program

**AGENCY:** Department of Education.

**ACTION:** Notice of computer matching between the U.S. Department of Education and the U.S. Postal Service.

**SUMMARY:** Pursuant to the Computer Matching and Privacy Protection Act of 1988 and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs, a notice is hereby given of the computer matching program between the U.S. Department of Education (ED) and the U.S. Postal Service (USPS). The following notice represents the approval of a new computer matching agreement by the ED and USPS Data Integrity Boards to implement the matching program on the effective date as indicated in paragraph E of this notice.

In accordance with the Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, the Office of Management and Budget (OMB) Final Guidelines on the Conduct of Matching Programs (see 54 FR 25818, June 19, 1989), and OMB Circular A–130, the following information is provided:

**A. Participating Agencies**

The USPS is the recipient agency and will perform the computer match with debtor records provided by ED, the source agency in this matching program.

**B. Purposes of the Matching Program**

This matching program will compare USPS payroll and ED delinquent debtor files for the purposes of identifying postal employees who may owe delinquent debts to the federal government under programs administered by the ED. The pay of an employee identified and verified as a delinquent debtor may be offset under the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365) when voluntary payment is not made.

**C. Legal Authorities Authorizing Operation of the Match**

This matching program will be undertaken under the authority of the Debt Collection Act of 1982 (Pub. L. 97–365) which authorizes federal agencies to offset a federal employee's salary as a means of satisfying delinquent debts owed to the United States.

**D. Categories of Individuals Involved and Identification of Records Used**

The following systems of records, maintained by the participant agencies under the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), will be used to disclose records for this matching program:

1. USPS' "Finance Records—Payroll System, USPS 050–020," containing records for approximately 800,000 employees. (Disclosure will be made pursuant to routine use No. 24 of USPS 050–020, which last appeared in the **Federal Register** on December 4, 1992 (57 FR 57515).)

2. ED's "Title IV Program Files" (18–11–05), containing debt records for approximately 3,000,000 borrowers. (A notice of this system was last published in the **Federal Register** on June 4, 1999 (64 FR 30106).)

**E. Beginning and Ending Dates of the Matching Program**

The matching program will become effective 40 days after a copy of the agreement, as approved by the Data Integrity Board of each agency, is sent to Congress and the Office of Management and Budget, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months after the effective date. The agreement may be extended for one additional year beyond that period, if within 90 days prior to the actual expiration date of the matching agreement, the Data Integrity Boards of both the USPS and ED find that the computer matching program will be conducted without change and each party certifies that the matching program has been conducted in compliance with the matching agreement.

**F. Address for Receipt of Comments and Inquiries**

If you wish to comment on this matching program or obtain additional information about the program including a copy of the computer matching agreement between ED and USPS, contact John R. Adams, U.S. Department of Education, 400 Maryland Avenue, SW., room 5114 ROB–3, Washington, DC 20202–5320. Telephone: (202) 205–5311. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

During and after the comment period, you may inspect all public comments about this notice in room 5114 ROB–3, Seventh and D Streets, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

*Assistance to Individuals With Disabilities in Reviewing the Comments*

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public record for this notice. If you want to schedule an appointment for this type of aid, you may call (202) 205–8113 or (202) 260–9895. If you use a TDD, you may call the Federal Information Relay Service at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

*Electronic Access to This Document*

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (PDF) on the Internet at the following sites:

http://cfco.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the PDF you must have Adobe Acrobat Reader, which is available free at either of the previous sites. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO) toll free at 1–888–293–6498, or in the Washington, DC area at (202) 512–1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html

Dated: August 4, 2000.

**Greg Woods,**

*Chief Operating Officer, Student Financial Assistance.*

[FR Doc. 00–20599 Filed 8–11–00; 8:45 am]

BILLING CODE 4000–01–U

## DEPARTMENT OF ENERGY

### Secretary of Energy Advisory Board; Notice of Open Meeting.

**AGENCY:** Department of Energy.

**SUMMARY:** This notice announces a meeting of the Secretary of Energy Advisory Board's Panel on Emerging Alternative Technologies for the Treatment of Mixed Waste. The Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), requires that agencies publish these notices in the **Federal Register** to allow for public participation. Name: Secretary of Energy Advisory Board—Panel on Emerging Alternative Technologies for the Treatment of Mixed Waste.

**DATES:** August 22–24, 2000.

**ADDRESSES:**

Idaho Falls, Idaho: Shilo Inn, 780 Lindsay Boulevard, Idaho Falls, Idaho

Jackson, Wyoming: Snow King Resort, 400 East Snow King Avenue, Jackson, Wyoming

**FOR FURTHER INFORMATION CONTACT:** Mary Louise Wagner, Executive Director, or Francesca McCann, Staff Director, Office of the Secretary of Energy Advisory Board (AB–1), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 586–7092 or (202) 586–6279 (fax).

**SUPPLEMENTARY INFORMATION:** The purpose of the Secretary of Energy Advisory Board's Panel on Emerging Alternative Technologies for the Treatment of Mixed Waste is to provide independent external advice and recommendations to the Secretary of Energy Advisory Board on emerging technological alternatives to incineration for the treatment of mixed waste which the Department of Energy should pursue. The Panel will focus on the evaluation of emerging non-incineration technologies for the treatment of low-level, alpha low-level and transuranic wastes containing polychlorinated biphenyls (PCBs) and other hazardous constituents. Waste categories to be addressed include inorganic homogeneous solids, organic homogeneous solids, and soils. The Panel will also evaluate whether the emerging non-incineration technologies could be implemented in a manner that would allow the Department of Energy to comply with all legal requirements, including those contained in the Settlement Agreement and Consent Order signed by the State of Idaho, Department of Energy, and the U.S. Navy in October 1995.

**Tentative Agenda**

The agenda for the August 22–24 meeting has not been finalized. However, the meeting will include a series of briefings and discussions on alternative technologies for the treatment of mixed wastes, an inventory of wastes to be treated, an overview of waste characteristics and panel discussions. Members of the Public wishing to comment on issues before the Panel on Emerging Alternative Technologies for the Treatment of Mixed Waste will have an opportunity to address the Panel during the scheduled public comment periods. The final agenda will be available at the meeting.

TENTATIVE AGENDA

**Tuesday, August 22—Idaho Falls**

| | | |
|---|---|---|
| 9:00 am–9:15 am | Welcome Comments/Business Details | Ralph Cavanagh, Chairman; Beverly Cook, Manager DOE–ID. |
| 9:15 am–10:30 am | Advanced Mixed Waste Treatment Project History, Virtual Tour, Inventory of Characteristics, Processes and Risk Assessment Results. | M. Bonkoski, DOE–ID . |
| 10:30 am–10:40 am | Break. | |
| 10:40 am–11:10 am | Relevant Fed. Laws and Regulations | J. Smith, EPA HQ. |
| 11:10 am–11:40 am | Relevant State Laws and Regulations | S. Allred, Environmental Quality for Idaho. |
| 11:40 am–12:30 pm | Waste Isolation Pilot Plant<br>Waste Acceptance Criteria & Shipping Office Requirements | K. Watson, Carlsbad Area Office. |
| 12:30 pm–1:30 pm | Lunch Break. | |
| 1:30 pm–4:20 pm | Alternative Technologies Overview (Thermal, Chemical, Separation Gaseous, and Biological Capabilities). | Multiple Presenters. |
| 4:20 pm–4:30 pm | Break. | |
| 4:30 pm–5:30 pm | Public Comment (Idaho Falls) | R. Cavanagh. |

TENTATIVE AGENDA—Continued

| | | |
|---|---|---|
| 5:30 pm–6:30 pm | Dinner Break. | |
| 6:30 pm–7:30 pm | DOE Summary of Technologies | W. Ocwa, DOE–ID. |
| 7:30 pm–8:30 pm | Public Comment (Idaho Falls) | R. Cavanagh. |
| **Wednesday, August 23—Idaho Falls** | | |
| 9:00 am–10:00 am | Overview and Application to Other Waste Types | W. Owca, DOE–ID, V. Maio, Bechtel. |
| 10:00 am–10:30 am | Observations & DOE/EPA, Memorandum of Understanding | R. Seeker, Energy and Environmental Research Corporation, Schwinkendorf, Bechtel. |
| 10:30 am–11:30 am | Optional Independent Presenters and Panel Discussion | Multiple Presenters. |
| 11:30 am–12:30 pm | Lunch Break. | |
| **12:30 pm–3:00 pm—Travel to Jackson, Wyoming** | | |
| 3:30 pm–4:30 pm | Introduction and Overview | M. Bonkoski, DOE–ID. |
| 4:30 pm–5:30 pm | Technology Summary, R&D Needs | W. Owca, DOE–ID. |
| 5:30 pm–7:00 pm | Dinner Break. | |
| 7:00 pm–8:30 pm | Public Comment (Jackson) | R. Cavanagh. |
| **Thursday, August 24—Jackson** | | |
| 9:00 am–10:30 am | Additional Presentations | Independent Presenters. |
| 10:30 am–11:00 am | Public Comment (Jackson) | R. Cavanagh. |
| 11:00 am–12:00 pm | Summary and Conclusion/Action items/Work plan for Next 4 Months | R. Cavanagh. |
| 12:00 pm | Adjourn. | |

**Public Participation**

In keeping with procedures, members of the public are welcome to observe the business of the Panel on Emerging Alternative Technologies for the Treatment of Mixed Waste and submit written comments or comment during the scheduled public comment periods.

During its meetings in Idaho Falls, Idaho and Jackson, Wyoming, the Panel welcomes public comment. Most valuable to the Panel would be specific comments on alternative technologies for the treatment of mixed wastes. In addition, the Panel will readily hear public views on the issue. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. The Panel will make every effort to hear the views of all interested parties. The Chairman of the Panel is empowered to conduct the meeting in a fashion that will, in the Chairman's judgment, facilitate the orderly conduct of business. You may submit written comments to Mary Louise Wagner, Executive Director, Secretary of Energy Advisory Board, AB–1, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585. This notice is being published less than 15 days before the date of the meeting due to the late resolution of programmatic issues.

**Minutes**

A copy of the minutes and a transcript of the meeting will be made available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C., between 9 a.m. and 4 p.m., Monday through Friday except Federal holidays. Further information on the Secretary of Energy Advisory Board and its subcommittees may be found at the Board's web site, located at http://www.hr.doe.gov/seab.

Issued at Washington, D.C., on August 8, 2000.

**James N. Solit,**

*Advisory Committee Management Officer.*

[FR Doc. 00–20562 Filed 8–11–00; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP00–425–00]**

### Dominion Transmission, Inc. (formerly CNG Transmission Corp.); Notice of Request Under Blanket Authorization

August 8, 2000.

Take notice that on August 1, 2000, Dominion Transmission, Inc. (DTI), formerly CNG Transmission Corporation, 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP00–425–000 a request pursuant to Sections 157.205 and 157.208 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.208) for authorization to uprate the maximum allowable operating pressure (MAOP) of twenty-eight (28) natural gas storage pipelines at the Oakland Storage Complex, located in Westmoreland County, Pennsylvania, under DTI's blanket certificate issued in Docket No. CP82–537–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

DTI proposes to uprate the MAOP of twenty-eight (28) natural gas storage pipelines in the southern portion of the Murrysville Storage Pool of the Oakland Storage Complex, located in Westmoreland County, Pennsylvania. DTI states that the pipelines they propose to uprate are currently used to withdraw gas from the southern portion of the Murrysville Storage Pool for either recycling of gas to the higher pressure northern portion of the Murraysville Storage Pool or for delivery to DTI's customers or DTI's partner at the Oakland Storage Complex, Texas Eastern Transmission Corporation.

DTI proposes to uprate this segment of the system in order to prevent the pipeline system from exceeding the certificated MAOP in the event of the South Oakford Station going off line. DTI declares that it has employed a temporary solution to this situation by requiring field personnel to shut down in a portion of the storage pipeline

system if South Oakford Station shuts down. DTI states that a permanent solution to this situation is to uprate certain of the storage pipelines in the southern portion of the Murrysville Storage Pool to 225 psig, which is a higher MAOP than that portion will achieve.

DTI notes that the pipelines would be uprated using US Department of Transportation regulations, guidelines, and procedures and additionally the uprating of these storage pipelines will have no effect on the design capacity of the Oakford Storage Complex or on the design capacity of the DTI system.

DTI states that no new facilities are required, consequently, there is no cost to DTI, or its customers, associated with increasing the certificated MAOP of these storage pipelines to 225 psig.

Any questions regarding the application should be directed to Sean R. Sleigh, Manager, Dominion Transmission, Inc., 445 West Main Street, Clarksburg, West Virginia 26301, phone: (304) 623–8462, fax: (304) 623–8305.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

**David P. Boergers,**

*Secretary.*

[FR Doc. 00–20484 Filed 8–11–00; 8:45 am]

**BILLING CODE 6717–01–M**

---

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. ER00–3212–000, et al.]**

## California Power Exchange Corporation, et al.; Electric Rate and Corporate Regulation Filings

August 7, 2000.

Take notice that the following filings have been made with the Commission:

### 1. California Power Exchange Corporation

[Docket No. ER00–3212–000]

Take notice that on August 2, 2000, the California Power Exchange Corporation (CalPX) amended its July 18, 2000, filing in this proceeding. The CalPX states that it has served copies of its filing on its participants and on the California Public Utilities Commission.

*Comment date:* August 23, 2000, in accordance with Standard Paragraph E at the end of this notice.

### 2. California Power Exchange Corporation

[Docket No. ER00–2736–001]

Take notice that on August 2, 2000, the California Power Exchange Corporation (CalPX) made a filing to comply with the Commission's July 28, 2000 order in this proceeding.

*Comment date:* August 23, 2000, in accordance with Standard Paragraph E at the end of this notice.

### 3. International Transmission Company

[Docket No. ER00–3295–001]

Take notice that on August 2, 2000, International Transmission Company filed certain errata to its July 28, 2000 "Application for Approval of Innovative Transmission Rate Treatment Pursuant to Section 205 of the Federal Power Act and Request for Waiver of Certain Regulations," in the above-referenced docket, in the form of corrected pages to the filing, as well as redlined pages showing the changes made.

*Comment date:* August 23, 2000, in accordance with Standard Paragraph E at the end of this notice.

### 4. Florida Power & Light Company

[Docket No. ER00–3348–000]

Take notice that on August 2, 2000, Florida Power & Light Company (FPL) tendered for filing proposed service agreements with Conectiv Energy Supply, Inc., for Non-Firm transmission service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed service agreement be permitted to become effective on July 31, 2000.

FPL states that this filing is in accordance with Part 35 of the Commission's Regulations.

*Comment date:* August 23, 2000, in accordance with Standard Paragraph E at the end of this notice.

### 5. California Independent System Operator Corporation

[Docket No. ER00–3349–000]

Take notice that on August 2, 2000, the California Independent System Operator Corporation (ISO), tendered for filing an executed Metered Service Agreement (MSA) for Scheduling Coordinators between the ISO and the City of Santa Clara d/b/a Silicon Valley Power (Rate Schedule No. 254).

The ISO requests that the MSA become effective as of June 23, 2000. The ISO also requests waiver of the Commission's sixty-day prior notice requirement, pursuant to section 35.3 of the Commission's Regulations, 18 CFR 35.3, in order to permit this effective date.

The ISO states that copies of this filing have been served upon all parties in the above-referenced docket.

*Comment date:* August 23, 2000, in accordance with Standard Paragraph E at the end of this notice.

### 6. California Independent System Operator Corporation

[Docket No. ER00–3350–000]

Take notice that on August 2, 2000, the California Independent System Operator Corporation (ISO), tendered for filing an executed Metered Service Agreement (MSA) for Scheduling Coordinators between the ISO and Edison Mission Marketing & Trading, Inc. (Rate Schedule No. 243).

The ISO requests that the MSA become effective as of May 16, 2000. The ISO also requests waiver of the Commission's sixty-day prior notice requirement, pursuant to section 35.3 of the Commission's Regulations, 18 CFR 35.3, in order to permit this effective date.

The ISO states that copies of this filing have been served upon all parties in the above-referenced docket.

*Comment date:* August 23, 2000, in accordance with Standard Paragraph E at the end of this notice.

### 7. California Independent System Operator Corporation

[Docket No. ER00–3351–000]

Take notice that on August 2, 2000, the California Independent System Operator Corporation (ISO), tendered for filing an executed Metered Service Agreement (MSA) for ISO Metered Entities between the ISO and Mt. Poso Cogeneration Company (Rate Schedule No. 174).

The ISO requests that the MSA become effective as of June 13, 2000. The ISO also requests waiver of the Commission's sixty-day prior notice requirement, pursuant to section 35.3 of the Commission's Regulations, 18 CFR 35.3, in order to permit this effective date.

The ISO states that copies of this filing have been served upon all parties in the above-referenced docket.

*Comment date:* August 23, 2000, in accordance with Standard Paragraph E at the end of this notice.

**8. California Independent System Operator Corporation**

[Docket No. ER00–3352–000]

Take notice that on August 2, 2000, the California Independent System Operator Corporation (ISO), tendered for filing an executed Metered Service Agreement (MSA) for ISO Metered Entities between the ISO and the City of Anaheim, California (Rate Schedule No. 173).

The ISO requests that the MSA become effective as of May 9, 2000. The ISO also requests waiver of the Commission's sixty-day prior notice requirement, pursuant to section 35.3 of the Commission's Regulations, 18 CFR 35.3, in order to permit this effective date.

The ISO states that copies of this filing have been served upon all parties in the above-referenced docket.

*Comment date:* August 23, 2000, in accordance with Standard Paragraph E at the end of this notice.

**9. Midwest Electric Power, Inc.**

[Docket No. ER00–3353–000]

Take notice that on August 2, 2000, Midwest Electric Power, Inc. (MEP), tendered for filing a Power Supply Agreement dated July 19, 2000 between MEP as Seller and Ameren Energy Marketing Company (AEM), Dynegy Power Marketing, Inc. (Dynegy), and LG&E Energy Marketing, Inc. (LEM) as Purchasing Parties (the Agreement).

MEP states that it has recently acquired and installed two new natural gas-fired combustion turbines, each of which has a generation capacity of 39 MW, that are collectively identified as the 6B Project. MEP states that under the Agreement, it will sell all of the capacity and associated energy from the 6B Project to the Purchasing Parties pursuant to a cost of service formula rate. The capacity and energy available from the 6B Project will be sold to the Purchasing Parties with the following Capacity Ratios:

AEM—60%

Dynegy—20%

LEM—20%

MEP is proposing to make the Agreement effective as of August 3, 2000.

*Comment date:* August 23, 2000, in accordance with Standard Paragraph E at the end of this notice.

**10. California Power Exchange Corporation**

[Docket No. ER00–3354–000]

Take notice that on August 2, 2000, the California Power Exchange Corporation (CalPX), tendered for filing certain revised tariff sheets pertaining to its Tariff Amendment Nos. 15, 16 and 17. Those amendments were accepted by the Commission in orders issued in Docket Nos. ER00–2630–000, ER00–2631–000 and ER00–2632–000, respectively. The tariff sheets tendered for filing in this proceeding do not make any substantive changes in the CalPX Tariff but merely conform the tariff sheets to the pagination and format of the Order No. 614 CalPX Tariff accepted by the Commission in Docket No. ER00–2736–000.

The CalPX states that it has served copies of its filing on its participants and on the California Public Utilities Commission.

*Comment date:* August 23, 2000, in accordance with Standard Paragraph E at the end of this notice.

**11. Duke Energy Moss Landing, LLC**

[Docket No. ER00–3355–000]

Take notice that on August 2, 2000, Duke Energy Moss Landing, LLC (Moss Landing), pursuant to section 205 of the Federal Power Act and section 35.15(a), 18 CFR 35.15(a) of the Commission's Regulations, Moss Landing tendered for filing with the Federal Energy Regulatory Commission a Notice of Termination of the Must-Run Rate Schedule between Moss Landing and that California Independent System Operator Corporation as the Must-Run Rate Schedule applies to Unit 6, designated as Moss Landing's FERC Rate Schedule No. 2.

Additionally, pursuant to section 35.15(a) of the Commission's Regulations, Moss Landing requests an effective date for this termination of October 1, 2000.

*Comment date:* August 23, 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. 00–20509 Filed 8–11–00; 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

August 8, 2000.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Major New License.

b. *Project No:* 372–008.

c. *Date filed:* June 12, 1998.

d. *Applicant:* Southern California Edison Company.

e. *Name of Project:* Lower Tule River Hydroelectric Project.

f. *Location:* On the North and South Forks of the Middle Fork Tule River in Tulare County, California, partially within the boundaries of the Sequoia National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Wesley Moody, Southern California Edison Company, 2244 Walnut Grover Avenue, P.O. Box 800, Rosemead, CA 91770, (626) 302–1564.

i. *FERC Contact:* Nan Allen, telephone 202–219–2938.

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* 60 days from the issuance date of this notice.

All documents (original and eight copies) must 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 interveners 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 intervener files comments

or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Status of Environmental Analysis:* This application has been accepted, and is ready for environmental analysis at this time.

l. *Description of Project:* The existing project consists of: (1) a 15-foot-high, concrete dam; (2) a 5-foot-high, rubble masonry dam; (3) a 31,802-foot-long flow line; (4) a 2,815-foot-long steel penstock; (5) a 3.37 acre-foot forebay; (6) a powerhouse containing two turbine-generator units with a total installed capacity of 2,520 kilowatts (kW); (7) a 2,352-foot-long tailrace; and (8) appurtenant facilities. The project is estimated to generate an average of 17.9 million kWh annually. The dam and existing project facilities are owned by the applicant.

m. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files and Maintenance Branch, located at 888 North Capitol Street, NE., Room 2–A, Washington, DC 20426, or by calling (202) 219–1371. This filing may also be viewed on the web at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

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 or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS", "TERMS AND CONDITIONS", or "PRESCRIPTIONS"; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing 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. 00–20487 Filed 8–11–00; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Application to Amend License, and Soliciting Comments, Motions to Intervene, and Protests

August 8, 2000.

a. *Application Type:* Application to Amend License for the East Juliette Project.

b. *Project No.:* P–7019–050.

c. *Date Filed:* March 1, 2000.

d. *Applicant:* Eastern Hydroelectric Corporation.

e. *Name of Project:* East Juliette Project.

f. *Location:* The Project is located on the Ocmulgee River in Monroe County, GA.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Robert L. Rose, Eastern Hydroelectric Corporation, P.O. Box 35236, Sarasota, FL 34242. Tel: (941) 312–0303.

i. *FERC Contact:* Any questions on this notice should be addressed to Jarrad Kosa at (202) 219–2831.

j. Deadline for filing comments and/or motions: 30 days from the issuance date of this notice.

All documents (original and eight copies) must be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NW., Washington, DC 20426.

Please include the project number (P–7019–050) on any comments or motions filed.

k. *Description of Filing:* Eastern Hydroelectric Corporation proposes to increase the total installed capacity at the project. The proposed activities include the installation of a 1,200 kW generator and minor construction activities on the west side of the East Juliette Dam. The proposed upgrade would increase the net project capacity from 643 kW to 1843 kW, and the net hydraulic capacity of the project would increase from 268 cfs to 971 cfs.

l. *Location 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. This filing may also be viewed on the internet 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 in item h above.

m. Individuals who wish to be included in 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 the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMNEDATIONS", "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. 00–20485 Filed 8–11–00; 8:45 am]

**BILLING CODE 6717–01–M**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Settlement Agreement and Soliciting Comments

August 8, 2000.

Take notice that the following settlement agreement has been filed with the Commission and is available for public inspection:

a. *Type of application:* Settlement on New License Application.

b. *Project No:* 137–002; Project Name: Mokelumne; Applicant: Pacific Gas and Electric.

c. *Date Settlement Agreement Filed:* July 28, 2000.

d. *Location:* On the North Fork Mokelumne and its tributaries, east of the city of Sacramento, California, in Alpine, Amador and Calaveras Counties. The project occupies federal lands managed by the Eldorado and Stanislaus National Forests and the Bureau of Land Management.

e. *Filed Pursuant to:* Federal Power Act, 16 USC 791(a)–825(r).

f. *Applicant's Contact:* David W. Moller, Pacific Gas and Electric Company, P.O. Box 770000, San Francisco, CA 94177–0001, (415) 973–4696.

g. *FERC Contact:* Jim Fargo (202) 219–2848, *james.fargo@ferc.fed.us.*

h. *Deadline Dates:* comments due: September 4, 2000 reply comments due: September 19, 2000.

i. 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 interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. Settlement Agreement was filed with the Commission on July 28, 2000. The agreement is the final, executed Mokelumne Relicensing Settlement Agreement for Project No. 137. The purpose of the Settlement is to resolve among the signatory parties all streamflow issues for ecological purposes and river-based recreational use, as well as other resolved subjects. The Settlement will support the Forest Service in issuing its Final 4(e) Conditions and FERC in preparing its Final Environmental Assessment and issuing a new license for the project. Comments and reply comments on the Offer of Settlement are due on the dates listed above.

k. Copies of the offer of settlement are 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. This filing may be viewed on http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance) or at the address listed in item f above.

**David P. Boergers,**

*Secretary.*

[FR Doc. 00–20486 Filed 8–11–00; 8:45 am]

**BILLING CODE 6717–01–M**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. PL00–1–000]**

### Dialog Concerning Natural Gas Transportation Policies Needed to Facilitate Development of Competitive Natural Gas Markets

August 4, 2000.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice of staff conference.

**SUMMARY:** In Order No. 637 (65 FR 10156), issued on February 9, 2000, the Federal Energy Regulatory Commission (Commission) revised its regulatory policies, amended its regulations, and established new procedures to enhance the competitiveness and efficiency of markets for the transportation of natural gas in interstate commerce. As part of the effort to achieve these goals, the Commission determined to institute a dialog between the industry and Commission staff so that Commission staff could achieve a better understanding of industry trends and regulatory changes that better meet the changing character of the industry. This notice establishes the first of several public staff conferences that will permit an industry-wide discussion of issues affecting natural gas transportation policies and the role such natural gas transportation services play in energy markets in general.

**DATES:** The conference will take place on September 19, 2000, starting at 9:30 a.m., Requests to participate are due by September 1, 2000.

A second and third conference will be held in January 2001, and April 2001. The second conference will focus on affiliate issues. The third conference will focus on the potential need for fundamental changes to the Commission's regulatory model are needed, such as the use of performance based rates or two-track regulatory models with different approaches for captive and non-captive customers.

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

**FOR FURTHER INFORMATION CONTACT:** 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:**

### Notice of Staff Conference

Take notice that on September 19, 2000, the Staff of the Federal Energy Regulatory Commission will hold a public conference to discuss the impact of Commission transportation policies on the development of natural gas markets as contemplated in the Commission's Final Rule issued in Order No. 637 on February 9, 2000.[1] The conference will begin at 9:30 a.m. at the Commission's offices, 888 First Street, NE., Washington, DC in the Commission's Meeting Room. All interested persons are invited to attend.

[1] Regulation of Short-Term Natural Gas Transportation Services, Order No. 637, Final Rule, 65 FR 10156 (Feb. 25, 2000), FERC Stats. & Regs. Regulations Preambles (Jan. 2000–June 2000). ¶ 31,091 (Feb. 9, 2000), Order No. 637–A, Order on Rehearing, 65 FR 35705 (June 5, 2000) FERC Stats. & Regs. ¶ 31,099 (May 19, 2000)

This conference begins the industry dialog as discussed in Order No. 637 [2] that will enable the industry and market participants to discuss with staff, as well as each other, issues relating to the development of Commission policy and regulatory responses to rate and service revisions to meet the needs of the changing natural gas market. These conferences will provide an opportunity for Commission staff to "achieve a better understanding of industry trends and regulatory changes that better meet the changing character of the industry." [3] The conferences will assist staff in developing recommendations for the Commission about whether to initiate rulemaking proceedings, changes in policy for individual cases, or Commission conferences on specific issues.

While the topics listed for discussion in Order No. 637 are interrelated, the initial set of topics have been divided into three conferences to better focus the discussions at each conference. This first conference will focus on commodity markets and transportation policies and practices that will make these markets more liquid. The second conference will be held in January 2001 and will focus on affiliate issues. The third conference will be held in April 2001 and will focus on whether fundamental changes to the Commission's regulatory model are needed, such as the use of performance based rates or two-track regulatory models with different approaches for captive and non-captive customers.

The first conference on commodity markets will examine whether regulatory changes are needed now or in the foreseeable future to promote further development of liquid markets for natural gas at both upstream and downstream trading points, to reflect the changing character of the market, such as new markets resulting from increased electric generation load and retail unbundling, and to further standardize services to meet market needs, particularly the development of eCommerce. Examples of issues that should be examined are:

- Whether downstream and upstream natural gas commodity markets are liquid today. What are the key downstream trading points?
- What are the factors that improve or impede market liquidity at upstream and downstream trading points?
- Whether rate design changes are needed to further facilitate development of upstream or downstream markets, including revisions to SFV rate design or use of volumetric firm rates.
- Whether liquidity in downstream markets facilitates retail unbundling by reducing the need for firm capacity upstream of the liquid trading point. For instance, would a reliable downstream market enable marketers participating in retail unbundling programs or electric generators to rely on the purchase of gas at the market center in lieu of subscribing to firm primary point capacity to the LDC's city-gate.
- Whether changes or revisions to the "shipper must have title" rule will facilitate the development of downstream markets. If so, how should the rule be changed?
- Whether master or umbrellas contracts aggregating released capacity contracts would further the development of markets. Does the proposal for cross-contract ranking and entity-to-entity confirmation provide the aggregation necessary?
- Whether changes to capacity allocation procedures would facilitate commodity market liquidity.
- Whether greater commoditization of capacity, such as standardized terms and conditions of service, would further the development of upstream and downstream markets and the trading of capacity.
- Whether greater standardization of penalty procedures nationally or regionally would reduce penalty arbitrage and facilitate the further growth of commodity markets.

Participants will not be limited to these areas of inquiry, but can put forth for discussion other issues or proposals to improve the liquidity of the commodity market. Among the topics for discussion at the conference will be procedural avenues for further Commission action, such as periodic published staff reports, changes in policy through individual proceedings, or the use of rulemaking proceedings.

The conference will consist of short presentations but with an emphasis on roundtable discussions of the issues. Persons interested in participating in the discussions should indicate their interest by September 1, 2000, by a letter addressed to the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, and should refer to Docket No. PL00–1–000. Each request to participate must include a contact person, telephone number and E-mail address.

Comments addressing these issues also may be filed on September 1, 2000, but those wishing to participate do not have to file comments. Comments also may be submitted within 30 days after the conference. Comments should include a one-page single spaced summary of the participant's position.

The request to participate should also state which of the issues the participant wishes to address in order of preference. Every effort will be made to accommodate requests to make presentations, but depending on the number of requests received, a limit may need to be placed on the number of participants or the time for presentations. To provide for a more productive conference, interested persons should coordinate their efforts and choose one spokesperson to make a statement on behalf of a group where interests coincide. Upon receipt of these requests, a subsequent notice of the conference presentation schedule will be issued.

The Capitol Connection may broadcast this conference in the Washington, DC area if there is sufficient interest. For those interested persons outside the Washington, DC area, the Capitol Connection may broadcast the conference via live satellite for a fee if there is sufficient interest to justify the cost. To indicate interest in either the local or national broadcast, please call David Reininger or Julia Morelli at the Capitol Connection (703–993–3100) as soon as possible, or e-male to *www.capitolconnection.gmu.edu.*

In addition, National Narrowcast Network Hearing-On-The-Line service covers all FERC meetings live by telephone so that interested persons can listen at their desks, from their homes, or from any phone, without special equipment. Billing is based on time on-line. Call 202–966–2211 for further details. Anyone interested in purchasing videotapes of the meeting should call VISCOM at (703) 715–7999.

Questions about the conference should be directed to: Robert A. Flanders, Office of Markets Tariffs and Rates, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, 202–208–2084, robert.flanders@ferc.fed.us

**David P. Boergers,**

*Secretary.*

[FR Doc. 00–20266 Filed 8–11–00; 8:45 am]

BILLING CODE 6717–01–M

[2] Id., FERC Stats. & Regs. ¶ 31,091 at pp. 31,268–69.

[3] Id., FERC Stats. & Regs. ¶ 31,091 at pp. 31,268.

## ENVIRONMENTAL PROTECTION AGENCY

[PF–962; FRL–6739–2]

### Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

**DATES:** Comments, identified by docket control number PF–962, must be received on or before September 13, 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–962 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Hoyt Jamerson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9368; e-mail address: jamerson.hoyt@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 | Examples of Potentially Affected Entities |
|---|---|---|
| Industry | 111 | Crop production |
| | 112 | Animal production |
| | 311 | Food manufacturing |
| | 32532 | 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–962. 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–962 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 (7502C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: "opp-docket@epa.gov," or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–962. 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: August 4, 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.

**Monsanto Company**

*9E6003*

EPA has received a pesticide petition (9E6003) from the Interregional Research Project Number 4 (IR-4), 681 U.S. Highway #1, South, North Brunswick, New Jersey 08902–3390 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 180.364. The proposed amendments to 40 CFR 180.364, are listed in the section entitled "Summary of Revisions to § 180.364 Glyphosate; tolerances for residues Proposed by Monsanto". The following summary also includes several revisions to § 180.364 which were proposed by the registrant, Monsanto Company, in **Federal Register** notices of January 10, 2000, 65 FR 1370 (FRL–6394–6) and July 25, 2000, 65 FR 45769 (FRL–6596–4). In the **Federal Register** notice of January 10, 2000, Monsanto Company proposed to amend 40 CFR part 180 by establishing tolerances for residues of glyphosate in or on the food commodities field corn forage at 3.0 ppm (PP 8F4973); alfalfa hay at 400 ppm and alfalfa forage at 175 ppm (PP 9F5906); and stover and straw of the cereal grains group at 100 ppm (PP 9F6007). Monsanto also proposed deletion of currently established tolerances on alfalfa at 200 ppm; fresh alfalfa at 0.2 ppm; field corn stover at 100 ppm; grain sorghum stover at 40 ppm; and wheat straw at 85 ppm. The registrant proposed these tolerances for deletion since they are either no longer needed or are superceded by the proposed crop group tolerances.

In a second notice published in the **Federal Register** on July 25, 2000, Monsanto proposed to amend 40 CFR part 180 by establishing tolerances for the grass forage, fodder, and hay group at 300 ppm and by revising the tolerance expression under § 180.364(a)(1) to read as follows:

"(a) *General.* (1) Tolerances are established for residues of glyphosate (*N*-(phosphonomethyl)glycine) from the application of glyphosate, the isopropylamine salt of glyphosate, the ethanolamine salt of glyphosate, and the ammonium salt of glyphosate. * * *"

Monsanto also proposed that the glyphosate commodity tolerances in § 180.364(a)(2) and (a)(3) be transferred to § 180.364(a)(1), that § 180.364(a)(1) be redesignated as § 180.364(a), and that § 180.364(a)(2) and (a)(3) be deleted.

**A Summary of the Revisions to § 180.364 Proposed by Monsanto**

Revise § 180.364 by redesignating paragraph (a)(1) as paragraph (a), which would read as follows:

"(a) *General.* Tolerances are established for residues of glyphosate (*N*-(phosphonomethyl)glycine) resulting from the application of glyphosate, the isopropylamine salt of glyphosate, the ethanolamine salt of glyphosate and the ammonium salt of glyphosate in or on the following food commodities:"

Transfer the commodity tolerances from § 180.364(a)(2) and § 180.364(a)(3) to the table in § 180.364(a) and delete § 180.364(a)(2) and § 180.364(a)(3).

Revise the table under § 180.364(a) by the establishment of new tolerances, increasing the tolerance for selected commodities (increase), the deletion of duplicate commodity tolerance entries and the deletion of commodity tolerances that are superceded by the proposed crop group tolerances, the conversion of commodity terms to comply with EPA's Food and Feed Vocabulary Data Base (http://www.epa.gov/pesticides/foodfeed/), and the transfer of commodity tolerances from § 180.364(a)(2) and § 180.364(a)(3) to the table in § 180.364(a):

| Existing Tolerances from 180.364(a)(1) | Proposed Changes |
|---|---|
| Acerola at 0.2 ppm | No change. |
| Alfalfa at 200.0 ppm | Delete. See tolerances for Alfalfa, hay and Alfalfa, forage. |
| Alfalfa, forage at 75.0 ppm | Increase tolerance for Alfalfa, forage to 175 ppm. |
| Alfalfa, fresh and hay at 0.2 ppm | Delete. See tolerances for Alfalfa, hay and Alfalfa, forage. |
| Alfalfa, hay at 200.0 ppm | Increase tolerance for Alfalfa, hay to 400 ppm. |
| Almonds, hulls at 1 ppm | Delete. Tolerance established for Almond hulls at 25 ppm. |
| Almond hulls at 25 ppm | Amend to read "Almond, hulls" at 25 ppm.<br>Add "Animal feed, nongrass, group (except alfalfa)" at 200 ppm. |
| Artichokes, Jerusalem at 0.2 ppm | Delete. Included in Vegetable, root and tuber, group (except sugar beet) at 0.2 ppm. |

| Existing Tolerances from 180.364(a)(1) | Proposed Changes |
|---|---|
| | Add "Aloe vera" at 0.5 ppm.<br>Add "Ambarella" at 0.2 ppm.<br>Add "Artichoke, globe" at 0.2 ppm. |
| Asparagus at 0.5 ppm | No change. |
| Aspirated grain fractions at 200.0 ppm | Amend to read "Aspirated grain fractions" at 200 ppm. |
| Atemoya at 0.2 ppm | No change. |
| Avocados at 0.2 ppm | Amend to read "Avocado" at 0.2 ppm. |
| Bahiagrass at 200.0 ppm | Delete. Included in Grass, forage, fodder and hay, group at 300 ppm.<br>Add "Bamboo, shoots" at 0.2 ppm. |
| Bananas at 0.2 ppm | Amend to read "Banana" at 0.2 ppm.<br>Insert entry for "Barley, bran" at 30 ppm from 180.364(a)(3).<br>Insert entry for "Barley, grain" at 20 ppm from 180.364(a)(3). |
| Beets at 0.2 ppm | Delete. Included in Vegetable, root and tuber, group (except sugar beet) at 0.2 ppm.<br>Insert entry for "Beet, sugar, dried pulp" at 25 ppm from180.364(a)(3).<br>Insert entry for "Beet, sugar, roots" at 10 ppm from 180.364(a)(3).<br>Insert entry for "Beet, sugar, tops" at 10 ppm from 180.364(a)(3). |
| Bermudagrass at 200.0 ppm | Delete. Included in Grass, forage, fodder and hay, group at 300 ppm.<br>Add "Berry group" at 0.2 ppm. |
| Bluegrass at 200.0 ppm | Delete. Included in Grass, forage, fodder and hay, group at 300 ppm. |
| Breadfruit at 0.2 ppm | No change. |
| Bromegrass at 200.0 ppm | Delete. Included in Grass, forage, fodder and hay, group at 300 ppm.<br>Add "Betelnut" at 1.0 ppm.<br>Add "Biriba" at 0.2 ppm.<br>Add "Blimbe" at 0.2 ppm.<br>Add "Borage, seed" at 0.1 ppm.<br>Add "Cactus, fruit" at 0.5 ppm.<br>Add "Cactus, pads" at 0.5 ppm. |
| Canistel at 0.2 ppm | No change.<br>Insert entry for "Canola, meal" at 15 ppm from 180.364(a)(3).<br>Insert entry for "Canola, seed" at 10 ppm from 180.364(a)(3). |
| Carambola at 0.2 ppm | Amend to read "Starfruit" at 0.2 ppm. |
| Carrots at 0.2 ppm | Delete. Included in Vegetable, root and tuber, group (except sugar beet) at 0.2 ppm. |
| Cattle, kidney at 4.0 ppm | No change. |
| Cattle, liver at 0.5 ppm | No change. |
| Celeriac at 0.2 ppm | Delete. Included in Vegetable, root and tuber, group (except sugar beet) at 0.2 ppm.<br>Add "Chaya" at 1.0 ppm. |
| Cherimoya at 0.2 ppm | No change. |
| Chickory at 0.2 ppm. | Delete. Included in Vegetable, root and tuber, group (except sugar beet) at 0.2 ppm. |
| Citrus, fruits at 0.5 ppm | Amend to read "Fruit, citrus, group" at 0.5 ppm. |
| Citrus pulp, dried at 1.5 ppm | Amend to read "Citrus, dried pulp" at 1.5 ppm |
| Clover at 200.0 ppm | Delete. Included in Animal feed, nongrass, group (except alfalfa) at 200 ppm. |
| Cocoa beans at 0.2 ppm | Amend to read "Cacao bean" at 0.2 ppm. |
| Coconut at 0.1 ppm | No change. |
| Coffee beans at 1 ppm | Amend to read "Coffee, bean" at 1.0 ppm. |
| Corn, field, forage at 1.0 ppm | Increase the tolerance for Corn, field, forage to 3.0 ppm. |
| Corn, field, grain at 1.0 ppm | No change. |
| Corn, field, stover at 100.0 ppm | Delete. Included in Grain, cereal, stover and straw, group at 100 ppm. |
| Cotton gin byproducts at 100.0 ppm | Amend to read "Cotton, gin byproducts" at 100 ppm. |
| Cottonseed at 15 ppm | Amend to read "Cotton, undelinted seed" at 15 ppm. |
| Cranberries at 0.2 ppm | Amend to read "Cranberry" at 0.2 ppm.<br>Add Crambe, seed at 0.1 ppm.<br>Add Custard apple at 0.2 ppm. |
| Dates at 0.2 ppm | Amend to read "Date" at 0.2 ppm.<br>Add Dokudami at 2.0 ppm.<br>Insert entry for "Durian" at 0.2 ppm from 180.364(a)(2).<br>Add "Egg" at 0.1 ppm.<br>Add "Epazote" at 1.3 ppm.<br>Add "Feijoa" at 0.2 ppm. |
| Fescue at 200.0 ppm | Delete. Included in Grass, forage, fodder and hay, group at 300 ppm. |

| Existing Tolerances from 180.364(a)(1) | Proposed Changes |
|---|---|
| Figs at 0.2 ppm | Amend to read "Fig" at 0.2 ppm. |
| Fish at 0.25 ppm | No change.<br>Add "Flax, seed" at 4.0 ppm.<br>Add "Flax, meal" at 8.0 ppm. |
| Forage grasses at 0.2 ppm | Delete. Included in Grass, forage, fodder and hay, group at 300 ppm. |
| Forage legumes (except soybeans and peanuts) at 0.4 ppm | Delete. Included in Vegetable, foliage of legume, group, (except soybean) at 0.2 ppm. |
| Fruits, small, and berries at 0.2 ppm | Delete. Included in Berry group at 0.2. See also entries for cranberry, grape and strawberry in this table.<br>Add "Galangal, roots" at 0.2 ppm. |
| Genip at 0.2 ppm | Amend to read "Marmaladebox" at 0.2 ppm.<br>Add "Ginger, white, flower" at 0.2 ppm.<br>Add "Gourd, buffalo, seed" at 0.1 ppm. |
| Goats, kidney at 4.0 ppm | Amend to read "Goat, kidney" at 4.0 ppm. |
| Goats, liver at 0.5 ppm | Amend to read "Goat, liver" at 0.5 ppm.<br>Add "Governor's Plum" at 0.2 ppm.<br>Add "Gow Kee, leaves" at 0.2 ppm.<br>Insert entry for "Grain crops (except wheat, corn, oats, grain sorghum, and barley)" at 0.1 ppm from 180.364(a)(3) and amend to read "Grain, Cereal Group (except barley, field corn, grain sorghum, oats and wheat)" at 0.1 ppm.<br>Add "Grain, cereal, stover and straw, group" at 100 ppm. |
| Grapes at 0.2 ppm | Amend to read "Grape" at 0.2 ppm.<br>Add "Grass, forage, fodder and hay, group" at 300 ppm. |
| Grasses, forage at 0.2(N) ppm | Delete. Included in "Grass, forage, fodder and hay, group" at 300 ppm. |
| Guavas at 0.2 ppm | Amend to read "Guava" at 0.2 ppm.<br>Add "Herbs subgroup" at 0.2 ppm. |
| Hogs, kidney at 4.0 ppm | Amend to read "Hog, kidney" at 4.0 ppm. |
| Hogs, liver at 0.5 ppm | Amend to read "Hog, liver" at 0.5 ppm.<br>Add "Hop, dried cones" at 7.0 ppm. |
| Horseradish at 0.2 ppm | Delete. Included in Vegetable, root and tuber, group (except sugar beet) at 0.2 ppm. |
| Horses, kidney at 4.0 ppm | Amend to read "Horse, kidney" at 4.0 ppm. |
| Horses, liver at 0.5 ppm, | Amend to read "Horse, liver" at 0.5 ppm.<br>Add "Ilama" at 0.2 ppm.<br>Add "Imbe" at 0.2 ppm.<br>Add "Imbu" at 0.2 ppm. |
| Jaboticaba at 0.2 ppm | No change. |
| Jackfruit at 0.2 ppm. | No change.<br>Add "Jojoba, seed" at 0.1 ppm.<br>Add "Juneberry" at 0.2 ppm.<br>Add "Kava, roots" at 0.2 ppm<br>Add "Kenaf, forage" at 200 ppm. |
| Kiwifruit at 0.2 ppm. | No change. |
| Leafy vegetables at 0.2(N) ppm | Delete. Included in Vegetable, leafy, group at 0.2 ppm; Vegetable, Brassica leafy, group at 0.2 ppm;Vegetable, leaves of root and tuber, group, except sugar beet tops, at 0.2 ppm.<br>Add "Lesquerella, seed" at 0.1 ppm.<br>Add "Leucaena, forage" at 200 ppm.<br>Add "Lingonberry" at 0.2 ppm. |
| Longan at 0.2 ppm | No change. |
| Lychee at 0.2 ppm | No change.<br>Add "Mamey apple" at 0.2 ppm. |
| Mamey sapote at 0.2 ppm | No change. |
| Mangoes at 0.2 ppm. | Amend to read "Mango" at 0.2 ppm.<br>Insert entry for "Mangosteen at 0.2 ppm from180.364(a)(2).<br>Add "Meadowfoam, seed" at 0.1 ppm.<br>Add "Mioga, flower" at 0.2 ppm. |
| Molasses, sugarcane at 30.0 ppm | Amend to read "Sugarcane, molasses" at 30 ppm.<br>Add "Mustard, seed" at 0.1 ppm.<br>Add "Nut, pine" at 1.0 ppm. |
| Nuts at 0.2 ppm | Delete. Included in Nut, tree, group at 1.0 ppm. |
| Oats, grain at 20.0 ppm | Amend to read "Oat, grain" at 20 ppm. |
| Oil, palm at 0.1 ppm | Amend to read "Palm, oil" at 0.1 ppm.<br>Add "Okra" at 0.5 ppm. |

| Existing Tolerances from 180.364(a)(1) | Proposed Changes |
|---|---|
| Olives at 0.2 ppm | Amend to read "Olive" at 0.2 ppm. |
| Olives, imported at 0.1 ppm | Delete. Included in entry for "Olive" at 0.2 ppm. |
| Orchardgrass at 200.0 ppm | Delete. Included in Grass, forage, fodder and hay, group at 300 ppm.<br>Add "Oregano, Mexican, leaves" at 2.0 ppm.<br>Add "Palm heart, leaves" at 0.2 ppm. |
| Papayas at 0.2 ppm | Amend to read "Papaya" at 0.2 ppm.<br>Add "Papaya, mountain" at 0.2 ppm. |
| Parsnips at 0.2 ppm | Delete. Included in Vegetable, root and tuber, group (except sugar beet) at 0.2 ppm. |
| Passion fruit at 0.2 ppm | Amend to read "Passionfruit" at 0.2 ppm.<br>Add "Pawpaw" at 0.2 ppm. |
| Peanut, forage at 0.5 ppm | No change. |
| Peanut, hay at 0.5 ppm | No change. |
| Peanuts at 0.1 ppm | Amend to read "Peanut" at 0.1 ppm.<br>Add "Pepper leaf, fresh leaves" at 0.2 ppm. |
| Peppermint at 200 ppm | Amend to read "Peppermint, tops" at 200 ppm.<br>Add "Perilla, tops" at 1.8 ppm. |
| Persimmons at 0.2 ppm | Amend to read "Persimmon" at 0.2 ppm. |
| Pineapple at 0.1 ppm | No change. |
| Pistachio nuts at 0.2 ppm | Amend to read "Pistachio." Increase tolerance to 1.0 ppm. |
| Pome fruits at 0.2 ppm | Amend to read "Fruit, pome. group" at 0.2 ppm. |
| Pomegranates at 0.2 ppm | Amend to read "Pomegranate" at 0.2 ppm. |
| Potatoes at 0.2 ppm | Delete. Included in Vegetable, root and tuber, group (except sugar beet) at 0.2 ppm. |
| Poultry, kidney at 0.5 ppm | Delete. Add "Poultry, meat byproducts" at 1.0 ppm.<br>Add "Poultry meat" at 0.1 ppm. |
| Poultry, liver at 0.5 ppm | Delete. Incuded in Poultry, meat byproducts at 1.0 ppm..<br>Add "Pulasan" at 0.2 ppm.<br>Add "Quinoa, grain" at 5.0 ppm. |
| Radishes at 0.2 ppm | Delete. Included in Vegetable, root and tuber group (except sugar beet) at 0.2 ppm.<br>Insert entry for Rambutan at 0.2 ppm from 180.364(a)(2).<br>Add "Rapeseed, seed" at 10 ppm.<br>Add "Rapeseed, meal" at 15 ppm.<br>Add "Rose apple" at 0.2 ppm. |
| Rutabagas at 0.2 ppm | Delete. Included in Vegetable, root and tuber, group (except sugar beet) at 0.2 ppm. |
| Ryegrass at 200.0 ppm | Delete. Included in Grass, forage, fodder and hay, group at 300 ppm.<br>Add "Safflower, seed" at 0.1 ppm.<br>Add "Salal" at 0.2 ppm. |
| Salsify at 0.2 ppm | Delete. Included in Vegetable, root and tuber, group (except sugar beet) at 0.2 ppm. |
| Sapodilla at 0.2 ppm | No change. |
| Sapote, black at 0.2 ppm | No change. |
| Sapote, white at 0.2 ppm | No change. |
| Seed and pod vegetables at 0.2(N) ppm | Delete. Included in Vegetable, legume, group (except soybean) at 5.0 ppm. See also soybean at 20 ppm and okra at 0.5 ppm. |
| Seed and pod vegetables, forage at 0.2(N) ppm | Delete. Included in Vegetable, foliage of legume, group (except soybean forage and hay) at 0.2 ppm. See also soybean, forage at 100 ppm. |
| Seed and pod vegetables, hay at 0.2(N) ppm. | Delete. Included in Vegetable, foliage of legume, group (except soybean forage and hay) at 0.2 ppm. See also soybean, hay at 200 ppm.<br>Add "Sesame, seed" at 0.1 ppm. |
| Sheep, kidney at 4 ppm | Amend to read "Sheep, kidney" at 4.0 ppm. |
| Sheep, liver at 0.5 ppm | No change. |
| Shellfish at 3 ppm | Amend to read "Shellfish" at 3.0 ppm.. |
| Sorghum, grain at 15 ppm | Amend to read "Sorghum, grain, grain" at 15 ppm. |
| Sorghum, grain, stover at 40 ppm | Delete. Included in "Grain, cereal, stover and straw, group" at 100 ppm. |
| Soursop at 0.2 ppm | No change. |
| Soybean hulls at 100.0 ppm. | Amend to read "Soybean, hulls" at 100 ppm. |
| Soybeans at 20.0 ppm | Amend to read "Soybean" at 20 ppm. |
| Soybeans, aspirated grain fractions at 50.0 ppm | Amend to read "Soybean, aspirated grain fractions" at 50 ppm. |
| Soybeans, forage at 100.0 ppm | Amend to read "Soybean, forage" at 100 ppm. |

| Existing Tolerances from 180.364(a)(1) | Proposed Changes |
|---|---|
| Soybeans, grain at 20.0 | Delete. Duplicate entry. See soybean at 20 ppm. |
| Soybeans, hay at 200.0 ppm | Amend to read "Soybean, hay" at 200 ppm.<br>Add "Spanish lime" at 0.2 ppm. |
| Spearmint at 200 ppm | Amend to read "Spearmint, tops" at 200 ppm.<br>Add "Spices subgroup" at 7.0 ppm.<br>Add "Star apple" at 0.2 ppm.<br>Add "Stevia, dried leaves" at 1.0 ppm.<br>Add "Strawberry" at 0.2 ppm. |
| Stone fruit at 0.2 ppm | Amend to read "Fruit, stone, group" at 0.2 ppm. |
| Sugar apple at 0.2 ppm | No change. |
| Sugarcane at 2.0 ppm | No change. |
| Sunflower seed at 0.1 ppm | Amend to read "Sunflower, seed" at 0.1 ppm.<br>Add "Surinam cherry" at 0.2 ppm. |
| Sweet potatoes at 0.2 ppm | Delete. Included in the Vegetable, root and tuber, group (except sugar beet) at 0.2 ppm. |
| Tamarind at 0.2 ppm | No change. |
| Tea, dried at 1.0 ppm. | Amend to read "Tea, dried" at 1.0 ppm. |
| Tea, instant at 7.0 ppm | Amend to read "Tea, instant" at 7.0 ppm. |
| | Add "Teff, grain" at 5.0 ppm. |
| | Add "Ti, leaves" at 0.2 ppm. |
| | Add "Ti, roots" at 0.2 ppm. |
| Timothy at 200.0 ppm | Delete. Included in Grass, forage, fodder and hay, group at 300 ppm. |
| Tree nut crop group at 1.0 ppm | Amend to read "Nut, tree, group" at 1.0 ppm. |
| Turnips at 0.2 ppm | Delete. Included in Vegetable, root and tuber, group (except sugar beet) at 0.2 ppm.<br>Add Ugli fruit at 0.5 ppm. |
| Vegetables, bulb at 0.2 ppm | Amend to read "Vegetable, bulb, group" at 0.2 ppm. |
| Vegetables, cucurbit at 0.5 ppm | Amend to read "Vegetable, cucurbit, group" at 0.5 ppm. |
| Vegetable, fruiting (except cucurbits) group at 0.1 ppm | Amend to read "Vegetable, fruiting, group" at 0.1 ppm. |
| Vegetables, leafy, Brassica (cole) at 0.2 ppm | Amend to read "Vegetable, Brassica leafy, group" at 0.2 ppm.<br>Add "Vegetable, foliage of legume, group (except soybean forage and hay)" at 0.2 ppm.<br>Add "Vegetable, leafy, group at 2.0 ppm.<br>Add "Vegetable, leaves of root and tuber, group (except sugar beet tops)" at 0.2 ppm.<br>Insert entry "Vegetable, legume, group (except soybeans) at 5.0 ppm from 180.364(a)(3).<br>Add "Vegetable, root and tuber, group (except sugar beets)" at 0.2 ppm.<br>Add "Wasabi , roots" at 0.2 ppm.<br>Add "Water spinach, tops" at 0.2 ppm.<br>Add "Watercress, upland" at 0.2 ppm.<br>Add "Wax jambu" at 0.2 ppm. |
| Wheat, grain at 5.0 ppm | Amend to read "Wheat, grain" at 5.0 ppm. |
| Wheat milling fractions (excluding flour) at 20.0 ppm | Amend to read "Wheat milling fractions (excluding flour)" at 20 ppm. |
| Wheat, straw at 85.0 ppm | Delete. Included in "Grain, cereal, stover and straw, group at 100 ppm. |
| Wheatgrass at 200.0 ppm | Delete. Included in Grass, forage, fodder and hay group at 300 ppm.<br>Add "Yacon, tuber" at 0.2 ppm. |
| Yams at 0.2 ppm | Delete. Included in Vegetable, root and tuber, group (except sugar beet) group at 0.2 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 qualitative nature of the residue in plants is adequately understood. Studies with a variety of plants including corn, cotton, soybeans, and wheat indicate that the uptake of glyphosate or its metabolite, aminomethylphosphonic acid (AMPA), from soil is limited. The material which is taken up is readily translocated. Foliarly applied glyphosate is absorbed and translocated throughout the trees or vines to the fruit of apples, coffee, dwarf citrus (calamondin), pears, and grapes. Metabolism via *N*-methylation yields *N*-methylated glycines and phosphonic acids. For the most part, the ratio of glyphosate to AMPA is 9 to 1 but can approach 1 to 1 in a few cases (e.g., soybeans and carrots). Much of the residue data for crops reflect a detectable residue of parent (0.05–0.15 ppm) along with residues below the level of detection (<0.05 ppm) of AMPA. Only glyphosate parent is regulated in plant and animal commodities since the metabolite AMPA is not of toxicological concern.

2. *Analytical method.* There is a practical analytical method for detecting and measuring levels of glyphosate in or on food with a limits of detection (0.05 ppm) that allows monitoring of food with residues at or above the levels set in these tolerances. These methods include gas liquid chromatography (GLC) (Method I in Pesticides Analytical Manual (PAM) II (the limit of detection is 0.05 ppm) and high performance liquid chromatography (HPLC) with fluorometric detection. The HPLC procedure has undergone successful Agency validation and was recommended for inclusion in PAM II. A gas chromatography/mass spectrometry (GC/MS) method for glyphosate in crops has also been validated by EPA's Analytical Chemistry Laboratory (ACL).

*B. Toxicological Profile*

1. *Acute toxicity.* Results from an acute oral study in rats show a combined lethal dose ($LD_{50}$) for glyphosate of is greater than 5,000 milligram/kilogram (mg/kg). An acute dermal study in rabbit resulted in a $LD_{50}$ of greater than 5,000 mg/kg. The results of a primary eye irritation study in the rabbit showed severe irritation for glyphosate acid. However, glyphosate is normally formulated as one of several salts and eye irritation studies on the salts showed essentially no irritation. A primary dermal irritation study showed essentially no irritation. A primary dermal sensitization study showed no sensitization. Based on these data, Monsanto concludes that the acute toxicity and irritation potential of glyphosate is low.

2. *Genotoxicity.* A number of mutagenicity studies were conducted and were all negative. These studies included: chromosomal aberration *in vitro* (no aberrations in Chinese hamster ovary cells were caused with or without S9 activation); deoxyribonucleic acid (DNA) repair in rat hepatocyte; *in vivo* bone marrow cytogenic test in rats; rec-assay with *B. subtilis*; reverse mutation test with *S. typhimurium*; Ames test with *S. typhimurium*; and dominant-lethal mutagenicity test in mice. Negative results were also obtained when glyphosate was tested in a dominant-lethal mutation assay.

3. *Reproductive and developmental toxicity.* An oral developmental toxicity study with rats given doses of 0, 300, 1,000 and 3,500 mg/kg/day with a maternal no observed adverse effect level (NOAEL) of 1,000 mg/kg/day based on clinical signs of toxicity, body weight effects and mortality, and a fetal NOAEL of 1,000 mg/kg/day based on reduced body weights and delayed sternebrae maturation at the highest dose tested (HDT) of 3,500 mg/kg/day. An oral developmental toxicity study with rabbits given doses of 0,75, 175 and 350 mg/kg/day with a maternal NOAEL of 175 mg/kg/day based on clinical signs of toxicity and mortality, and a fetal NOAEL of 350 mg/kg/day with no developmental toxicity at the dose levels tested.

A 3-generation reproduction study with rats fed dosage levels of 0, 3, 10 and 30 mg/kg/day with a NOAEL for systemic and reproductive/ developmental parameters of 30 mg/kg/ day based on no adverse effects noted at the dose levels tested. A 2-generation reproduction study with rats fed dosage levels of 0, 100, 500 and 1,500 mg/kg/ day with a NOAEL for systemic and developmental parameters of 500 mg/ kg/day based on body weight effects, clinical signs of toxicity in adult animals and decreased pup body weights, and a reproductive NOAEL of 1,500 mg/kg/day.

4. *Subchronic toxicity.* A 90-day feeding study in mice fed dosage levels of 0, 5,000, 10,000 and 50,000 with a NOAEL of 10,000 ppm based on body weight effects at the high dose. A 90-day feeding study in rats fed dosage levels of 0, 1,000, 5,000 and 20,000 ppm with a NOAEL of 20,000 ppm based on no effects even at the HDT. A 90-day feeding study in dogs given glyphosate, via capsule, at doses of 0, 200, 600 and 2,000 mg/kg/day with a NOAEL of 2,000 mg/kg/day based on no effects even at the HDT.

5. *Chronic toxicity.* The reference dose (RfD) for glyphosate is calculated to be 2.0 mg/kg/bwt/day based on maternal effects in a developmental study with rabbits (NOAEL of 175 mg/kg/bwt/day) and using a hundred-fold safety factor.

A mouse carcinogenicity study with mice fed dosage levels of 0, 150, 750 and 4,500 mg/kg/day with a NOAEL of 750 mg/kg/day based on body weight effects and microscopic liver changes at the high dose. There was no carcinogenic effect at the HDT of 4,500 mg/kg/day.

A 12-month oral study in dogs given glyphosate, via capsule, at doses of 0, 20, 100 and 500 mg/kg/day with a NOAEL of 500 mg/kg/day based on no adverse effects at any dose level.

A 24-month chronic/feeding carcinogenicity study with rats fed dosage levels of 0, 89, 362 and 940 mg/ kg/day (males) and 0, 113, 457 and 1,183 mg/kg/day (females) with a systemic NOAEL of 362 mg/kg/day based on body weight effects in the female and eye effects in males. There was no carcinogenic response at any dose level.

A 26-month chronic/feeding carcinogenicity study with rats fed dosage levels of 0, 3, 10 and 31 mg/kg/ day (males) and 0, 3, 11 and 34 mg/kg/ day (females) with a systemic NOAEL of 31 mg/kg/day (males) and 34 mg/kg/day (females) based on no carcinogenic or other adverse effects at any dose level.

The EPA Carcinogenicity Peer Review Committee has classified glyphosate in Group E (evidence of non-carcinogenicity for humans), based upon lack of convincing carcinogenicity evidence in adequate studies in two animal species. There was no evidence of carcinogenicity in an 18-month feeding study in mice and a 2-year feeding study in rats at the dosage levels tested. The doses tested were adequate for identifying a cancer risk.

6. *Animal metabolism.* The qualitative nature of the residue in animals is adequately understood. Studies with lactating goats and laying hens fed a mixture of glyphosate and AMPA indicate that the primary route of elimination was by excretion (urine and feces). These results are consistent with metabolism studies in rats, rabbits, and cows. The terminal residues in eggs, milk, and animal tissues are glyphosate and its metabolite AMPA; there was no evidence of further metabolism. The terminal residue to be regulated in livestock is glyphosate per se.

7. *Endocrine disruption.* The toxicity studies required by EPA for the registration of pesticides measure numerous endpoints with sufficient sensitivity to detect potential endocrine-modulating activity. No effects have been identified in subchronic, chronic, or developmental toxicity studies to indicate any endocrine-modulating activity by glyphosate. In addition, negative results were obtained when glyphosate was tested in a dominant-lethal mutation assay. While this assay was designed as a genetic toxicity test, agents that can affect male reproduction function will also cause effects in this assay. More importantly, the multi-generation reproduction study in rodents is a complex study design which measures a broad range of endpoints in the reproductive system and in developing offspring that are sensitive to alterations by chemical agents. Glyphosate has been tested in two separate multi-generation studies and each time the results demonstrated that glyphosate is not a reproductive toxin.

*C. Aggregate Exposure*

1. *Dietary exposure.* Tolerances have been established (40 CFR 180.364) for the residues of (*n*-(phosphonomethyl)glycine resulting

from the application of the isopropylamine salt of glyphosate and/or the monoammonium salt of glyphosate, in or on a variety of plant and animal raw agricultual commodities (RACs) including kidney of cattle, goats, hogs, horses, and sheep at 4.0 ppm; liver of cattle, goats, hogs, horses, and sheep at 0.5 ppm; and liver and kidney of poultry at 0.5 ppm based on animal feeding studies and worst-case livestock diets.

i. *Food.* The chronic dietary exposure analysis was conducted using the RfD of 2.0 mg/kg/day based on the maternal NOAEL of 175 mg/kg/day from a developmental study and an uncertainty factor of 100 (applicable to all population groups). The Dietary Exposure Evaluation Model (DEEM) analysis assumed tolerance level residues and 100% of the crop treated.

ii. *Drinking water.* Generic Expected Environmental Concentration (GENEEC) and Screening Concentration and Ground Water (SCI-GROW) models were run by EPA to produce maximum estimates of glyphosate concentrations in surface and ground water, respectively. The drinking water exposure for glyphosate from the ground water screening model, SCI-GROW, yields a peak and chronic Estimated Environmental Concentration (EEC) of 0.0011 parts per billion (ppb) in ground water. The GENEEC values represent upper-bound estimates of the concentrations that might be found in surface water due to glyphosate use. Thus, the GENEEC model predicts that glyphosate surface water concentrations range from a peak of 1.64 ppb to a 56-day average of 0.19 ppb. The model estimates are compared directly to drinking water level of comparison (DWLOC) (chronic). The DWLOC (chronic) is the theoretical concentration of glyphosate in drinking water so that the aggregate chronic exposure (food + water + residential) will occupy no more than 100% of the RfD. This assessment does not take into account expected reductions in any glyphosate concentrations in water arising from water treatment of surface water prior to releasing it for drinking purposes. The Agency's default body weights and consumption values used to calculate DWLOCs are as follows: 70 kg/2L (adult male), 60 kg/2L (adult/female), and 10 kg/1L (child).

2. *Non-dietary exposure.* Glyphosate is currently registered for use on the following residential non-food sites: Around ornamentals, shade trees, shrubs, walks, driveways, flower beds, and home lawns. Exposure (non-occupational) of the general population to glyphosate is expected based on the currently-registered uses; however, due to the low acute toxicity and lack of other toxicological concerns, Monsanto believes that the risk posed by non-occupational exposure to glyphosate is minimal. The proposed new uses are not expected to affect this route of exposure compared to presently approved uses.

*D. Cumulative Effects*

Because the existing data base is insufficient to fully assess cumulative toxic effects that may be caused by glyphosate along with other chemical compound(s) that may share a common mechanism of toxicity, Monsanto believes that any consideration of such an analysis of toxicity is inappropriate at this time.

*E. Safety Determination*

1. *U.S. population*—i. *Acute risk.* An acute dietary endpoint and dose was not identified in the toxicology data base. Adequate rat and rabbit developmental studies did not provide a dose or endpoint that could be used for acute dietary risk purposes. Additionally, there were no data requirements for acute or subchronic rat neurotoxicity studies since there was no evidence of neurotoxicity in any of the toxicology studies at very high doses.

ii. *Chronic risk.* The theoretical maximum residue contribution for existing, published and pending tolerances for glyphosate is 1.5% of the RfD for the overall U.S. population. Even using conservative exposure assumptions, there is not enough exposure from the proposed new uses to calculate a significant contribution to the TMRC. Therefore, Monsanto concludes that aggregate exposure from the proposed new uses will not add to the RfD for the overall U.S. population. EPA generally has no concern for exposures below 100% of the RfD. The DWLOCs are 69,000 g/L for the U.S. population in 48 contiguous States, males (13+), non-Hispanic whites, and non-Hispanic blacks; and 19,000 for non-nursing infants (less than 1 year old) and children (1–6 years). Although the GENEEC and SCI-GROW models are known to produce worst-case estimates, the resulting average concentrations of glyphosate in the surface and ground water are more than 10,000-fold less than the DWLOC (chronic). Therefore, taking into account present uses and uses proposed in this action, Monsanto concludes with reasonable certainty that no harm will result from chronic aggregate exposure to glyphosate.

iii. *Aggregate cancer risk for U.S. population.* Glyphosate has been classified as a Group E chemical, with no evidence of carcinogenicity for humans in two acceptable animal studies.

2. *Infants and children.* In assessing the potential for additional sensitivity of infants and children to residues of glyphosate, data were considered from developmental toxicity studies in the rat and rabbit and multi-generation reproduction studies in rats. No birth defects were observed in the offspring of rats given glyphosate by gavage at dose levels of 0, 300, 1,000, and 3,500 mg/kg/day on days 6 through 19 of gestation. The NOAEL for this study was 1,000 mg/kg/day based on maternal and developmental toxicity observed at the HDT, 3,500 mg/kg/day. The high-dose in this study was 3.5 times higher than the limit dose that is currently required by the guidelines. No birth defects were observed in the offspring of rabbits given glyphosate by gavage at dose levels of 0, 75, 175, and 350 mg/kg/day on days 6 through 27 of gestation. The NOAEL for this study is considered to be 175 mg/kg/day based on maternal toxicity at the high-dose of 350 mg/kg/day. Because no developmental toxicity was observed at any dose level, the developmental NOAEL is considered to be 350 mg/kg/day.

Male and female rats were fed glyphosate at dose levels of 0, 3, 10, and 30 mg/kg/day every day throughout the production of three successive generations. No adverse treatment-related effects on reproduction were observed. In a second reproduction study, male and female rats were fed glyphosate at dose levels of 0, 100, 500, and 1,500 mg/kg/day every day throughout the production of two successive generations. Reduced body weights and soft stools occurred at 1,500 mg/kg/day (3% of the diet); therefore, the systemic NOAEL is considered to be 500 mg/kg/day. Glyphosate did not affect the ability of rats to mate, conceive, carry or deliver normal offspring at any dose level.

The TMRC for existing, published and pending tolerances (including the minor crops proposed for tolerances in this petition) for glyphosate utilize up to 3% of the RfD for non-nursing infants, the most highly-exposed subgroup. Although there is a low likelihood of potential exposure to glyphosate in drinking water and from non-dietary, non-occupational exposure, EPA has previously concluded that the aggregate exposure is not expected to exceed 100% of the RfD. The safety determination is unaffected by the proposed change in the tolerance regulation. Therefore, based on the completeness and reliability of the toxicity data and the conservative

exposure assessment, Monsanto concludes that there is a reasonable certainty that no harm will result from aggregate exposure to residues of glyphosate, including all anticipated dietary exposure and all other non-occupational exposures.

*F. International Tolerances*

Codex maximum residue levels have not been established for residues of glyphosate on the crops proposed for tolerances in this petition.

[FR Doc. 00–20539 Filed 8–11–00; 8:45 a.m.]

BILLING CODE 6560–50–S

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6846–7]**

### Regulatory Reinvention (XL) Pilot Projects

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of availability of the Project XL Proposed Final Project Agreement: Autoliv XL Project.

**SUMMARY:** EPA is requesting comments on a proposed Project XL Final Project Agreement (FPA) for Autoliv Automobile Safety Products, U.S.A. (hereafter "Autoliv"). The FPA is a voluntary agreement developed collaboratively by Autoliv, the State of Utah, and EPA. Project XL, announced in the **Federal Register** on May 23, 1995 (60 FR 27282), gives regulated entities the flexibility to develop alternative strategies that will replace or modify specific regulatory or procedural requirements on the condition that they produce greater environmental benefits.

In the draft FPA, Autoliv proposes to develop, evaluate and implement, an alternative to open burning of certain wastes generated at its facility. This waste is reactive only, and contains no appreciable levels of hazardous constituents. These reactive hazardous wastes are presently treated through open burning at a RCRA Interim Status facility.

Autoliv currently operates a $3 million Metals Recovery Facility (MRF) designed to recover aluminum and steel from inflator units containing live pyrotechnic material as well as previously fired units. The MRF is capable of recovering 2000 pounds per hour of recyclable aluminum and steel from off-spec commercial inflator units and their components while minimizing the waste to the environment. Autoliv's XL Project proposes to process small volumes of its waste pyrotechnic materials within the MRF rather than sending the materials to a RCRA regulated treatment, storage or disposal facility (TSDF) for open burning. Specifically, the company is asking EPA to grant a conditional exemption from the definition of hazardous waste for the pyrotechnic materials processed through the MRF. The MRF has an extensive air pollution train which is capable of capturing the particulate emissions produced by the waste pyrotechnic materials.

The proposed project will demonstrate that it is feasible to utilize existing equipment to process certain hazardous wastes in a more efficient and environmentally sound manner, under a more flexible regulatory framework. EPA anticipates that this project will provide information on how to develop alternative approaches to handling waste. This information would be useful to EPA in learning more about alternative treatment approaches for airbag manufacturing wastestreams. The company is also committing to reinvest percentage of the savings incurred through this project into additional pollution prevention activities at their facility. The type and extent of these activities will be specified after the first year's cost savings are calculated.

**DATES:** The period for submission of comments ends on August 21, 2000.

**ADDRESSEES:** To obtain a copy of the draft Final Project Agreement, contact: Mary Byrne, 999 18th Street, Suite 500, Denver, CO 80202–2466, or Ted Cochin, U.S. EPA, 1200 Pennsylvania Ave NW., (1802), Washington, DC 20460. The documents are also available via the Internet at the following location: "http://www.epa.gov/ProjectXL". In addition, public files on the Project are located at EPA Region 8 in Denver. Questions to EPA regarding the documents can be directed to Mary Byrne at (303) 312–6491 or Ted Cochin at (202) 260–0880. Additional information on Project XL, including documents referenced in this notice, other EPA policy documents related to Project XL, application information, and descriptions of existing XL projects and proposals, is available via the Internet at "http://www.epa.gov/ProjectXL".

**FOR FURTHER INFORMATION CONTACT:** To obtain a copy of the draft Final Project Agreement, contact: Mary Byrne, 999 18th Street, Suite 500, Denver, CO 80202–2466, or Ted Cochin, U.S. EPA, 1200 Pennsylvania Avenue NW., (1802), Washington, DC 20460. The documents are also available via the Internet at the following location: "http://www.epa.gov/ProjectXL". In addition, public files on the Project are located at EPA Region 8 in Denver. Questions to EPA regarding the documents can be directed to Mary Byrne at (303) 312–6491 or Ted Cochin at (202) 260–0880. Additional information on Project XL, including documents referenced in this notice, other EPA policy documents related to Project XL, application information, and descriptions of existing XL projects and proposals, is available via the Internet at "http://www.epa.gov/ProjectXL".

Dated: July 26, 2000.

**Jay Benforado,**

*Acting Associate Administrator, Office of Policy, Economics and Innovation.*

[FR Doc. 00–20537 Filed 8–11–00; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6850–6]**

### Regulatory Reinvention XL Pilot Projects; Project XL Proposed Final Project Agreement: Kodak Pollution Prevention Project

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of availability of the Project XL Proposed Final Project Agreement: Kodak Company Pollution Prevention Project.

**SUMMARY:** EPA is requesting comments on a proposed Project XL Final Project Agreement (FPA) for the Kodak Company (hereafter "Kodak.") The FPA is a voluntary agreement developed collaboratively by Kodak and the EPA.

**DATES:** Comments are due on or before August 28, 2000.

**ADDRESSES:** All comments on this proposed FPA should be sent to: Janet Murray, EPA Headquarters, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., mail code 1802, Washington DC 20460, or to BillWaugh, EPA Headquarters, Ariel Rios Building, 1200 Pennsylvania Avenue, mail code 7403, Washington DC 20460. Comments may also be faxed to Ms. Murray at (202) 260–3125 or Mr. Waugh at (202) 260–0118. Comments may also be received via e-mail sent to: *murray.janet@epa.gov* or *waugh.bill@epa.gov.*

**FOR FURTHER INFORMATION CONTACT:** To obtain a copy of the proposed FPA, contact: Janet Murray, EPA Headquarters, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., mail code 1802, Washington DC 20460. The FPA and related documents are also available via the Internet at http://www.epa.gov/ProjectXL. Information on the project is also available for viewing at Kodak's

Neighborhood Information Center, located on the first floor of Building 28, 200 Ridge Road West, in Rochester, NY 14652–3413. Questions to EPA regarding documents can be directed to Janet Murray at (202) 260–7570. To be included in the Kodak Project XL mailing list for information about future meetings, or XL Progress Reports, contact Janet Murray at (202) 260–7570 or Bill Waugh at (202) 260–3489. Information on other aspects of Project XL, descriptions of other XL projects and proposals, and application information is available via the Internet at *http://www.epa.gov/ProjectXL.*

**SUPPLEMENTARY INFORMATION:** Project XL, first announced in the **Federal Register** on May 23, 1995 (60 FR 27282), gives regulated entities the flexibility to develop alternative strategies that will replace or modify specific regulatory or procedural requirements on the condition that they produce greater environmental benefits. EPA has set a goal of implementing fifty XL projects in full partnership with the states.

The Eastman Kodak Company (Kodak) in partnership with the United States Environmental Protection Agency (EPA) is entering into a Project XL Final Project Agreement (FPA) to pilot the application of and the dissemination of information about the Pollution Prevention Framework (P2 Framework) developed by the EPA Office of Prevention, Pesticides and Toxic Substances (OPPTS).

In the context of this XL Project, Kodak will apply the P2 Framework early in its product development cycle to help identify and develop products and processes that can be sustained both environmentally and economically. Kodak's application of the P2 Framework to its operations will help develop environmentally preferable products, while saving considerable time and money. Kodak believes many other companies can also develop environmentally preferable products by applying OPPT's P2 Framework, especially at the Research and Development stage of product development. As a part of their participation in this XL project, Kodak will receive administrative flexibility in the form of a shortened pre-manufacture review period (from 90 days to 45) for those new chemicals developed under the P2 Framework and submitted to the Agency for approval.

The EPA Office of Prevention, Pesticides and Toxic Substances (OPPTS) has developed a set of computerized risk screening tools which have the potential to significantly advance EPA's pollution prevention objectives by allowing companies to calculate or estimate important risk-related properties based on an analysis of chemical structure. OPPTS uses these tools in the P2 Framework to evaluate new chemicals when test data are lacking. OPPTS is also making these tools in the P2 Framework available to industry and demonstrating how they could be used to design safer chemicals, reduce waste generation, and identify other P2 opportunities. Kodak will pilot the application of and the dissemination of information about the P2 Framework under the Project XL Agreement.

The Agency encourages chemical manufacturers to incorporate health and environmental issues into product decision making during the development of new chemical substances. EPA has several ongoing initiatives intended to help stakeholders better assess risk issues during the early stages of chemical development efforts. Examples include the Design for Environment Program, the Green Chemistry Program, and the P2 Framework, among other programs. Of specific relevance to the Kodak XL Final Project Agreement is the P2 Framework as utilized in the development of safer new chemicals submitted as Premanufacture Notices (PMNs) under section 5 of the Toxic Substances Control Act (TSCA).

The P2 Framework is a set of computer models that predict risk-related properties of chemicals using structure activity relationships (SARs) and standard (default) scenarios. These models have been developed over a 20-year period by EPA's Office of Pollution Prevention and Toxics to screen new chemicals in the absence of data. Annually, EPA evaluates over 2,000 new chemicals submitted under section 5 of TSCA. TSCA requires that EPA evaluate the chemicals within 90 days, however the law does not require that the submitter conduct laboratory tests to evaluate the potential hazard and risk of the chemicals. Operating under this time limitation, and often without complete data, EPA has developed methods to quickly screen chemicals in the absence of data.

The P2 Framework Models capture the expertise of multiple EPA scientists, grantees, support contractors, and others in the scientific community, who have worked for over 20 years screening chemicals in the absence of data. The P2 Framework Project presents these 18 models to industry with the hope that the models will be useful in identifying potential problem chemicals and processes early in the research and development process.

The Framework, as currently constructed, does not address all biological endpoints. It is a screening-level methodology that is of most value when chemical-specific data are lacking. By using the P2 Framework early-on in product development, Kodak expects to submit pre-manufacture notices (PMNs) to EPA on new chemicals that will foster the development of new, greener products and emphasize P2 through source reduction. Kodak would then receive Project XL flexibility to manufacture PMN chemicals in 45 days as opposed to the current 90 day review period. The 45-day period would only be available for chemicals for which EPA has no further concerns. At day 20–25 of the 90 day review period, the Agency concludes its evaluation of chemicals it has determined to be low risk.

As part of their participation in this project, Kodak will not only institute full usage of the P2 Framework at its facilities, but will also conduct a series of innovative actions to help demonstrate to other stakeholders how the P2 Framework can help to develop products that are both environmentally and economically sustainable. Kodak will complete three separate and independent initiatives beyond its own use of the P2 Framework, in which they will address the scientific community, the business community, and upper level management within selected companies. Each of these three initiatives is designed to make other industrial stakeholders aware of the source reduction, pollution prevention and economic benefits that flow from use of the P2 Framework.

The P2 Framework allows companies to improve the environmental performance (*i.e.,* lower health hazard, lower environmental hazard, or lower exposure potential) of products, reduce costs, decrease potential liability, and improve market share, resulting in a significant competitive advantage. Companies can improve the environmental performance of their products by using the P2 Framework to pre-screen their product development options.

The public comment period on this project will be 14 days.

Dated: August 8, 2000.

**Elizabeth Shaw,**

*Director, Office of Environmental Policy Innovation.*

[FR Doc. 00–20536 Filed 8–11–00; 8:45 am]

BILLING CODE 6560–50–U

## ENVIRONMENTAL PROTECTION AGENCY

[FRL–6850–8]

### Notice of Approval of the Commonweaith of Pennsylvania's Submission Pursuant to Section 118 of the Clean Water Act and the Water Quality Guidance for the Great Lakes System

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of approval of the Commonwealth of Pennsylvania's submission of criteria, methodologies, policies and procedures for the Great Lakes System pursuant to Section 118(c) of the Clean Water Act.

**DATES:** EPA's approval is effective on August 14, 2000.

**FOR FURTHER INFORMATION CONTACT:** Evelyn S. MacKnight, Chief, PA/DE Branch (3WP11), Office of Watersheds, Water Protection Division, U.S. Environmental Protection Agency, Region 3, 1650 Arch Street, Philadelphia, Pennsylvania 19103, or telephone her at (215) 814–5717.

Copies of a letter from EPA to the Commonwealth of Pennsylvania explaining EPA's decision are available upon request by contacting Ms. MacKnight. This letter and other related materials submitted by the Commonwealth in support of their submission and considered by EPA in its decision are available for review by appointment at: EPA, Region 3, 1650 Arch Street, Philadelphia, Pennsylvania (telephone 215–814–5452. To access the docket material, call Larry Merrill at telephone 215–814–5452 between 8 a.m. and 4:30 p.m. (Eastern time) (Monday-Friday).

**SUPPLEMENTARY INFORMATION:** On March 23, 1995, EPA published the Final Water Quality Guidance for the Great Lakes System (Guidance) pursuant to section 118(c)(2) of the Clean Water Act, 33 U.S.C. 1268(c)(2). (March 23, 1995, 60 FR 15366). The Guidance, which was codified at 40 CFR part 132, requires the Great Lakes States to adopt and submit to EPA for approval water quality criteria, methodologies, policies and procedures that are consistent with the Guidance. 40 CFR part 132.4 & 132.5. EPA is required to approve of the State's submission within 90 days or notify the State that EPA has determined that all or part of the submission is inconsistent with the Clean Water Act or the Guidance and identify any necessary changes to obtain EPA approval. If the State fails to make the necessary changes within 90 days, EPA must publish a notice in the **Federal Register** identifying the approved and disapproved elements of the submission and a final rule identifying the provisions of part 132 that shall apply for discharges within the State.

EPA received the submission from Pennsylvania and reviewed it for consistency with the Guidance in accordance with 40 CFR part 131 and 132.5. On April 14, 1998, EPA published in the **Federal Register** a notice pursuant to 40 CFR 132.5(e) which solicited comment on the substantial National Pollutant Discharge Elimination System (NPDES) program modification component of Pennsylvania's submission. (63 FR 18195). On December 18, 1998, in a letter from EPA Region 3 to the Pennsylvania Department of Environmental Protection, EPA described in detail those provisions in Pennsylvania's submission determined to be inconsistent with the Guidance and subject to disapproval if not remedied by the Commonwealth. On January 14, 1999, EPA published in the **Federal Register** a Notice of Availability of the letter, and invited public comment on the findings in the letter. (64 FR 2490). In a letter dated March 17, 1999, and in subsequent submittals, Pennsylvania addressed all the inconsistencies identified in EPA's December 18, 1998 letter and EPA has determined that the entirety of the Commonwealth's submission is consistent with 40 CFR part 132. Pennsylvania's submission consists of standards, methodologies, policies and procedures adopted in accordance with the following provisions of the Guidance: the definitions in 40 CFR 132.2; the water quality criteria for the protection of aquatic life, human health and wildlife in tables 1–4 of part 132; the methodologies for development of aquatic life criteria and values, bioaccumulation factors, human health criteria and values and wildlife criteria in Appendices B–D of part 132; the antidegradation policy in Appendix E of part 132; and the implementation procedures in Appendix F of part 132. EPA approves these elements pursuant to 40 CFR 132.5.

Today's final action only addresses the provisions adopted by Pennsylvania to comply with section 118(c)(2) of the Clean Water Act and 40 CFR part 132. EPA is taking no action at this time with respect to other revisions Pennsylvania may have made to its NPDES program or water quality standards in areas not addressed by the Guidance or applicable outside of the Great Lakes System.

**Thomas C. Voltaggio,**

*Acting Regional Administrator, Region III.*

[FR Doc. 00–20606 Filed 8–11–00; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Sunshine Act Meeting

Pursuant to the provisions of the Government in the Sunshine Act (5 U.S.C. 552b), notice is hereby given that at 11:45 a.m. on Monday, August 14, 2000, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, pursuant to sections 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider matters relating to the Corporation's corporate, resolution, and supervisory activities.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. James D. LaPierre, Deputy Executive Secretary of the Corporation, at (202) 898–6757.

Dated: August 9, 2000.

Federal Deposit Insurance Corporation.

**James D. LaPierre,**

*Deputy Executive Secretary.*

[FR Doc. 00–20608 Filed 8–9–00; 4:12 am]

BILLING CODE 6714–01–M

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested

persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 7, 2000.

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Farmers & Merchants Financial Services, Inc., St. Paul, Minnesota; to merge with Minnesota Valley Financial Services, Inc., St. Paul, Minnesota, and thereby indirectly acquire Courtland State Bank, Courtland, Minnesota.

Board of Governors of the Federal Reserve System, August 8, 2000.

**Robert deV. Frierson,**

*Associate Secretary of the Board.*

[FR Doc. 00–20494 Filed 8–11–00; 8:45 am]

BILLING CODE 6210–01–P

## FEDERAL RESERVE SYSTEM

### Notice of Proposals To Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage de novo, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 8, 2000.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106–2204:

1. FleetBoston Financial Corporation, Boston, Massachusetts; to acquire more than 5 percent of the voting shares of North Fork Bancorporation, Melville, New York, which in turn has applied to own, control or operate Dime Bancorp, New York, New York, and The Dime Savings Bank of New York, FSB, New York, New York, a savings association. The ownership, control or operation of a savings association is an activity that is permissible for a bank holding company, pursuant to § 225.28(b)(4) of Regulation Y.

Board of Governors of the Federal Reserve System, August 10, 2000.

**Jennifer J. Johnson,**

*Secretary of the Board.*

[FR Doc. 00–20672 Filed 8–11–00; 8:45 am]

BILLING CODE 6210–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[Program Announcement 01003]**

### Cooperative Agreement for Research on the Ecology of Lyme Disease in the United States; Notice of Availability of Funds

#### A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for research on the ecology of Lyme disease in the United States. This program addresses the "Healthy People 2010" focus area of Immunization and Infectious Diseases.

The purpose of the program is to gain an increased understanding of the ecology of Lyme disease in the United States that will lead directly to the design of new prevention strategies to limit the transmission of the etiologic agent of Lyme disease, *Borrelia burgdorferi*, and closely related *Borrelia* organisms.

#### B. Eligible Applicants

Applications may be submitted by public and private, nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, state and local governments, or their bona fide agents, 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 $840,000 is available in FY 2001, to fund approximately five awards. It is expected that the average awards will be $210,000, ranging from $150,000 to $300,000. It is expected that the awards will begin on or about February 15, 2001, and will be made for a 12-month budget period within a project period of up to three years. The funding estimate may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

#### D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities). Applicants may apply for and receive support under one or more of the five focus areas listed in 1.a.

*1. Recipient Activities*

a. Define studies to address the following ecological issues:

(1) Tick population densities. Determine the biotic and abiotic factors that potentially regulate population densities of questing nymphal populations of *Ixodes scapularis* and *Ixodes pacificus* vector ticks. The influence of temperature, humidity, soil type, vegetation, and leaf litter on the density of questing nymphal ticks are examples of abiotic factors. The availability of hosts is a biotic factor.

(2) Prevalence of infection. Determine the biotic and abiotic factors that potentially regulate the prevalence of infection with *Borrelia burgdorferi*

sensu stricto in questing populations of nymphal *Ixodes scapularis* and *Ixodes pacificus*. Factors that are subject to examination include habitat types and host species distributions. The usefulness of an Ecological Risk Index (ERI) should be included. The correlation between an ERI and human cases is subject to examination. Along the eastern United States, a cline of infection prevalence in nymphal *Ixodes scapularis* ticks has been observed, with high infection prevalence in northern hyperendemic regions and low infection prevalence in southern regions. Determination of what factors influence this cline of infection prevalence should examine the role of reptiles as zooprophylactic hosts diverting larval ticks from feeding on more reservoir competent hosts such as rodents, the influence of overall host diversity of infection prevalence in tick populations, and the importance of the genetic composition of vector tick populations in maintaining spirochete enzootic cycles. Also, the role of transovarial transmission and cofeeding on infection prevalence should be addressed.

(3) Spirochete diversity. Determine the diversity of spirochetes in populations of *Ixodes scapularis* and *Ixodes pacificus* and how this diversity affects the ecologic risk of transmission of pathogenic *Borrelia* to people. In addition to *Borrelia burgdorferi* sensu stricto, the genetic type associated with human Lyme disease in North America, other genetic types of spirochetes have been found to be circulating in *Ixodes* tick populations, including *Borrelia bissettii*, *Borrelia andersoni*, and other as yet uncharacterized variants. The degree to which these diverse genetic types of spirochetes interact in nature and influence the transmission of pathogenic *Borrelia* to people should be subject to examination. The affect of spirochete genetic diversity on efforts to determine the overall ecologic risk of spirochete transmission to people should be addressed. The degree to which estimates of ecologic risk should be based solely on the prevalence of *Borrelia burgdorferi* sensu stricto versus other genetic types of *Borrelia burgdorferi* and should be addressed.

(4) *Borrelia lonestari*. Describe the enzootic cycle of *Borrelia lonestari* and evaluate the risk of transmission of this spirochete to people exposed to the bites of *Amblyomma americanum* ticks. *Borrelia lonestari* has been characterized by PCR as a spirochete infecting *Amblyomma americanum* ticks associated with rash related illnesses in the southern United States. This spirochete has not been cultured, and the reservoir hosts for these spirochetes have not been defined. Description of methods for culturing and further characterizing these spirochetes should be pursued. In addition, the reservoir hosts that serve to maintain this spirochete in nature should be addressed. Finally, the extent to which ticks infected with *B. lonestari* spirochetes contact people should be subject to evaluation.

(5) Tick distribution and dispersal. Describe the factors that potentially influence the distribution and dispersal of populations of *Ixodes scapularis* and *Ixodes pacificus*. The presence or absence of these vector ticks has been determined on a county by county basis for the entire United States. This distribution is dynamic, with ticks actively dispersing to new regions. The factors associated with this dispersal should be determined, including role of habitat type and host availability. The factors determining dispersal of each stage of the tick (larval, nymphal, and adult) as well as the dispersal of *Borrelia burgdorferi* associated with these tick populations should be evaluated.

b. Develop the research plan. Develop a sound research plan that will determine what potential factors play an important role influencing the one, several, or all of the ecological issues (A1–A5) listed above. The research plan should clearly state the hypothesis to be tested and the plan of action for gathering the needed data to prove or disprove the specific hypothesis. The resources available to test specific ecological hypotheses should be clearly spelled out. The sequence and time frame for obtaining the field and laboratory data must be clearly described.

c. Implement the research plan. The schedule for obtaining ecological data must be followed and the scientific testing of hypotheses carried out. Specific plans for significance testing of field and laboratory data must be implemented. Data must be collected and analyzed in a timely fashion.

d. Recommendations for new intervention strategies. Once the ecological studies are conducted and the analysis is completed, new intervention strategies based on these ecological studies should be devised. The overall purpose of conducting these ecological studies is to find weak links in the enzootic cycle of Lyme disease spirochetes that can be exploited to develop new prevention strategies. Formal recommendations on exploiting ecological knowledge for the development of applied control tools should be developed and submitted to CDC.

*2. CDC Activities*

a. Provide technical assistance in the design of ecological studies on Lyme disease, including information on the current distribution of vector ticks and their associated spirochetes, and the distribution of human cases of Lyme disease based on national surveillance data.

b. Provide technical assistance in the design of microbiological studies to detect and characterize spirochetes in tick populations.

c. Assist in the analysis of entomologic and ecologic data.

d. Assist, as requested, in the development of recommendations based on ecologic studies for novel means of preventing transmission of Lyme disease spirochetes.

e. Assist in the development of a research protocol for Institutional Review Board (IRB) review by all cooperating institutions participating in the research project. The CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

**E. Application Content**

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 12 double spaced pages, printed on one side, with one-inch margins, and unreduced font.

Each application should consist of: (1) An abstract; (2) a program narrative; and (3) a detailed budget.

(1) The abstract should summarize the background, needs, goals, objective and methods of the proposal on one page.

(2) The program narrative should include the following sections: Background, objectives, methods, plan of operation, and plan of evaluation. List and briefly describe specific, measurable, realistic, and time-phased objectives.

(3) A budget justification is required for all budget items and must be submitted with Standard Form 424A, "Budget Information", as part of PHS 5161–1 (Revised 7/92). For applicants requesting funding for subcontracts, include the name of the person or organization to receive the subcontract, the method of selection, the period of performance, and a description of the subcontracted service requested.

Letters of support can be included if applicants anticipate the participation of other organizations or political

subdivisions in conducting proposed activities. Specific roles and responsibilities should be delineated.

*Required Format*

Due to the need to reproduce copies of the applications for the reviewers, ALL pages of the application MUST be in the following format.

1. Applications should be UNSTAPLED and UNBOUND.
2. ALL pages must be clearly numbered, and a complete index to the application and its appendices must be included.
3. Begin each separate section on a new page.
4. All materials must be typewritten, single-spaced, and with a 12 point font on ONLY 8½" by 11" paper.
5. Any reprints, brochures, or other enclosures should be copied (single-sided) on to 8½" by 11" paper by the applicant.
6. All pages should be printed on ONE side only, with at least 1" margins, headers, and footers.
7. The application narrative for each recipient activity component must be limited to 12 pages, excluding abstract, budget, and appendices.
8. Materials that are part of the basic plan should not be placed in the appendices.

**F. Submission and Deadline**

*Letter of Intent*

In order to assist CDC in planning for and executing the evaluation of applications submitted under this Program Announcement, all parties intending to submit an application are requested to inform CDC of their intention to do so. Your letter of intent should include the name and address of institution and name, address and phone number of a contact person. Notification can be provided by facsimile, postal mail, or Email.

On or before September 10, 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 two copies of PHS 5161–1 (OMB Number 0937–0189).

On or before October 15, 2000, submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

*Deadline:* Applications shall 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 Independent Review Group deadline date and received in time for submission to the IRG. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

*Late Applications:* Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

**G. Evaluation Criteria**

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Plan (20 points)

a. The extent to which the applicant has understood the proposed activities and developed a sound research plan to address valid ecological issues relevant to the transmission of Lyme disease (10 points)

b. The extent to which the research plan is clear and concise (10 points)

2. Capacity (25 points)

a. Documented expertise in tick population biology and ecology. (15 points)

b. Demonstrated capacity in research on tick-borne disease and Lyme disease in particular (10 points)

3. Objectives (30 points)

a. Overall scientific quality of the proposed ecologic studies (15 points)

b. Likelihood that study outcome will result in the development of new intervention strategies (15 points)

4. Evaluation (20 points)

Demonstrated ability to perform outlined studies and derive conclusions from proposed activities

5. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. (5 points)

This includes:

(1) The proposed plan for the inclusion of both sexes and racial and ethnic populations for appropriate representation,

(2) the proposed justification when representation is limited or absent,

(3) a statement as to whether the design of the study is adequate to measure differences when warranted, and

(4) a statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

If these provisions are not relevant to the proposed scope of work, state this and 5 points will be credited to the application.

6. Budget (Not scored)

The extent to which the budget is reasonable, clearly justified, and consistent with the intended use of cooperative agreement funds.

7. Human Subjects (Not scored)

Does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects?

**H. Other Requirements**

*Technical Reporting Requirements*

Provide CDC with original plus two copies of:

1. Progress reports (semiannual);
2. financial status report, no more than 90 days after the end of the budget period; and
3. final financial status and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where To Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–3 Animal Subjects Requirements
AR–7 Executive Order 12372 Review
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–15 Proof of Non-Profit Status

**I. Authority and Catalog of Federal Domestic Assistance Number**

This program is authorized under sections 301(a) and 317(k)(2) of the Public Health Service Act [42 U.S.C. 241(a)] and 247b(k)(2), as amended. The Catalog of Federal Domestic Assistance number is 93.942.

**J. Where To Obtain Additional Information**

This and other CDC announcements can be found on the CDC home page internet address—http://www.cdc.gov Click on "Funding" then "Grants and Cooperative Agreements."

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 and address and will be instructed to identify the Announcement number of interest, [01003].

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Henry E. Eggink, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, Room 3000, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone number: 770–488–2740, Email address: hbe7@cdc.gov

For program technical assistance, contact: Joseph Piesman, D.Sc., Division of Vector-Borne Infectious Diseases, National Center for Infectious Diseases, Centers for Disease Control and Prevention, Fort Collins, CO 80522, Telephone number: 970–221–6400 Email address: jfp2@cdc.gov.

Dated: August 3, 2000.

**John L. Williams,**

*Director, Procurement and Grants Office, Center for Disease Control and Prevention (CDC).*

[FR Doc. 00–20498 Filed 8–11–00; 8:45 am]

BILLING CODE 4163–18–P

---

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[Program Announcement 01005]**

### Cooperative Agreement for Research on the Laboratory Diagnosis and Pathogenesis of Lyme Disease In the United States; Notice of Availability of Funds

#### A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for Research on the Laboratory Diagnosis and Pathogenesis of Lyme Disease in the United States. 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 Immunization and Infectious Diseases. For the conference copy of "Healthy People 2010", visit the internet site http://www.health.gov/healthypeople.

The purpose of the program is to develop improved and standardized laboratory tests to identify and characterize infection by *Borrelia burgdorferi* and related *Borrelia* species in humans and to better understand the pathogenic mechanisms of *B. burgdorferi*. Better laboratory methods can facilitate correct diagnosis and appropriate treatment of Lyme disease, thus preventing secondary consequences of infection. Better laboratory methods also can be used for improved surveillance and understanding of the epidemiology of Lyme disease in communities. Pathogenesis studies can enhance understanding of host responses to infection, leading to improved prevention or intervention strategies.

#### B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, State and local governments or their bona fide agents, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

**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 $1,200,000 dollars is available in FY 2001, to fund approximately seven awards. It is expected that the average award will be $200,000, ranging from $100,000 to $300,000. It is expected that the awards will begin on or about February 15, 2001, and will be made for a 12-month budget period within a project period of up to three years. The funding estimate may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

#### D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for one or more of the activities under 1. (Recipient Activities) and CDC will be responsible for the activities listed under 2. (CDC Activities).

*1. Recipient Activities*

a. Develop laboratory tests that are more sensitive, specific, and reproducible than laboratory methods currently in use to detect exposure to *B. burgdorferi* and to determine whether a patient is currently infected. Test methods may include, but are not limited to, serology, culture, polymerase chain reaction, or antigen detection.

b. Evaluate and standardize the performance of new testing methods for *B. burgdorferi* infection. These efforts should include both retrospective and prospective evaluations, including testing in clinical practice, and a direct comparison with the performance of two-tiered serologic testing.

c. Investigate aspects of the pathogenesis of infection with *B. burgdorferi* that have a direct link to developing improved methods of diagnosing, treating, or preventing Lyme disease.

d. Use animal models to develop interventions to ameliorate or prevent pathogenic effects of borrelial infection.

e. Determine the role of *Borrelia lonestari* in causing human illness. *B. lonestari* is characterized by PCR as a spirochete infecting *Amblyomma americanum* ticks and is associated with rash related illness, particularly in the southern United States.

*2. CDC Activities*

a. Provide technical assistance, as requested, in the design or evaluation of laboratory tests for infection with *B. burgdorferi* or *B. lonestari*.

b. Assist in the analysis of laboratory test data, as appropriate, depending on the needs of the recipient.

c. Assist in the acquisition of appropriate samples for study, as requested.

d. Assist in the design and evaluation of experiments using animal models of Lyme disease, as requested.

e. Assist in the coordination of research activities among different recipient sites.

f. Assist in the development of a research protocol for Institutional Review Board (IRB) review by all cooperating institutions participating in the research project. The CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

#### E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 12 double-spaced pages, printed on one side, with one-inch margins, and unreduced font.

Each application should consist of: (1) An abstract; (2) a program narrative; and (3) a detailed budget.

(1) The abstract should summarize the background, needs, goals, objective and methods of the proposal on one page.

(2) The program narrative should include the following sections: Background, objectives, methods, plan of operation, and plan of evaluation. List and briefly describe specific, measurable, realistic, and time-phased objectives.

(3) A budget justification is required for all budget items and must be submitted with Standard Form 424A, "Budget Information", as part of PHS 5161–1 (Revised 7/92). For applicants requesting funding for subcontracts, include the name of the person or organization to receive the subcontract, the method of selection, the period of performance, and a description of the subcontracted service requested.

Letters of support can be included if applicants anticipate the participation of other organizations or political subdivisions in conducting proposed activities. Specific roles and responsibilities should be delineated.

*Required Format*

Due to the need to reproduce copies of the applications for the reviewers, ALL pages of the application MUST be in the following format.

1. Applications should be UNSTAPLED and UNBOUND.
2. ALL pages must be clearly numbered, and a complete index to the application and its appendices must be included.
3. Begin each separate section on a new page.
4. All materials must be typewritten, single-spaced, and with a 12 point font on ONLY 8½" by 11" paper.
5. Any reprints, brochures, or other enclosures should be copied (single-sided) on to 8½" by 11" paper by the applicant.
6. All pages should be printed on ONE side only, with at least one-inch margins, headers, and footers.
7. The application narrative for each recipient activity component must be limited to 12 pages, excluding abstract, budget, and appendices.
8. Materials that are part of the basic plan should not be placed in the appendices.

**F. Submission and Deadline**

*Letter of Intent*

In order to assist CDC in planning for and executing the evaluation of applications submitted under this Program Announcement, all parties intending to submit an application are requested to inform CDC of their intention to do so. Your letter of intent should include the name and address of institution and name, address and phone number of a contact person. Notification can be provided by facsimile, postal mail, or Email.

On or before September 15, 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 two copies of PHS 5161–1 (OMB Number 0937–0189).

On or before October 15, 2000, submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement. Deadline: Applications shall 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 independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

*Late Applications:* Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

**G. Evaluation Criteria**

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. *Plan* (20 points)

The scientific validity of the proposed research plan and whether the plan addresses a stated purpose of the Cooperative Agreement Announcement.

2. *Capacity* (40 points)

a. The applicant's expertise in developing laboratory diagnostic tests or investigating pathobiologic events induced by infectious agents.

b. The applicant's experience in research on tick-borne disease and Lyme disease in particular.

c. The extent to which the applicant has the appropriate project personnel, organizational structure, and administrative support to assure meeting proposed objectives.

d. The extent to which the applicant has access to necessary biological materials or study populations.

3. Objectives and prospects for successfully achieving them and the likelihood that the product(s) of the investigation will result in the development of better prevention or intervention measures. (15 points)

4. *Evaluation* (20 points)

a. The feasibility of completing the proposed studies and meeting measurable objectives within the project period.

b. The extent to which the applicant proposes appropriate methods for evaluating the project and/or designs methods that are adequate to measure differences, when warranted.

5. *Inclusion of Women, Ethnic, and Racial Groups* (5 points). Applicants should meet CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes: (1) The proposed plan for the inclusion of both sexes and racial and ethnic populations for appropriate representation, (2) the proposed justification when representation is limited or absent, (3) a statement as to whether the design of the study is adequate to measure differences when warranted, and (4) a statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits. If these provisions are not relevant to the proposed scope of work, state this and 5 points will be credited to the application.

6. *Budget* (Not scored)

The extent to which the budget is reasonable, clearly justified, and consistent with the intended use of cooperative agreement funds.

7. *Human Subjects* (Not scored)

Does the application adequately address the requirements of Title 45 CFR part 46 for the protection of human subjects?

**H. Other Requirements**

*Technical Reporting Requirements*

Provide CDC with original plus two copies of

1. Progress reports, semiannual;
2. Financial Status Report, no more than 90 days after the end of the budget period; and
3. Final financial status and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where To Obtain Additional Information" section of this announcement.

For descriptions of the following Other Requirements, see Attachment I. in the application kit.

AR–1 Human Subjects Requirements

AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research

AR–3 Animal Subjects Requirements

AR–10 Smoke-Free Workplace Requirements

AR–11 Healthy People 2010

AR–12 Lobbying Restrictions

AR–15 Proof of Non-Profit Status

### I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a) and 317(k)(2) of the Public Health Service Act [42 U.S.C. 241(a) and 247b(k)(2)], as amended. The Catalog of Federal Domestic Assistance number is 93.942.

### J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page internet address—http://www.cdc.gov Click on "Funding" then "Grants and Cooperative Agreements."

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 and address and will be instructed to identify the Announcement number of interest, [01005].

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Henry E. Eggink, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, Room 3000, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone number: 770–488–2740, Email address: hbe7@cdc.gov.

For program technical assistance, contact: Barbara J. B. Johnson, Ph.D., Division of Vector-Borne Infectious Diseases, National Center for Infectious Diseases, Centers for Disease Control and Prevention, Fort Collins, CO 80522, Telephone number 970–221–6400, Email address: bjj1@cdc.gov.

Dated: August 8, 2000.

**John L. Williams,**

*Director, Procurement and Grants Office, Center for Disease Control and Prevention (CDC).*

[FR Doc. 00–20500 Filed 8–11–00; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[Program Announcement Number 01004]**

### Cooperative Agreements To Prevent Lyme Disease in the United States; Notice of Availability of Funds

### A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of Fiscal Year (FY) 2001 funds for a cooperative agreement program to prevent Lyme disease in human populations exposed to endemic *Borrelia burgdorferi* transmission. 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 Immunization and Infectious Diseases. For the conference copy of "Healthy People 2010", visit the internet site http://www.health.gov/healthypeople.

The purpose of this cooperative agreement program is to: (1) Promote and support community and other population-based interventions to prevent Lyme disease, and (2) develop novel strategies for Lyme disease prevention that are likely to be successfully implemented in the near future.

This program's overall objective is to lower the incidence of Lyme disease in hyperendemic states to 9.6 per 100,000 population or less by the year 2010. Eligible applicants may request support for the following two areas: interventions to reduce the incidence of human Lyme disease and its complications in endemic communities or high risk populations, and to develop and evaluate novel strategies to prevent Lyme disease by controlling vector tick populations or otherwise interrupt the transmission cycle of *B. burgdorferi*.

The incidence of Lyme disease in the United States has been increasing and is likely to continue to increase unless affected communities and populations at risk develop and implement integrated control and prevention strategies. Principal Lyme disease interventions include the use of area-wide and host-targeted acaricides; habitat modification; avoidance of tick-infested habitat; personal protective measures, including tick checks and early tick removal; early disease detection and treatment; and vaccination. In addition, there is a need to explore new methods of Lyme disease prevention that may yield higher levels of community and individual participation than existing strategies.

### B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations, and by governments and their agencies, that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, state and local governments, or their bona fide agents, 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

Funds will be awarded in two separate categories of prevention projects.

Approximately $2,000,000 is available in FY 2001 to fund approximately five awards for community-based or other population-based interventions to prevent Lyme disease. It is expected that the awards will be $400,000, ranging from $200,000 to $600,000.

Approximately $600,000 is available in FY 2001 to fund approximately four awards for developing and evaluating novel strategies to prevent Lyme disease. It is expected that the awards will be $150,000 ranging from $100,000 to $200,000.

It is expected that the awards will begin on or about February 15, 2001, and will be made for a 12-month budget period within a project period of up to three years. The Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

*Funding Preference*

Funding preference will be given to proposals that incorporate integrated strategies for population-based control of tick-borne diseases.

### D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities) below:

*1. Recipient Activities*

a. Proposals for interventions to reduce the incidence of human Lyme disease and its complications in endemic communities. Note: applicants are expected to carry out all of the following activities over the course of the project period.

(1) In cooperation with community leaders, residents, and local organizations and agencies, implement a population-based intervention strategy to prevent Lyme disease. This could include integrated application of methods to reduce tick abundance, promotion of personal protective practices, education leading to early disease detection and treatment, and the appropriate use of Lyme disease vaccine.

(2) Obtain data on the population's knowledge, attitudes, and practices related to the risk of Lyme disease, as well as factors influencing the adoption of prevention strategies.

(3) Obtain population-based data on current practices to control *I. scapularis* populations, or otherwise prevent Lyme disease, and on the feasibility of implementing specific control strategies.

(4) Establish active surveillance for Lyme disease in the intervention population, and promote active or passive surveillance for Lyme disease throughout the county or state of the applicant's jurisdiction during the project period.

(5) Collect and analyze data on tick abundance and tick infection rates that affect the intervention population. A plan to gather such data on a comparison population as well may enhance the scientific validity of the proposal, but is not a requirement.

(6) Analyze data on human cases of Lyme disease in both the intervention population and other populations within the same state and county during and after the intervention.

(7) Develop a plan to evaluate the intervention strategies' effect on Lyme disease incidence and tick densities in the area.

b. Proposals to develop and evaluate novel approaches to prevent Lyme disease by controlling vector tick populations or otherwise interrupt the transmission cycle of *B. burgdorferi*. Note: applicants are required to complete all components (1–4) for tick control proposals, or only component (5) for anti-tick vaccine proposals, during the project period.

(1) Design innovative methods to reduce tick populations in endemic communities. This may include one or more of the following: improved delivery of existing approved area-wide or host-targeted acaricides, the development of alternative acaricides, habitat modifications, host management, or biological control of ticks.

(2) Implement the tick control strategy in a Lyme disease endemic area.

(3) Evaluate the effect of the intervention on tick densities, infection rates, or human incidence of Lyme disease.

(4) Develop a plan for widespread or commercial dissemination of the tick control strategy.

(5) Develop candidate anti-tick vaccines that have potential to block the transmission of *Borrelia burgdorferi* to people, including any or all of the following:

(a) Utilize molecular biological and/or immunological techniques to identify unique candidate antigens.

(b) Evaluate the immunogenicity of candidate molecules in terms of both the B and T cell responses in a suitable model of tick-transmitted Lyme borreliosis.

(c) Evaluate novel methods of vaccine candidate delivery, *i.e.* plasmid DNA or sustained release vaccine technologies in a suitable model of tick-transmitted Lyme borreliosis.

*2. CDC Activities*

a. Proposals for interventions to reduce the incidence of human Lyme disease and its complications in endemic communities.

(1) Provide technical assistance, as requested, in the design of the intervention to prevent disease transmitted by *I. scapularis*.

(2) Provide technical assistance, as requested, in the implementation of the population-based intervention.

(3) Assist in the analysis of entomological, microbiological, population-based survey, and case surveillance data.

(4) Assist in the development of recommendations for population-based prevention of diseases transmitted by *I. scapularis* that can be extended to other endemic communities.

(5) Assist in the evaluation of the outcomes of the project and of the applicability to other populations at risk of Lyme disease.

(6) Assist in the development of a research protocol for Institutional Review Board (IRB) review by all cooperating institutions participating in the research project. The CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

b. Proposals to develop and evaluate novel approaches to prevent Lyme disease by controlling vector tick populations or otherwise interrupt the transmission cycle of *B. burgdorferi*.

(1) Provide technical assistance in the design, implementation, and evaluation of the intervention strategies, including technical assistance in the evaluation of candidate anti-tick vaccine candidates.

(2) Assist in performing selected laboratory and field procedures, as appropriate depending on the needs of the recipient.

(3) Assist in the coordination of research activities among different recipient sites and between agencies or other groups working on the same project.

(4) Assist in the analysis of research data.

(5) Support efforts to move forward toward registration and dissemination of novel control methodologies.

(6) Assist in the development of a research protocol for Institutional Review Board (IRB) review by all cooperating institutions participating in the research project. The CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

**E. Application Content**

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content.

If the applicant is not a state or local health department, then the applicant should collaborate with the appropriate state or county health department to assure that Lyme disease surveillance will be carried out during the project period. The community or group of communities in a Lyme disease endemic area (or a population otherwise at high risk of Lyme disease) selected for the population-based intervention project should be identified in the application. Consider identifying non-intervention populations for comparison.

Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 10 double-spaced pages, printed on one side, with one-inch margins, and unreduced font.

A table of contents should precede the narrative, and appropriate content headings should be clearly identified within the narrative. Applications which do not conform to the length requirements will be penalized points on review (see evaluation criteria).

Each application should consist of: (1) An abstract; (2) a program narrative; and (3) a detailed budget.

(1) The abstract should summarize the background, needs, goals, objective and methods of the proposal on one page.

(2) The program narrative should include the following sections:

background, objectives, methods, plan of operation, and plan of evaluation. List and briefly describe specific, measurable, realistic, and time-phased objectives.

(3) A budget justification is required for all budget items and must be submitted with Standard Form 424A, "Budget Information", as part of PHS 5161–1 (Revised 7/92). For applicants requesting funding for subcontracts, include the name of the person or organization to receive the subcontract, the method of selection, the period of performance, and a description of the subcontracted service requested.

Letters of support can be included if applicants anticipate the participation of other organizations or political subdivisions in conducting proposed activities. Specific roles and responsibilities should be delineated.

*Required Format*

Due to the need to reproduce copies of the applications for the reviewers, ALL pages of the application MUST be in the following format.

1. Applications should be UNSTAPLED and UNBOUND.

2. ALL pages must be clearly numbered, and a complete index to the application and its appendices must be included.

3. Begin each separate section on a new page.

4. All materials must be typewritten, single-spaced, and with a 12 point font on ONLY 8½″ by 11″ paper.

5. Any reprints, brochures, or other enclosures should be copied (single-sided) on to 8½″ by 11″ paper by the applicant.

6. All pages should be printed on ONE side only, with at least 1″ margins, headers, and footers.

7. The application narrative for each recipient activity component must be limited to 12 pages, excluding abstract, budget, and appendices.

8. Materials that are part of the basic plan should not be placed in the appendices.

**F. Submission Deadline**

*Letter of Intent*

In order to assist CDC in planning for and executing the evaluation of applications submitted under this Program Announcement, all parties intending to submit an application are requested to inform CDC of their intention to do so. Your letter of intent should include the name and address of institution and name, address and phone number of a contact person. Notification can be provided by facsimile, postal mail, or Email.

On or before September 10, 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 two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are in the application kit.

On or before October 15, 2000 submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

*Deadline:* Applications shall 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 independent review group (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

*Late Applications:* Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

**G. Evaluation Criteria**

Each application will be evaluated individually by an independent review group appointed by CDC.

1. Proposals for interventions to reduce the incidence of human Lyme disease and its complications in endemic communities.

a. Demonstrated high endemicity of Lyme disease in both target and comparison communities. (10 points)

b. Demonstrated support for the intervention from community residents and organizations. (10 points)

c. Documented expertise of the applicant in strategies to control populations of *I. scapularis* or in other methods to prevent Lyme disease. (10 points)

d. Demonstrated epidemiologic expertise in measuring population-based occurrence of disease and health outcomes. (10 points)

e. Likelihood that any proposed tick control strategies will result in substantial reductions of tick abundance in the target community. (13 points)

f. Likelihood that community education efforts will promote Lyme disease prevention within the target community. (12 points)

g. Quality of the plan to use Lyme disease vaccine (according to published CDC Advisory Committee on Immunization Practices guidelines), and for monitoring vaccine use in the intervention community. (5 points)

h. Likelihood that the proposed intervention will be practical and sustainable in the target community and can be implemented in other endemic communities. (10 points)

i. Demonstrated capacity and intent to conduct and maintain effective Lyme Disease surveillance throughout the country or state of the applicant's jurisdiction during the project period. (10 points) (Note: If the applicant is not a state or local health department, then the applicant should indicate collaboration with the appropriate state or county health department to assure that Lyme disease surveillance will be carried out during the project period.)

j. Conformity of application narrative to stated requirements (no more that 10 single-spaced pages, no less than 12 point type. (5 points)

**Note:** Applications which are either more than 10 single spaced pages, or use less than 12 point type, or both, will receive 0 points for this criterion.

k. Inclusion of Women, Ethnic, and Racial Groups Applicants should meet CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes: (1) The proposed plan for the inclusion of both sexes and racial and ethnic populations for appropriate representation, (2) the proposed justification when representation is limited or absent, and (3) a statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits (5 points). If these provisions are not relevant to the proposed scope of work, state this, and 5 points will be credited to the application.

l. Budget (Not scored) The extent to which the budget is reasonable, clearly justified, and consistent with the intended use of cooperative agreement fund.

m. Human Subjects (Not scored) Does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects?

n. Animal Research (Not scored) If applicable, does the application adequately address the requirements for ethical research using animals?

2. Proposals to develop and evaluate novel approaches to prevent Lyme disease by controlling vector tick populations or otherwise interrupt the transmission cycle of *B. burgdorferi*.

a. Extent to which the proposed method of tick control or anti-tick vaccines is scientifically valid and feasible. (20 points)

b. Scientific quality of the plan to evaluate the proposed prevention method (20 points)

c. Documented expertise of the applicant in tick control research or tick immunology, including publication of results in peer-reviewed scientific journals. (30 points)

d. Likelihood that the proposal will lead to a useful and practical prevention strategy that can be widely disseminated in community-based or other campaigns to prevent and control Lyme disease. (20 points)

e. Conformity of application narrative to stated requirements (no more that 10 single-spaced pages, no less than 12 point type. (5 points) Note: applications which are either more than 10 single-spaced pages, or use less than 12 point type, or both, will receive 0 points for this criterion).

f. Inclusion of Women, Ethnic, and Racial Groups Applicants should meet CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes: (1) The proposed plan for the inclusion of both sexes and racial and ethnic populations for appropriate representation, (2) the proposed justification when representation is limited or absent, and (3) a statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits (5 points). If these provisions are not relevant to the proposed scope of work, state this and 5 points will be credited to the application.

g. Budget (Not scored)

The extent to which the budget is reasonable, clearly justified. and consistent with the intended use of cooperative agreement funds.

h. Human Subjects (Not scored)

Does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects?

i. Animal Research (Not scored)

If applicable, does the application adequately address the requirements for ethical research using animals?

**H. Other Requirements**

*Technical Reporting Requirements*

Provide CDC with original plus two copies of:

1. Semiannual progress reports;

2. Financial Status Report, no more than 90 days after the end of the budget period; and

3. Final financial report and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

For descriptions of the following Other Requirements, see Attachment I. in the application kit.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–3 Animal Subjects Requirements
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–15 Proof of Non-Profit Status

**I. Authority and Catalog of Federal Domestic Assistance Number**

This program is authorized under sections 301(a) and 317(k)(2) of the Public Health Service Act [42 U.S.C. 241(a)] and [42 U.S.C. 247b(k)(2)], as amended. The Catalog of Federal Domestic Assistance number is 93.942.

**J. Where To Obtain Additional Information**

This and other CDC announcements can be found on the CDC home page internet address—http://www.cdc.gov Click on "Funding" then "Grants and Cooperative Agreements."

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 and address and will be instructed to identify the Announcement number of interest, [01004].

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from:

Henry E. Eggink, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention Room 3000, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone number: 770–488–2740, Email address: hbe7@cdc.gov. For program technical assistance, contact:

Edward B. Hayes, M.D., Joseph Piesman, D.Sc, Kathleen Orloski, D.V.M., M.S. or David Dennis, M.D., MPH, Division of Vector-Borne Infectious Diseases, National Center for Infectious Diseases, Centers for Disease Control and Prevention, Fort Collins, CO 80522, Telephone number: 970–221–6400, Email address: jfp2@cdc.gov or ebh2@cdc.gov.

Dated: August 8, 2000.

**John L. Williams,**

*Director, Procurement and Grants Office, Center for Disease Control and Prevention (CDC).*

[FR Doc. 00–20499 Filed 8–11–00; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 00D–1401]**

### Draft Guidance for Industry on Administrative Procedures for CLIA Categorization; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of the draft guidance for industry entitled "Guidance for Administrative Procedures for CLIA Categorization." The Center for Devices and Radiological Health is issuing this draft guidance document to provide information to manufacturers on how to submit requests for complexity categorization under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) and how FDA will notify the manufacturer of the complexity categorization.

**DATES:** Submit written comments on the draft guidance document by November 13, 2000.

**ADDRESSES:** Submit written requests for single copies on a 3.5diskette of the draft guidance document entitled "Guidance for Administrative Procedures for CLIA Categorization" 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. Submit written comments concerning this draft guidance document 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 found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the draft guidance document.

**FOR FURTHER INFORMATION CONTACT:** Clara A. Sliva, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–827–0496.

**SUPPLEMENTARY INFORMATION:**

## I. Background

On January 31, 2000, the responsibility for categorization of commercially marketed products under CLIA was transferred from the Centers for Disease Control and Prevention (CDC) to FDA. This allows manufacturers to submit premarket applications for products and requests for complexity categorization of these products under CLIA to one agency. This draft guidance document contains information on the administrative procedures that the manufacturers of in vitro diagnostic products will use to receive a complexity categorization under CLIA from FDA.

## II. Significance of Guidance

This draft guidance document represents the agency's current thinking on the administrative procedures for CLIA categorization of commercially marketed in vitro diagnostic products. 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 applicable statute, regulations, or both.

The agency has adopted good guidance practices (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This guidance document is issued as Level 1 guidance consistent with GGP's.

## III. Electronic Access

In order to receive the draft guidance document entitled "Guidance for the Administrative Procedures for CLIA Categorization" via your fax machine, call the CDRH Facts-On-Demand (FOD) system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number (1143) followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidance document may also do so using the Internet. The Center for Devices and Radiological Health (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 "Guidance for Administrative Procedures for CLIA Categorization," 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. The draft guidance document entitled "Guidance on the Administrative Procedures for CLIA Categorization" will be available at http://www.fda.gov/cdrh//ode/guidance/1143.pdf

## IV. Comments

Interested persons may, on or before November 13, 2000, submit to Dockets Management Branch (address above) written comments regarding this draft guidance document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 1, 2000.

**Linda S. Kahan,**

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

[FR Doc. 00–20464 Filed 8–11–00; 8:45 am]

**BILLING CODE 4160–01–F**

---

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 00D–0053]**

### Guidance for Industry on Enforcement Priorities for Single-Use Devices Reprocessed by Third Parties and Hospitals; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of the guidance document entitled "Enforcement Priorities for Single-Use Devices Reprocessed by Third Parties and Hospitals." This guidance document finalizes the agency's policy on how it intends to regulate third parties and hospitals engaged in reprocessing single-use devices (SUD's) for reuse. This guidance document sets forth FDA's priorities for premarket submission requirements, which will be based on the device's Code of Federal Regulations (CFR) classification (i.e., class I, II, and III).

**DATES:** Submit written comments on agency guidances at any time.

**ADDRESSES:** Submit written requests for single copies on a 3.5″ diskette of the guidance document entitled "Enforcement Priorities for Single-Use Devices Reprocessed by Third Parties and Hospitals" 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. Submit written comments concerning this guidance 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 found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

**FOR FURTHER INFORMATION CONTACT:** Larry D. Spears, Center for Devices and Radiological Health (HFZ–340), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–4646.

**SUPPLEMENTARY INFORMATION:**

## I. Background

In the **Federal Register** of November 3, 1999 (64 FR 59782), FDA published a proposed strategy on the reuse of SUD's. This proposal identified the steps under consideration in the development of the agency's SUD reprocessing policy. These steps were to: (1) Develop a list of commonly reused SUD's; (2) develop a list of factors to determine the degree of risk associated with reprocessing devices; (3) apply those factors to the list of commonly reprocessed SUD's and categorize them into three categories (high, moderate, and low); and (4) develop priorities for enforcement of premarket submission regulatory requirements for third party and hospital reprocessors, based on the category of risk.

In addition to publishing the proposed strategy document for public comment, FDA also sponsored a teleconference on November 10, 1999, and convened an open public meeting on December 14, 1999 (64 FR 63818,

November 22, 1999), to obtain comments on the proposed strategy. As a result of the comments received, FDA published on February 11, 2000 (65 FR 7027), two companion draft guidances entitled "Reprocessing and Reuse of Single-Use Devices: Review Prioritization Scheme" and "Enforcement Priorities for Single-Use Devices Reprocessed by Third Parties and Hospitals."

The draft guidance entitled "Reprocessing and Reuse of Single-Use Devices: Review Prioritization Scheme" (the "RPS guidance") set forth factors that the agency would consider in categorizing the risk associated with SUD's that are reprocessed. This process, called the Risk Prioritization Scheme, would determine the risk categories for frequently reprocessed SUD's by assigning an overall risk to each SUD based on the risk of infection and the risk of inadequate performance following reprocessing. The three categories of risk were high, moderate, and low. The risk category would then be used to set FDA's enforcement priorities for premarket submission requirements. Appendix 2 of the RPS guidance included a list of frequently reprocessed SUD's and their risk category according to the Risk Prioritization Scheme. Under this proposed guidance document, FDA would consider any reprocessed SUD that was not included on the list to be high risk.

The draft guidance entitled "Enforcement Priorities for Single-Use Devices Reprocessed by Third Parties and Hospitals" (the "SUD enforcement guidance") set forth FDA's priorities for enforcing premarket submission requirements for premarket notifications (510(k)'s) or for premarket approval applications based on the risk categorization of a device as determined by the companion RPS guidance. Premarket submission requirements for SUD's deemed high risk by the Risk Prioritization Scheme would be implemented within 6 months of the issuance of FDA's final guidance document on reuse; within 12 months for moderate risk SUD's; and within 18 months for low risk SUD's. FDA would actively enforce nonpremarket requirements within 6 months of issuance of FDA's final reuse guidance document. FDA received over 150 written comments to the docket on the November 1999 proposed strategy plan and to the February 2000 draft guidances.

FDA received many comments that supported the agency's decision to actively regulate third party and hospital reprocessors and its decision to exclude "opened-but-unused" SUD's from this enforcement strategy. FDA also learned that stakeholders and interested parties believed that the Risk Prioritization Scheme lacked clarity and was too subjective. To demonstrate this point, several stakeholders used the scheme to evaluate their products. In all cases the stakeholders' risk category for their devices ranked higher or lower than FDA's risk category for the same devices. Several commentors expressed concern that FDA was imposing burdensome regulations on hospitals. Others were concerned that many hospitals are not prepared to comply with the agency's premarket submission requirements due to their lack of experience in this area or to their limited financial resources. Several stakeholders identified additional SUD's that they were currently reprocessing or were considering reprocessing in the future that were not on FDA's current list of frequently reprocessed SUD's.

As a result of the comments the agency received, FDA has revised the final SUD regulatory strategy as follows:

1. The proposed Risk Prioritization Scheme will not be used to determine the timing of FDA's enforcement priorities for the premarket submission requirements. Rather, FDA will use the device classification listed in the CFR (i.e., class I, class II, or class III) to set its enforcement priorities for the premarket submission requirements.

2. FDA intends to enforce premarket submission requirements within 6 months of issuance of the final SUD enforcement guidance document for all class III devices, within 12 months for class II devices, and 18 months for class I devices. At a later date, FDA intends to examine, on a case-by-case basis, the need to revoke exemptions from premarket requirements for class I and II exempt products based upon the risks that may exist due to reprocessing.

3. For hospital reprocessors, FDA intends to establish a 1-year phase in for active enforcement of the Federal Food, Drug, and Cosmetic Act's (the act's) nonpremarket requirements (e.g., registration, listing, medical device reporting, tracking, corrections and removals, quality system, and labeling). The agency will use the 1-year period following issuance of this final guidance document to educate hospitals about their regulatory obligations. FDA does not anticipate that the 1-year extension of enforcement discretion following issuance of this guidance document will pose any significant public health risks because the agency has no evidence at this time to demonstrate that reprocessing and reuse of SUD's is posing any imminent danger to public health.

4. The "List of Frequently Reprocessed SUD's" has been expanded to include additional SUD's that are currently being reprocessed. As noted previously, FDA will use the device classification listed in the CFR to set its enforcement priorities for the premarket submission requirements for all devices. The regulatory premarket submission requirements for reprocessed SUD's that are not included on this list will be based on the device's CFR classification (e.g., class I, II, or III).

As stated in FDA's November 3, 1999, proposed strategy plan on the reuse of SUD's, FDA's primary goal is to ensure a reprocessing and reuse regulatory program based on good science that protects public health, while ensuring that the regulatory requirements are equitable to all parties. FDA does not believe that the changes to its final SUD regulatory strategy pose any significant public health risks. Rather, the agency believes that these changes may facilitate the implementation of the reuse policy by eliminating confusion or misunderstanding regarding a device's risk category and the timing of premarket submissions.

The major change in FDA's plan is the agency's conclusion that it should rely on the traditional device classification scheme rather than the draft Risk Prioritization Scheme to establish its enforcement priorities for the premarket submission requirements. FDA was concerned by comments that stakeholders' interpretation of the Risk Prioritization Scheme resulted in significant differences between the risk category assigned to an SUD by FDA and by the stakeholders. Subjective differences interpreting the Risk Prioritization Scheme could cause some SUD reprocessors to believe that their devices are a lower risk category than FDA's assessment. The agency concluded that disagreements over FDA's risk category for an SUD could cause undue delays in reprocessors complying with the act's premarket submission requirements. The existing CFR device classification system, on the other hand, is an established categorization system that is familiar to all device manufacturers and many device users. Using the CFR device classification system should eliminate problems with the proposed Risk Prioritization Scheme identified by stakeholders.

## II. Significance of Guidance

This guidance document represents the agency's current thinking on the regulation of third parties and hospitals

engaged in the reprocessing of SUD's. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both.

The agency has adopted good guidance practices (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This guidance document is issued as a Level 1 guidance consistent with GGP's.

### III. Electronic Access

In order to receive "Enforcement Priorities for Single-Use Devices Reprocessed by Third Parties and Hospitals" via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touchtone telephone. At the first voice prompt press 1 to access DSMA Facts, at the second voice prompt press 2, and then enter the document number (1168) followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so 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 "Enforcement Priorities for Single-Use Devices Reprocessed by Third Parties and Hospitals," 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. "Enforcement Priorities for Single-Use Devices Reprocessed by Third Parties and Hospitals" is also available at http://www.fda.gov/cdrh/comp/guidance/1168.pdf.

### IV. Comments

Interested persons may, at any time, submit written comments regarding this guidance to the Dockets Management Branch (address above). Such comments will be considered when determining whether to amend the current guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance document 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: July 31, 2000.

**Linda S. Kahan,**

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

[FR Doc. 00–20462 Filed 8–11–00; 8:45 am]

BILLING CODE 4160–01–F

---

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 00D–1383]**

### Draft Guidance for Industry on Surveillance and Detention Without Physical Examination of Condoms; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA)is announcing the availability of a draft guidance for industry entitled "Guidance for Industry, Surveillance and Detention Without Physical Examination of Condoms." Many foreign manufacturers and shippers of condoms have consistently failed to provide condoms of adequate quality for distribution in the United States, which presents a potentially serious hazard to health for users. The draft guidance is intended to help industry understand FDA's policy to monitor continuously recidivist firms under our import program. This policy is neither final nor is it in effect at this time.

**DATES:** Submit written comments on the draft guidance by November 13, 2000.

**ADDRESSES:** Submit written requests for single copies on a 3.5" diskette of the draft guidance entitled "Guidance for Industry, Surveillance and Detention Without Physical Examination of Condoms" to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send one self-addressed adhesive label 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 draft guidance.

Submit written comments concerning this draft guidance 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 found in the brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** John J. Farnham, Center for Devices and Radiological Health (HFZ–332), Food and Drug Administration, 2094 Gaither Rd., Rockville, MD 20850, 301–594–4616.

**SUPPLEMENTARY INFORMATION:**

### I. Background

FDA is announcing the availability of a draft guidance for industry entitled "Surveillance and Detention Without Physical Examination of Condoms." This draft guidance is intended to provide guidance to FDA staff and industry about a recidivist policy for firms that repeatedly attempt to import condoms that violate quality requirements. FDA's experience with sampling, examination, and testing of condoms raises concerns about the barrier properties of some condoms exported to the United States. Our analyses of condoms exported to the United States show a significant variation in the quality of the condoms exported by various manufacturers/shippers. We repeatedly place the same manufacturers/shippers on import detention due to leaks and defects in their condoms. These firms then need to provide us with private laboratory analyses for a number of shipments in order to demonstrate that the quality of the condoms and the firm's manufacturing operations comply with FDA standards. Once the firms provide such evidence, we remove them from import alert. However, many of these same manufacturers/shippers have repeated violative analyses and return to import alert status. This cyclical problem of violations requires continuous auditing and monitoring of recidivist firms to prevent the entry of defective condoms into the United States.

In an attempt to ensure that condoms exported to the United States are in compliance with FDA standards, we revised Import Alert #85–02, "Surveillance (100% Sampling) and Detention Without Physical Examination of Condoms," referred to as the "Recidivist Policy." This initiative was a joint effort between the agency's Center for Devices and Radiological Health's Office of Compliance, the Office of Regulatory Affairs' Division of Import Operations

and Policy, and the Office of Chief Counsel.

The Recidivist Policy defines three increasingly stringent compliance levels for firms who have shipped violative condoms to the United States. Levels 1 and 2 allow voluntary compliance opportunities, while Level 3 provides a mechanism to issue a warning letter for apparent violations of the Federal Food, Drug, and Cosmetic Act, including noncompliance with the quality systems regulation for good manufacturing practices. A finding of Level 3 noncompliance will automatically place any future shipments of condoms from the manufacturer/shipper on detention, without the need for FDA to perform an actual inspection at the foreign manufacturer, due to the continued failure of condoms to pass minimum FDA standards upon import.

The agency has adopted good guidance practices (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This draft guidance is issued as a draft Level 1 guidance consistent with GGP's.

This draft guidance represents the agency's current thinking on the surveillance and detention without physical examination of condoms. 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 applicable statute, regulations, or both.

### II. Electronic Access

In order to receive the draft guidance entitled "Surveillance and Detention Without Physical Examination of Condoms" via your fax machine, call the CDRH Facts-On-Demand (FOD) system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number 1139 followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidance may also do so 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 various Level 1 guidance documents for comment, 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. "Surveillance and Detention Without Physical Examination of Condoms" will be available at http://www.fda.gov/cdrh/oc/condom1.pdf.

### III. Comments

Interested persons may submit to Dockets Management Branch (address above) written comments regarding this draft guidance by November 13, 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. The draft guidance and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 31, 2000.

**Linda S. Kahan,**

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

[FR Doc. 00–20463 Filed 8–11–00; 8:45 am]

BILLING CODE 4160–01–F

---

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### White House Initiative on Asian Americans and Pacific Islanders, President's Advisory Commission; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to conduct a public meeting during the month August 2000.

*Name:* President's Advisory Commission on Asian Americans and Pacific Islanders (AAPIs)

*Date and Time:* August 21, 2000; 2:15 p.m.—3:15 p.m. PST

*Place:* International Community Health Services, 720 8th Avenue South, Suite 100, Seattle, WA 98104

The meeting is open to the public.

The President's Advisory Commission on AAPIs will conduct a public meeting on August 21, from 2:15 p.m. to 3:15 p.m. PST inclusive.

Agenda items will include, but will not be limited to: approval of June Commission conference call meeting minutes; reports from subcommittees; administrative tasks; deadlines; and upcoming Town Hall and Commission meetings.

The purpose of the Commission is to advise the President on the issues facing Asian Americans and Pacific Islanders (AAPIs). The President's Advisory Commission on AAPIs will be seated through June 7, 2001.

Requests to address the Commission should be made in writing and should include the name, address, telephone number and business or professional affiliation of the interested party. Individuals or groups addressing similar issues are encouraged to combine comments and present through a single representative. The allocation of time for remarks may be adjusted to accommodate the level of expressed interest. Written requests should be faxed to (301) 443–0259.

Anyone who has interest in joining any portion of the meeting or who requires additional information about the Commission should contact: Mr. Tyson Nakashima, Office of the White House Initiative on AAPIs, Parklawn Building, Room 10–42, 5600 Fishers Lane, Rockville, MD, 20857, Telephone (301) 443–2492. Anyone who requires special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mr. Nakashima no later than August 15, 2000.

Dated: August 4, 2000.

**Dolores R. Etherith,**

*Acting Director, Division of Policy Review and Coordination.*

[FR Doc. 00–20465 Filed 8–11–00; 8:45 am]

BILLING CODE 4160–15–P

---

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Submission for OMB Review; Comment Request; Alcoholism Prevalence and Gene/Environment Interactions In Native American Tribes (a 10 Tribe Study) OMB No. 0925–0449, Expiration 08/31/00

**SUMMARY:** Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institute on Alcohol Abuse and Alcoholism, the National Institutes of Health has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal**

Register on April 3, 2000, page 17513 and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

5 CFR 1320.5 (General requirements) Reporting and Recordkeeping Requirements: Final Rule requires that the agency inform the potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number. This information is required to be stated in the 30-day **Federal Register** Notice.

**PROPOSED COLLECTION:** *Title:* Alcoholism Prevalence and Gene/Environment Interactions in Native American Tribes (a 10 Tribe Study). *Type of Information Collection Request:* Revision. *Need and Use of Information Collection:* The Ten Tribe Study is being conducted to collect psychiatric and personal data from tribes with different rates of alcoholism. This data will be analyzed to determine, if possible, why tribes with similar lifestyles have different rates of alcoholism and alcohol abuse. Specifically, the information gathered during this study will be used to: (1) Determine prevalence rates of alcoholism in 10 demographically sampled Native American tribes using structured or semi-structured interviews to rigorously diagnose alcoholism; (2) systematically diagnose conditions which are often comorbid with alcoholism including drug abuse, depression, and antisocial personality; (3) address crucial antecedents and consequences of alcoholism and environmental issues in alcohol vulnerability such as post-traumatic stress, violence, acculturation, and child abuse; and (4) investigate genetic vulnerability factors for tribal populations with high, moderate, and low alcoholism prevalence. This study has been ongoing for three years and is to be extended for three additional years. *Frequency of Response:* Once per respondent. *Affected Public:* Individuals. *Type of Respondents:* Adults. The annual reporting burden is as follows: *Estimated Number of Respondents:* 600; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours Per Response:* 3.75; and *Estimated Total Annual Burden Hours Requested:* 2,250. There are no Costs to Respondents to report. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

**REQUEST FOR COMMENTS:** Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Evaluate whether the extension of this collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the extension of this collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**DIRECT COMMENTS TO OMB:** Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Ms. Ronni Nelson, Laboratory of Neurogenetics, Division of Intramural Clinical and Biological Research, NIAAA, NIH, 12420 Parklawn Drive, Suite 451, Rockville, Maryland 20852 or E-mail your request, including your address to: rn46h@nih.gov. Ms. Nelson can be contacted by telephone at 301–443–5781.

**COMMENTS DUE DATE:** Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

Dated: August 2, 2000.

**Stephen Long,**

*Executive Officer, NIAAA.*

[FR Doc. 00–20388 Filed 8–11–00; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Notice of Closed Meeting; Correction

Notice is hereby given of a change in the meeting of the National Cancer Institute Initial Review Group, Subcommittee E—Cancer Epidemiology, Prevention & Control, August 17–18, 2000, Georgetown Holiday Inn, 2101 Wisconsin Ave., NW., Washington, DC 20007, which was published in the **Federal Register** on July 19, 2000 (65 FR 44798).

The meeting will begin on Wednesday, August 16, 2000, at 7 p.m. due to a schedule change. The meeting is closed to the public.

Dated: August 2, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–20387 Filed 8–11–00; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4563–N–12]**

### Notice of Proposed Information Collection for Financial Standards for Housing Agency-Owned Insurance

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be 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:* October 13, 2000.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4238, Washington, DC 20410–5000.

**FOR FURTHER INFORMATION CONTACT:** Mildred M. Hamman, (202) 708–3642, extension 4128, for copies of the proposed forms and other available documents. (This is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected

agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* Financial Standards for Housing Agency-Owned Insurance.

*OMB Control Number:* 2577–0186.

*Description of the need for the information and proposed use:* Public Housing Agency (PHA)-owned insurance organizations must furnish HUD with professioanl evaluations of performance consisting of an annual audit and an actuarial report upon their establishment date. A claim audit is submitted to HUD every three years by the organizations. This information is needed in order for HUD to continue to approve the entity as an organization to provide insurance to PHAs.

*Agency form numbers:* None.

*Members of affected public:* PHA-owned insurance entities.

*Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* 19 respondents, one response annually for the audit and actuarial report, eight hours per response; one response every three years for the claim audit,-two hours per response. 152 + 38 = 190 total hours reporting burden.

*Status of the proposed information collection:* Extension.

**Authority:** Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, as amended.

Dated: August 7, 2000.

**Rod Solomon,**

*Deputy Assistant Secretary for Policy, Program and Legislative Initiatives.*

[FR Doc. 00–20492 Filed 8–11–00; 8:45 am]

**BILLING CODE 4210–33–M**

## DEPARTMENT OF THE INTERIOR

### Notice of Availability of the Wisconsin Proposed Resource Management Plan Amendment/Environmental Assessment

**AGENCY:** Bureau of Land Management, Milwaukee Field Office, DOI.

**ACTION:** Notice of availability.

**SUMMARY:** Notice is hereby given that the Bureau of Land Management (BLM), Milwaukee Field Office, has released a Proposed Resource Management Plan Amendment (RMPA) and Environmental Assessment (EA), to assess the future disposition of 12 public domain parcels in the State of Wisconsin. The parcels are located in Bayfield, Door, Langlade, Oneida, Vilas, and Waupaca Counties. Four of the tracts contain historic lighthouses declared excess by the U.S. Coast Guard and the remaining parcels are small, isolated tracts located in northern Wisconsin.

The planning effort has followed the procedures set forth in 43 CFR, Subpart 1600. The EA has been prepared under 40 CFR 1500, et seq.

The public has 30 days in which to protest the proposed plan in accordance with 43 CFR 1610.5–2. Any person who participated in the planning process and has an interest which is or may be adversely affected by the implementation of the plan may file a protest with the Director, BLM at the address below. All protests must be postmarked within 30 days from the date of publication of this notice. There is no provision in the law that allows extensions to this protest period.

All protests must be accompanied by a statement of reasons why BLM's findings are in error or based on faulty or insufficient analysis.

**DATES:** The protest period commences with the publication of this notice. Comments must be postmarked no later than September 13, 2000.

**ADDRESSES:** All protests must be mailed to the following address: Director, Bureau of Land Management, Attention: Ms. Brenda Williams, Protests Coordinator, WO–210/LS–1075, Department of the Interior, Washington, DC 20240 or by overnight mail address to: Director, Bureau of Land Management, Attention: Ms. Brenda Williams, Protests Coordinator (WO–210), 1620 L Street, N.W., Room 1075, Washington, D.C. 20036. Protests sent to the Milwaukee Field Office or Eastern States Office will not be considered properly filed and may be rejected for not being timely-filed.

**FOR FURTHER INFORMATION CONTACT:** Howard Levine, Planning and Environmental Coordinator, telephone at (414) 297–4463, or by electronic mail at Howard__Levine@es.blm.gov.

**SUPPLEMENTARY INFORMATION:** The Proposed RMPA/EA contains three alternatives: (1) Transfer of the parcels to other Federal, State or local agencies, non-profit groups, Native American Tribes or private land owners; (2) no action, in which BLM would retain the tracts and manage them on a custodial basis; and (3) retention by BLM which would actively manage the properties under multiple use and sustained yield principles.

The Proposed RMPA identifies disposal criteria that will be consulted if Alternative 1 is chosen and when BLM reviews site-specific proposals to acquire the properties. The criteria serve two purposes. First, they prescribe the management and resource objectives for each property based on the planning issues developed during the scoping period. Second, the criteria establish the procedures, such as consultations or studies, that must be completed prior to transfer of any tract. These consultations and studies, coupled with specific development proposals, will be used to analyze environmental impacts for the properties.

Complete records of all phases of the planning process will be available at the Milwaukee Field Office and are available upon request.

Dated: August 7, 2000.

**James W. Dryden,**

*Milwaukee Field Manager.*

[FR Doc. 00–20397 Filed 8–11–00; 8:45 am]

**BILLING CODE 4310–PN–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Information Collection Renewal To Be Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Information collection; request for comments.

**SUMMARY:** The collection of information described below is submitted to OMB for renewal under the provisions of the Paperwork Reduction Act of 1995. A copy of the information collection requirements is included in this notice. Copies of specific information collection requirements, related forms and explanatory material may be obtained by contacting the Service Information

Collection Office at the address and/or phone numbers listed below.

**DATES:** Consideration will be given to all comments received on or before September 13, 2000. OMB has up to 60 days to approve or disapprove information collection, but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by the above referenced date.

**ADDRESSES:** Comments and suggestions on specific requirements should be sent to the Desk Officer for Interior Department, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, and the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222 ARLSQ, 1849 C Street NW, Washington, DC 20240. If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to the above address. You may also comment via the Internet to R9LE_www@fws.gov. Please submit Internet comments as an ASCII file, avoiding the use of special characters and any form of encryption. Please also include "Attn: Information Collection Renewal, 3–177 form" 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 us directly at the telephone number listed below. Finally, you may hand-deliver comments to the above address.

**FOR FURTHER INFORMATION CONTACT:** Kevin Adams, Chief, Office of Law Enforcement, U.S. Fish and Wildlife Service, telephone (703) 358–1949, fax (703) 358–2271.

**SUPPLEMENTARY INFORMATION:** The OMB regulations at 5 CFR Part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). On Friday, February 18, 2000, the U.S. Fish and Wildlife Service (Service) published a 60-day notice on the information collections associated with the "Declaration for Importation and Exportation of Fish or Wildlife", Form 3–177. The comment period for this notice expired on April 18, 2000, and the Service in this notice is requesting comment for the 30-day period following the date of publication in the **Federal Register.** No comments were provided to the Information Collection Clearance Officer as a result of the February 18 notice. The assigned OMB information collection control number is 1018–0012. This interim rule contains new information collection and we will submit the information collection requirements to OMB for review and approval under the Paperwork Reduction Act of 1995, Public Law, 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the agency's function, including whether the information will have practical utility (2) the accuracy of the agency's estimate of burden, including the validity of the methodology and assumption used; (ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic material, or other technological collection techniques or other forms of information technology. The Service is requesting a three-year term of approval for this information collection activity. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The information collection in this program will not be part of a system of records covered by the Privacy Act (5 U.S.C. 552(a)).

The Endangered Species Act (16 U.S.C. 1538(e)) makes it unlawful to import or export fish, wildlife or plants without filing any declaration or report deemed necessary for enforcing the Act or upholding the Convention on International Trade in Endangered species (CITES). The U.S. Fish and Wildlife Service Form 3–177, "Declaration for Importation or Exportation of Fish or Wildlife," is the documentation required of any individual importing or exporting a fish or wildlife product into or out of the United States. The information collected is unique to each wildlife shipment and enables the Service to accurately inspect the contents of the shipment, maintain records and enforce government regulations. Additionally, much of the collected information is compiled in an annual report and is forwarded to the CITES Secretariat in Geneva, Switzerland. Submission of an annual report on the number and types of imports and exports of fish and wildlife is a treaty obligation under CITES.

Service personnel use the information obtained from a 3–177 form as an enforcement tool and management aid in monitoring the international wildlife market and detecting trends and changes in the commercial trade of wildlife and plants. The Agency's Office of Scientific Authority and the Office of Management Authority use this data to assess the needs for additional protection for indigenous species.

In addition, non-government organizations, as well as the commercial wildlife community request information that has been obtained from the 3–177 declaration form.

The 3–177 form must be filed with the Service at the time of import or export, at a port where clearance is requested. In certain instances, this form may be filed with the U.S. Customs Service.

The standard information collection includes the name of the importer/exporter and broker, the scientific and common name of the wildlife, permit numbers (if a permit is required), a description of the commodity, quantity and value, and country of origin of the wildlife. In addition, information such as the airway bill or bill of lading number, the location of the goods for inspection, and number of cartons containing wildlife assists the inspectors if a physical examination is required, and expedites the inspection and eventual clearance of the shipment.

*Title:* Declaration for Importation or Exportation of Fish or Wildlife.

*Approval Number:* 1018–0012.

*Service Form Number:* 3–177.

*Frequency of Collection:* Hourly.

*Description of Respondents:* Businesses or individuals that import/export wildlife, scientific institutions, government agencies.

*Total Annual Burden Hours:* The reporting burden is estimated to average 15 minutes per respondent. The total annual burden hours is 21,250 hours.

*Total Annual Responses:* Approximately 85,000 individual declaration forms are filed with the Service in a fiscal year.

We invite comments on the renewal of the 3–177 form. The information collections in this program are part of a system of records by the Privacy Act (5 U.S.C. 552(a)). 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 addresses from the record, which we will honor to the extent allowable by law. There may also be limited 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 clearly at the beginning of your comment. We will not consider

anonymous comments. We generally 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.

Dated: July 7, 2000.

**Rebecca Mullin,**

*Information Collection Officer, U.S. Fish and Wildlife Service.*

BILLING CODE 4310–55–M

USFWS Form 3-177
(Revised )
Form Approved O.M.B. No. 1018-0012
Approval Expires:

**U.S. FISH AND WILDLIFE SERVICE**

Page ___ of ___

**DECLARATION FOR IMPORTATION OR EXPORTATION OF FISH OR WILDLIFE**

Please Type or Print Legibly

1. Date of Import/Export: (mm/dd/yyyy)
__ __ / __ __ / __ __ __ __

2. I/E License Number:

3. Indicate One:
☐ Import ☐ Export

4. Port of Clearance: ___ ___

5. Purpose Code: ___

6. Customs Entry Number:

7. Name of Carrier:

8. Air Way Bill or Bill of Lading No.:
Master:
House:

9. Transportation Code: ___
License ___ State ___

10. Bonded Location for Inspection:

11. Number of Cartons Containing Wildlife:

12. Package Markings Containing Wildlife:

13. (indicate one)
☐ U.S. Importer of Record
☐ U.S. Exporter
(complete name / address / phone number)

14a. Foreign Supplier / Receiver:
(complete name / address / phone number)

14b. __ __

15. Customs Broker, Shipping Agent or Freight Forwarder:

Phone No. / Fax Number: Contact Name:

| Species Code (Official Use) | 16a. Scientific Name / 16b. Common Name | 17a. Foreign CITES Permit No. / 17b. U.S. CITES Permit No. | 18a. Description Code / 18b. Source | 19a. Quanity / Unit / 19b. Total Monetary Value | 20. Country of Origin of Animal |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Knowingly making a false statement in a Declaration for Importation or Exportation of Fish or Wildlife may subject the declarant to the penalty provided by 18 U.S.C 1001 and 16 U.S.C. 3372 (d)

21. I certify under penalty of perjury that the information furnished is true and correct:

Signature Date

Type or Print Name

FOR OFFICIAL USE ONLY

Action/Comments:

Wildlife Inspected:
None / Partial / Full

SEE REVERSE OF THIS FORM FOR PRIVACY ACT NOTICE

USFWS Form 3-177a
(Revised )
Form Approved O.M.B. No. 1018-0012
Approval Expires:

**U.S. FISH AND WILDLIFE SERVICE**
**DECLARATION FOR IMPORTATION OR EXPORTATION OF FISH OR WILDLIFE**

Page ___ of ___

**CONTINUATION SHEET**

| 2. I/E License Number: | 13. Name of Importer/Exporter: |
|---|---|
| | 8. Air Way Bill or Bill of Lading No.: Master: House: |

| Species Code (Official Use) | 16a. Scientific Name / 16b. Common Name | 17a. Foreign CITES Permit No. / 17b. U.S. CITES Permit No. | 18a. Description Code / 18b. Source | 19a. Quantity / Unit / 19b. Total Monetary Value | 20. Country of Origin of Animal |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Knowingly making a false statement in a Declaration for Importation or Exportation of Fish or Wildlife may subject the declarant to the penalty provided by 18 U.S.C 1001.

FOR OFFICIAL USE ONLY

21. I certify under penalty of perjury that the information furnished is true and correct:

Signature _____ Date _____

Type or Print Name _____

SEE REVERSE OF THIS FORM FOR PRIVACY ACT NOTICE

[FR Doc. 00–20508; Filed 8–11–00; 8:45 am]
BILLING CODE 4310–55–C

## DEPARTMENT OF THE INTERIOR

### National Park Service, DOI

### Notice of Availability of Recreational Off-Road Vehicle Management Plan and Supplemental Final Environmental Impact Statement, Big Cypress National Preserve, FL

**SUMMARY:** This Recreational Off-Road Vehicle Management Plan/Supplement to the Final Environmental Impact Statement (RORVMP/SFEIS) addresses management of recreational off-road vehicles (ORVs) in the original 582,000 acres of the Big Cypress National Preserve and identifies and assesses potential impacts of alternative options for the management of ORVs in the preserve. The RORVMP/SFEIS describes management concerns which include the need to protect and restore natural resources while providing recreational ORV access to the preserve.

**DATES:** The RORVMP/SFEIS will be available August 11, 2000. No sooner than 30 days from the appearance of the Environmental Protection Agency's notice in the **Federal Register**, a Record of Decision will be signed that will document the National Park Service decision regarding the RORVMP for the Big Cypress National Preserve, and identify the selected action from the alternatives presented in the SFEIS.

**ADDRESSES:** The RORVMP/SFEIS may be viewed on the Internet at *www.nps.gov/BICY*. A limited number of copies of the RORVMP/SFEIS are available from the Superintendent at the following address: Superintendent, Big Cypress National Preserve, HCR 61, Box 110, Ochopee, Florida, 34141, Telephone: (941) 695–2000.

**FOR FURTHER INFORMATION CONTACT:** For additional information contact the Superintendent.

**SUPPLEMENTARY INFORMATION:** It is the practice of the National Park Service 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 also be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish for 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.

The RORVMP/SFEIS is being mailed to agencies, organizations and individuals on the NPS mailing list and copies of the RORVMP/SFEIS may also be read at the following libraries:

Barron Public Library, P.O. Box 785, LaBelle, FL 33935, Telephone: (941) 675–0833

Glades County Public Library, P.O. Box 505, Moore Haven, FL 33471, Telephone: (941) 946–0744

Monroe County Public Library, 700 Fleming Street, Key West, FL 33040, Telephone: (305) 292–3595

Collier County Public Library, 850 Central Avenue, Naples, FL 34102, Telephone: (941) 261–8208

Miami-Dade County Library, 101 W. Flagler Street, Miami, FL 33130, Telephone: (305) 375–2665

Broward County Public Library, 100 South Andrews Avenue, Ft. Lauderdale, FL 33301, Telephone: (954) 357–7444

Palm Beach County Public Library, 3650 Summit Boulevard, West Palm Beach, FL 33046, Telephone: (561) 233–2600

Lee County Public Library, 2050 Lee Street, Ft. Myers, FL 33901, Telephone: (941) 479–4620

**Authority:** 16 U.S.C. 698f–1; 40 CFR 1506.6.

Dated: August 2, 2000.

**W. Thomas Brown,**

*Regional Director, Southeast Region.*

[FR Doc. 00–20520 Filed 8–11–00; 8:45 am]

BILLING CODE 4310–70–M

## DEPARTMENT OF THE INTERIOR

### National Park Service

### George Washington Boyhood Home Special Resource Study, Environmental Impact Statement

**AGENCY:** National Park Service.

**ACTION:** Notice of intent to prepare an Environmental Impact Statement for the George Washington Boyhood Home Special Resource Study.

**SUMMARY:** Under the provisions of the National Environmental Policy Act, the National Park Service is preparing an Environmental Impact Statement for the George Washington Boyhood Home Special Resource Study. This Environmental Impact Statement will be approved by the Northeast Regional Director.

The US Congress authorized the special resource study in Section 509(c) PL 105–355 to examine how the cultural and natural resources of the property can be protected and public use of the site furthered. The George Washington Boyhood Home property, also known as Ferry Farm, is located in Stafford County, Virginia. The property, part of the 18th century plantation where George Washington spent his youth, is now owned by the George Washington's Fredericksburg Foundation. Congress also authorized the Department of the Interior, through the National Park Service, to acquire easements on the property. The overall purpose of the study is to identify an appropriate management framework to achieve resource protection and public use goals. Leadership for the study project is being provided by the Superintendent of Fredericksburg and Spotsylvania National Military Park.

A scoping meeting will be scheduled. Public notice will be accomplished through a broad mailing and publication in the local newspaper. A newsletter introducing the project to the public is available. Copies of the newsletter can be obtained by request through the Superintendent, Fredericksburg and Spotsylvania National Military Park at the phone number below or by e-mail to ferryfarm@nps.gov.

**FOR FURTHER INFORMATION CONTACT:** Contact Superintendent, Fredericksburg and Spotsylvania National Military Park, 540–373–4510 or at ferry farm @nps.gov.

Dated: August 1, 2000.

**Pat Phelan,**

*Associate Regional Director, Northeast Region.*

[FR Doc. 00–20519 Filed 8–11–00; 8:45 am]

BILLING CODE 4310–70–M

## DEPARTMENT OF THE INTERIOR

### National Park Service

### Notice of Meeting of Concessions Management Advisory Board

**SUMMARY:** In accordance with the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770, 5 U.S.C. App 1, section 10), notice is hereby given that the Concessions Management Advisory Board will hold its third meeting on August 28th, in Santa Fe, New Mexico. The meeting will be held at the La Fonda on the Plaza Hotel located at 100 E. San Francisco Street, Santa Fe, New Mexico 87501. The meeting will convene at 9 a.m. and will adjourn at approximately 5:30 p.m. If additional time is needed, the meeting may be reconvened on Tuesday morning, August 29th at 9 a.m.

**SUPPLEMENTARY INFORMATION:** The Advisory Board was established by Title IV, Section 409 of the National Park Omnibus Management Act of 1998, November 13, 1998 (Public Law 105–391). The purpose of the Board is to advise the Secretary and the National Park Service on matters relating to management of concessions in the National Park System.

The agenda for this meeting includes the following subjects, in addition to administrative needs and issues of the Board:

*Monday, August 28*

9:00—Convene Business Meeting, (Call to Order/Introductions/Agenda Review/Approve Minutes
9:15—Overview of NPS Response to the GAO Report, Chief, Concession Program
10:30—Staff Report—NPS' Professionalization Strategy
11:00—BREAK
11:15—Staff Report—NPS' Professionalization Strategy (cont.)
12:00—LUNCH
1:00—Discussion of Advisory Board Charter—Handcraft Program
2:00—Update on Competitive Market Merchandising Model—Rates, How it is working
2:45—BREAK
3:00—Discussion of Outline for Report to Congress
5:00—Meeting Adjourned

The meeting will be open to the public, however, facilities and space are limited and persons will be accommodated on a first-come-first-served basis.

**Assistance to Individuals with Disabilities at the Public Meeting**

The meeting site is accessible to individuals with disabilities. If you plan to attend and will need an auxiliary aid or service to participate in the meeting (*e.g.*, interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least 2 weeks before the scheduled meeting date. Attempts will be made to meet any request(s) we receive after that date, however, we may not be able to make the requested auxiliary aid or service available because of insufficient time to arrange for it.

Anyone may file with the Board a written statement concerning matters to be discussed. The Board may also permit attendees to address the Board, but may restrict the length of the presentations, as necessary to allow the Board to complete its agenda within the allotted time.

Interested persons may make oral/written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the Director, National Park Service, attention: Manager, Concession Program at least 7 days prior to the meeting. Further information concerning the meeting may be obtained from National Park Service, Concession Program, 1849 C Street NW., Rm. 7313, Washington, DC 20240, or telephone 202/565–1210.

Draft minutes of the meeting will be available for public inspection approximately 8 weeks after the meeting, in room 7313, Main Interior Building, 1849 C Street, NW., Washington, DC.

Dated: August 1, 2000.

**Robert Stanton,**

*Director, National Park Service.*

[FR Doc. 00–20518 Filed 8–11–00; 8:45 am]

BILLING CODE 4310–70–M

## 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 August 5, 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 August 29, 2000.

**Carol D. Shull,**

*Keeper of the National Register.*

**ALABAMA**

**Baldwin County**

Governor's Club, 11866 Magnolia St., Magnolia Springs, 00001031
Moore Store, 14770 Oak St., Magnolia Springs, 00001027

**Jefferson County**

Gaston, A.G., Building, 1527 Fifth Ave. N, Birmingham, 00001028

**Marengo County**

Farrish, Patrick, House, 177 East St., Thomaston, 00001026
Golden, C.S., House, 540 Seventh Ave., Thomaston, 00001029
Thomaston Central Historic District, Roughly bounded by Chestnut St., Sixth Ave., Seventh Ave., Short St. and CSX RR., Thomaston, 00001023
Thomaston Colored Institute, 1120 Seventh Ave., Thomaston, 00001024

**St. Clair County**

Avandale Mill Historic District, Roughly bounded by 25th St. N, 7th Ave. N, 30th St. N, and S of 4th Ave. N., Pell City, 00001030

**Sumter County**

Beavers, Dr. James Alvis, House, Old Livingston Rd., Cuba, 00001025

**DISTRICT OF COLUMBIA**

District of Columbia United Mine Workers of America, 900 Fifteenth St. NW, Washington, 00001032

**FLORIDA**

**Manatee County**

Reid—Woods House, (Whitfield Estates Subdivision MPS) 373 Whitfield Ave., Sarasota, 00001033

**MARYLAND**

**Anne Arundel County**

Primrose Hill, 3 Milkshake Ln., Annapolis, 00001034

**Montgomery County**

Silver Spring Baltimore and Ohio Railroad Station, 8100 Georgia Ave., Montgomery, 00001035

**MASSACHUSETTS**

**Worcester County**

Sawyer Homestead, 108 Maple St., Sterling, 00001036

**NEW HAMPSHIRE**

**Cheshire County**

Peck—Porter House, Main St., jct. with Middle St., Walpole, 00001037

**Merrimack County**

Robie's Country Store, 8 Riverside St., Hooksett, 00001038

**OKLAHOMA**

**Blaine County**

Sooner Co-op Association Elevator (West), (Grain Storage and Processing Facilities in Western Oklahoma MPS) 302 West F St., Okeene, 00001040

**Kingfisher County**

Dow Grain Company Elevator, (Grain Storage and Processing Facilities in Western Oklahoma MPS) 105 East Oklahoma St., Okarche, 00001041
Farmers Co-op Elevator, (Grain Storage and Processing Facilities in Western Oklahoma MPS) 121 West Kansas St., Hennessey, 00001042
Kiel-Dover Farmers Elevator, (Grain Storage and Processing Facilities in Western Oklahoma MPS) Jct. East

Chestnut St. and Railroad, Dover, 00001043

**Stephens County**

Brittain-Garvin House, 411 North 9th St., Oklahoma, 00001039

**PENNSYLVANIA**

**McKean County**

Bradford Downtown Historic District, (Oil Industry Resources in Western Pennsylvania MPS) Roughly bounded by Central Alley, Barbour St., Bushnell St., Howard Place, Davis St., and Boylston St., Bradford, 00001044

**WISCONSIN**

**Milwaukee County**

McIntosh-Goodrich Mansion, 1584 N. Prospect Ave., Milwaukee, 00001045

[FR Doc. 00–20521 Filed 8–11–00; 8:45 am]

BILLING CODE 4310–70–P

## INTERNATIONAL TRADE COMMISSION

**[Investigations Nos. 701–TA–401 (Final) and 731–TA–854 (Final)]**

### Certain Structural Steel Beams From Korea

**Determinations**

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission determines, pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)) (the Act), that an industry in the United States is materially injured [2] or threatened with material injury [3] by reason of imports from Korea of certain structural steel beams, provided for in subheadings 7216.32.00, 7216.33.00, 7216.50.00, 7216.61.00, 7216.69.00, 7216.91.00, 7216.99.00, 7228.70.30, and 7228.70.60 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be subsidized by the Government of Korea and sold in the United States at less than fair value (LTFV).

**Background**

The Commission instituted these investigations effective July 7, 1999, following receipt of petitions filed with the Commission and the Department of Commerce by Northwestern Steel & Wire Co., Sterling, IL; Nucor-Yamato Steel Co., Blytheville, AR; TXI-Chaparral Steel Co., Midlothian, TX; and The United Steelworkers of America AFL–CIO, Pittsburgh, PA. The final phase of the investigations was scheduled by the Commission following notification of a preliminary determination by the Department of Commerce that imports of certain structural steel beams from Korea were being sold in the United States at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)).[4] Notice of the scheduling of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 1, 2000 (65 FR 11092). The hearing was held in Washington, DC, on April 25, 2000, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on August 4, 2000. The views of the Commission are contained in USITC Publication 3326 (August 2000), entitled Certain Structural Steel Beams from Korea: Investigations Nos. 701–TA–401 (Final) and 731–TA–854 (Final).

Issued: August 8, 2000.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 00–20529 Filed 8–11–00; 8:45 am]

BILLING CODE 7020–02–U

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Vice Chairman Deanna Tanner Okun, Commissioner Marcia A. Miller, and Commissioner Jennifer A. Hillman find that an industry in the United States is materially injured.

[3] Chairman Stephen Koplan, Commissioner Lynn M. Bragg, and Commissioner Thelma J. Askey find that an industry in the United States is threatened with material injury. Further, Chairman Koplan and Commissioners Bragg and Askey determine, under sections 705(b)(4)(B) and 735(b)(4)(B) of the Act (19 U.S.C. 1671d(b)(4)(B) and 19 U.S.C. 1673d(b)(4)(B)), that they would not have made affirmative material injury determinations but for the suspension of liquidation.

[4] Commerce made a preliminary negative determination regarding subsidies on subject imports from Korea. The Commission noted that in the event Commerce made an affirmative final determination regarding subsidies, the final phase of the Commission's countervailing duty investigation would be activated. Commerce's final determination regarding subsidized imports was affirmative, thus activating the final phase of the Commission's countervailing duty investigation.

## INTERNATIONAL TRADE COMMISSION

**[Investigations Nos. 731–TA–470–472 and 671–673 (Review)]**

### Silicon Metal From Argentina, Brazil, and China and Silicomanganese From Brazil, China, and Ukraine

**AGENCY:** United States International Trade Commission.

**ACTION:** Scheduling of full five-year reviews concerning the antidumping duty orders on silicon metal from Argentina, Brazil, and China; the antidumping duty orders on silicomanganese from Brazil and China; and the suspended investigation on silicomanganese from Brazil.

**SUMMARY:** The Commission hereby gives notice of the scheduling of full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty orders on silicon metal from Argentina, Brazil, and China; the antidumping duty orders on silicomanganese from Brazil and China; and termination of the suspended investigation on silicomanganese from Ukraine would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B). For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**EFFECTIVE DATE:** August 8, 2000.

**FOR FURTHER INFORMATION CONTACT:** Olympia DeRosa Hand (202–205–3182), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*).

**SUPPLEMENTARY INFORMATION:**

**Background**

On February 3, 2000, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews pursuant to section 751(c)(5) of the Act should proceed (65 F.R. 7891, February 16, 2000). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's web site.

**Participation in the Reviews and Public Service List**

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

**Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List**

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

**Staff Report**

The prehearing staff report in the reviews will be placed in the nonpublic record on October 24, 2000, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

**Hearing**

The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on November 14, 2000, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before November 7, 2000. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on November 9, 2000, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

**Written Submissions**

Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is November 2, 2000. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is November 22, 2000; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before November 22, 2000. On January 5, 2001, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before January 9, 2001, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. The Commission has determined to waive rule 207.3(c) in order to permit the filing of public versions of posthearing briefs in these reviews on November 27, 2000.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: August 8, 2000.
By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 00–20530 Filed 8–11–00; 8:45 am]
BILLING CODE 7020–02–U

## INTERNATIONAL TRADE COMMISSION

**[Inv. No. 337–TA–431]**

### Certain Synchronous Dynamic Random Access Memory Devices, Microprocessors, and Products Containing Same; Notice of Commission Decision Not To Review an Initial Determination Terminating the Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ's") initial determination ("ID") terminating the investigation in its entirety by granting (1) the joint motion of complainant Rambus Inc. and respondents Hitachi, Ltd. and Hitachi Semiconductor (America), Inc. to terminate the investigation based on a settlement agreement, and by granting (2) complainant's motion to withdraw its complaint and terminate the investigation as to the remaining respondents.

**FOR FURTHER INFORMATION CONTACT:** Clara Kuehn, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone (202) 205–3012. Hearing-impaired persons are

advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

**SUPPLEMENTARY INFORMATION:** The Commission ordered the institution of this investigation on April 18, 2000, based on a complaint filed by Rambus Inc. of Mountain View, California. The notice of investigation was published in the **Federal Register** on April 24, 2000. 65 *Fed. Reg.* 21790 (2000). The complaint named four respondents: Hitachi, Ltd. of Tokyo, Japan; Hitachi Semiconductor (America), Inc., of San Jose, California (collectively, "Hitachi"); Sega Enterprises, Ltd., of Tokyo, Japan; and Sega of America, Inc., of San Francisco, California (collectively, "Sega").

On June 29, 2000, complainant Rambus and the Hitachi respondents filed a joint motion to terminate the investigation by settlement. Also on June 29, 2000, complainant Rambus filed a motion to withdraw the complaint and terminate the investigation as to the Sega respondents. On July 10, 2000, the Commission investigation attorney filed responses in support of each motion. The Sega respondents filed no response to either motion. On July 12, 2000, the presiding ALJ issued an ID (Order No. 11) granting both motions. No party petitioned for review of the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 C.F.R. 210.42). Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone 202–205–2000.

Issued: August 7, 2000.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 00–20528 Filed 8–11–00; 8:45 am]

BILLING CODE 7020–02–U

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

**[INS No. 2086–00]**

### Announcement of District Advisory Council on Immigration Matters 10th Meeting

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Notice of meeting.

**SUMMARY:** The Immigration and Naturalization Service (Service), has established a District Advisory Council on Immigration Matters (DACOIM) to provide the New York District Director of the Service with recommendations on ways to improve the response and reaction to customers in the local jurisdiction and to develop new partnerships with local officials and community organizations to build and enhance a broader understanding of immigration policies and practices. The purpose of this notice is to announce the forthcoming meeting.

**DATES:** The 10th meeting of the DACOIM is scheduled for September 28, 2000, at 1 p.m.

**ADDRESSES:** The meeting will be held at the Jacob Javitts Federal Building, 26 Federal Plaza, Room 537, New York, New York 10278.

**FOR FURTHER INFORMATION CONTACT:** Christian A. Rodriguez, Designated Federal Officer, Immigration and Naturalization Service, 26 Federal Plaza, Room 14–100, New York, New York, 10278, telephone: (212) 264–0736.

**SUPPLEMENTARY INFORMATION:** Meeting will be held tri-annually on the fourth Thursday during the months of January, May, and September.

**Summary of Agenda**

The purpose of the meeting will be to conduct general business, review subcommittee reports, and facilitate public participation. The DACOIM will be chaired by Jack Byrnes, Section Chief, New York District, Immigration and Naturalization Service.

**Public Participation**

The DACOIM meeting is open to the public, but advance notice of attendance is requested to ensure adequate seating. Persons planning to attend should notify the contact person at least two (2) days prior to the meeting. Members of the public may submit written statements at any time before or after the meeting for consideration by the DACOIM. Written statements should be sent to Christian A. Rodriguez, Designated Federal Officer, Immigration and Naturalization Service, 26 Federal Plaza, Room 14–100, New York, New York, 10278, telephone: (212) 264–0736. Only written statements received by 5 p.m. on September 25, 2000, will be considered for presentation at the meeting. Minutes of the meeting will be available upon request.

Dated: August 4, 2000.

**Doris Meissner,**

*Commissioner, Immigration and Naturalization Service.*

[FR Doc. 00–20478 Filed 8–11–00; 8:45 am]

BILLING CODE 4410–10–M

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[Docket No. ICR–1218–0216(2000)]**

### Manufacturer's Certification of Modifications Made to Construction Aerial Lifts; Extension of the Office of Management and Budget's (OMB) Approval of Information-Collection (Paperwork) Requirements

**AGENCY:** Occupational Safety and Health Administration (OSHA); Labor.

**ACTION:** Notice of an opportunity for public comment.

**SUMMARY:** OSHA solicits comments concerning the proposed reduction in the burden hours and extension of the information-collection requirements contained in the Aerial Lifts Standard (29 CFR 1926.453(a)(2)).

**Request for Comment**

The Agency has a particular interest in comments on the following issues:

- Whether the information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and transmission techniques.

**DATES:** Submit written comments on or before October 13, 2000.

**ADDRESSES:** Submit written comments to the Dock Office, Docket No. ICR–12218–0216(2000), Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625,

200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2350. Commenters may transmit written comments of 10 pages or less in length by facsimile to (202) 693–1648.

**FOR FURTHER INFORMATION CONTACT:** Kathleen M. Martinez, Directorate of Policy, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3641, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2444. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information-collection requirements in the Aerial Lifts Standard is available for inspection and copying in the Docket Office, or you may request a mailed copy by telephoning Kathleen M. Martinez at (202) 694–2444. For electronic copies of the ICR on the Aerial Lifts Standard, contact OSHA on the Internet at http://www.osha.gov.

**SUPPLEMENTARY INFORMATION:**

## I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with the opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information burden is correct. The Occupational Safety and Health Act of the 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The only information-collection requirement in the Aerial Lifts Standard is a certification provision, paragraph (a)(2). This provision requires an employer who modifies an aerial lift for uses not documented by the lift manufacturer to obtain from that manufacturer, or an equivalent entity (such as nationally-recognized laboratory), a written certificate stating that: The modification conforms to the applicable provisions of ANSI A92.2–1969 and the Aerial Lifts Standard; and the modified aerial lift is at least as safe as it was before modification.

## II. Proposed Action

OSHA proposes to reduce the burden hours and extend the collection-of-information (paperwork) requirement in the Aerial Lifts Standard. Regarding the reduced paperwork requirement, the Agency decreased the estimated amount of time for maintaining and disclosing the certification record from 5 minutes to 3 minutes. After obtaining comments to this proposal, OSHA will summarize the comments and will include this summary in its request to OMB to extend the approval of the information-collection requirement in the Aerial Lifts Standard.

*Type of Review:* Extension of currently approved information-collection requirements.

*Title:* Aerial Lifts (29 CFR 1926.453(a)(2)).

*OMB Number:* 1218–0216.

*Affected Public:* Business or other for-profit; Federal Government; State, Local or Tribal governments.

*Number of Respondents:* 60.

*Frequency:* On occasion.

*Average Time Per Response:* 3 minutes.

*Total Burden Hours:* 3 hours.

## III. Authority and Signature

Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No. 6–96 (62 FR 11).

Signed at Washington, DC on August 4, 2000.

**Charles N. Jeffress,**

*Assistant Secretary of Labor.*

[FR Doc. 00–20546 Filed 8–11–00; 8:45 am]

**BILLING CODE 4510–26–M**

---

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

### National Advisory Committee on Occupational Safety and Health; Notice of Meeting

Notice is hereby given of the date and location of the next meeting of the National Advisory Committee on Occupational Safety and Health (NACOSH), established under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act. NACOSH will hold a meeting on September 13–14, 2000, in Room N 3437 A–C of the Department of Labor Building located at 200 Constitution Avenue NW, Washington, DC. The meeting is open to the public and will begin at 9 a.m. lasting until approximately 4 p.m. each day.

At its last meeting, June 6, the committee decided to undertake a review of various aspects of training in relation to occupational safety and health. Subjects on the agenda for this meeting will include, in addition to overviews of current activities of the Occupational Safety and Health Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH): the training of compliance safety and health officers, a description of OSHA's Training Institute and OSHA's training grant program, and a report from NIOSH on the status of its training activities and its Education Resource Centers (ERCs). There will also be a report on an October 1999 Training Conference, a discussion of NIOSH training research activities and a report from OSHA's task force on outreach activities.

Written data, views or comments for consideration by the committee may be submitted, preferably with 20 copies, to Joanne Goodell at the address provided below. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting. Because of the need to cover a wide variety of subjects in a short period of time, there is usually insufficient time on the agenda for members of the public to address the committee orally. However, any such requests will be considered by the Chair who will determine whether or not time permits. Any request to make an oral presentation should state the amount of time desired, the capacity in which the person would appear, and a brief outline of the content of the presentation. Individuals with disabilities who need special accommodations should contact Veneta Chatmon (phone: 202–693–1912; FAX: 202–693–1634) one week before the meeting.

An official record of the meeting will be available for public inspection in the OSHA Technical Data Center (TDC) located in Room N2625 of the Department of Labor Building (202–693–2350). For additional information contact: Joanne Goodell, Occupational Safety and Health Administration (OSHA); Room N–3641, 200 Constitution Avenue NW, Washington, DC 20210, (phone: 202–693–2400; FAX: 202–693–1641; e-mail joanne.goodell@osha.gov); or check the National Advisory Committee on Occupational Safety and Health

information pages located at www.osha.gov.

Signed at Washington, DC, this 9th day of August, 2000.

**Charles N. Jeffress,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 00–20545 Filed 8–11–00; 8:45 am]

BILLING CODE 4510–26–M

## THE NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

### Institute of Museum and Library Services; Agency Information Collection Activities: Proposed Collection; Comment Request

**ACTION:** Notice.

**SUMMARY:** The Institute of Museum and Library Services as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3508(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently the Institute of Museum and Library Services is requesting comment on a generic package of grant applications, guidelines, interim and final reports.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

Comments should be sent to Mamie Bittner, Director of Public and Legislative Affairs, 1100 Pennsylvania Ave., NW, Washington, DC 20506.

**DATES:** Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before September 13, 2000.

IMLS is particularly interested in comments which help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

**ADDRESSES:** Send comments to: Mamie Bittner, Director of Legislative and Public Affairs, Institute of Museum and Library Services, 1100 Pennsylvania Ave., NW, Room 510, Washington, DC 20506.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

P.L. 104–208 enacted on September 30, 1996 contains the former Museum Services Act and the Library Services and Technology Act, a reauthorization. P.L. 104–208 authorizes the Director of the Institute of Museum and Library Services to make grants to improve museum and library service throughout the United States.

*Agency:* Institute of Museum and Library Service.

*Title:* Application Guidelines, Interim and Final Performance Reports.

*OMB Number:* 3137–0029.

*Agency Number:* 3137.

*Frequency:* Annually.

*Affected Public:* State Library Administrative Agencies, museums, libraries.

*Number of Respondents:* 2084.

*Estimated Time Per Respondent:* 1–40 hours see chart.

*Total Burden Hours:* 32,136.

*Total Annualized capital/startup costs:* 0.

*Total Annual Costs:* 0.

**CONTACT:** Mamie Bittner, Director Public and Legislative Affairs, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, telephone (202) 606–8339.

**Mamie Bittner,**

*Director Public and Legislative Affairs.*

| Title of publication | Burden hours | Number of respondents |
|---|---|---|
| Museum Assessment Program Grant and Application Guidelines | 4 | 180 |
| MAP Final Performance Report | 1 | 180 |
| Conservation Assessment Program Grant and Application Guidelines | 4 | 208 |
| CAP Performance Report | 1 | 208 |
| Conservation Project (CP) Grant Application and guidelines | 9 | 210 |
| CP Interim Performance Report | 1 | 68 |
| CP Final Performance Report | 1 | 68 |
| General Operating Support Grant Application and Guidelines | 18 | 823 |
| GOS final Performance Report | 1 | 202 |
| National Leadership Grant Application and Guidelines for Museums and Libraries | 40 | 277 |
| National Leadership Grant for Museums and Libraries Interim Report | 1 | 50 |
| National Leadership Grant for Museums and Libraries Final Report | 2 | 50 |
| Organizational Survey | .50 | 20 |
| State Grants Annual Report | 18 | 56 |
| Native American Library Services Application and guidelines—Technical Assistance | 2 | 50 |
| Native American Library Services—Technical Assistance Final Report | 1 | 50 |
| Native American Library Services Application and Guidelines—enhancement | 10 | 12 |
| Native American Library Services—Enhancement Interim Report | 2 | 12 |
| Native American Library Services Enhancement Final Report | 1 | 12 |
| Native American Library Services Application and Guidelines—Basic | 2 | 200 |
| Native American Library Services—Basic final report | 1 | 200 |

[FR Doc. 00–20527 Filed 8–11–00; 8:45 am]
BILLING CODE 7036–01–M

## NATIONAL SCIENCE FOUNDATION

### Committee Management; Notice of Establishment

The Deputy Director of the National Science Foundation has determined that the establishment of the Oversight Council for the International Arctic Research Center is necessary and in the public interest in connection with the performance of duties imposed upon the National Science Foundation (NSF), by 42 U.S.C. 1861 *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration.

*Name of Committee:* Oversight Council for the International Arctic Research Center.

*Nature/Purpose:* The Oversight Council will be strictly advisory and will advise NSF and the University of Alaska, Fairbanks, on scientific, policy, and management issues relating to the operation of the International Arctic Research Center (IARC). The Oversight Council will review annual program plans of the IARC before submission to NSF.

*Responsible NSF Official:* Dr. Karl Erb, Director, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Suite 755, Arlington, VA 22230. Telephone: (703) 292–8030.

Dated: August 9, 2000.

**Karen J. York,**

*Committee Management Officer.*

[FR Doc. 00–20526 Filed 8–11–00; 8:45 am]
BILLING CODE 7555–01–M

## NATIONAL SCIENCE FOUNDATION

### Special Emphasis Panel In Integrative Activities; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

*Name:* Special Emphasis Panel in Integrative Activities (1373) Site Visit.

*Date and Time:* September 18, 2000, 7:30 pm—10:00 pm; September 19, 2000, 8:30 am—6:00 pm; September 20, 2000, 8:30 am—3:00 pm.

*Place:* 9/18/00: West Coast Plaza Hotel, Santa Cruz, California, 9/19/00: Baskin Engineering Building, Rm. 156, Univ. of California, Santa Cruz, CA, 9/20/00: Kerr Hall, Room 283, University of California, Santa Cruz, California.

*Type of Meeting:* Closed.

*Contact Person:* Dr. Morris L. Aizenman, Senior Science Associate, Directorate for Mathematical and Physical Sciences, Rm. 1005, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–8807.

*Purpose of Meeting:* To provide advice and recommendations concerning further NSF support of the Center for Adaptive Optics.

*Agenda:* To review and evaluate the progress to date on all aspects of the Center for Adaptive Optics.

*Reason for Closing:* The project being reviewed includes information of a proprietary or confidential nature, including technical information; financial data and personal information concerning individuals associated with the annual report for continued support of this award for a second year. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: August 9, 2000.

**Karen J. York,**

*Committee Management Officer.*

[FR Doc. 00–20524 Filed 8–11–00; 8:45 am]
BILLING CODE 7555–01–M

## NATIONAL SCIENCE FOUNDATION

### Special Emphasis Panel for Small Business Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meetings:

*Name:* Special Emphasis Panel for Small Business Industrial Innovation (61).

*Date/Time:* September 6–8, 11–15, 18–22, 25–29, 2000; 8:30 a.m.–5 p.m.

*Place:* National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

*Type of Meeting:* Closed.

*Contact Person:* Joseph Hennessey, Acting Director, Small Business Innovation Research and Small Business Technology Transfer Programs, Room 590, Division of Design, Manufacturing, and Industrial Innovation, National Science Foundation, 4201 Wilson Boulevard, VA 22230. Telephone (703) 292–7069.

*Purpose of Meeting:* To provide advice and recommendations concerning proposals submitted to NSF for financial support.

*Agenda:* To review and evaluate proposals submitted to the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Programs as part of the selection process for awards..

*Reason for Closing:* The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: August 9, 2000.

**Karen J. York,**

*Committee Management Officer.*

[FR Doc. 00–20525 Filed 8–11–00; 8:45 am]
BILLING CODE 7555–01–M

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–254, 50–265]**

### In the Matter of Commonwealth Edison Company; Quad Cities Nuclear Power Station; Units 1 and 2; Order Approving Transfer of Licenses and Conforming Amendments

I.

Commonwealth Edison Company (ComEd, the licensee) owns 75 percent of the Quad Cities Nuclear Power Station, Units 1 and 2 ( the facility) and is the licensed operator of both stations. MidAmerican Energy Company (MidAmerican) owns the remaining interest. Facility Operating Licenses Nos. DPR–29 and DPR–30 authorize ComEd, acting for itself and as agent for MidAmerican to possess, use, and operate the facility. The facility is located at ComEd's site in Rock Island County, Illinois.

II.

Under cover of a letter dated December 20, 1999, ComEd submitted an application requesting approval of the proposed transfer of the facility operating licenses to the extent held by ComEd, to a new generating company, Exelon Generation Company, LLC (Exelon Generation Company), to be formed in connection with the proposed merger of Unicom Corporation (Unicom), the parent of ComEd, and PECO Energy Company (PECO). Exelon Generation Company would become exclusively responsible for the operation and maintenance of the facility. Exelon Generation Company and MidAmerican would be responsible for the decommissioning costs of the facility in accordance with their respective ownership percentages, with Exelon Generation Company being responsible for the eventual performance of decommissioning activities. The proposed transfer does not involve any change with respect to the non-operating ownership interest held by MidAmerican. ComEd also requested approval of conforming amendments to reflect the transfer. Supplemental information was provided by submittals dated January 14, March 10, March 23, March 29, and June 16, 2000. Hereinafter, the December 20, 1999, application and supplemental

information will be referred to collectively as the "application." The conforming amendments would remove ComEd from the facility operating licenses, add Exelon Generation Company in references to the licensee, and make miscellaneous administrative changes that accurately reflect the transfer of the licenses as held by ComEd.

By a separate application dated December 20, 1999, PECO requested approval of the transfer of the facility operating licenses that it holds to Exelon Generation Company. That application is being addressed separately.

Approval of the transfer of the facility operating licenses and conforming license amendments was requested by ComEd pursuant to 10 CFR 50.80 and 10 CFR 50.90. Notice of the applications for approval and an opportunity for a hearing was published in the **Federal Register** on March 9, 2000 (65 FR 12581). The Commission received no comments or requests for hearing pursuant to such notice.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application by ComEd, and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that Exelon Generation Company is qualified to hold the licenses to the extent now held by ComEd, and that the transfer of the licenses to Exelon Generation Company as proposed in the application is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by a safety evaluation dated August 3, 2000.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *It Is Hereby Ordered* that the transfer of the licenses as described herein to Exelon Generation Company is approved, subject to the following conditions:

(1) Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from Exelon Generation Company to its proposed direct or indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of Exelon Generation Company's consolidated net utility plant, as recorded on Exelon Generation Company's books of account.

(2) ComEd shall transfer to Exelon Generation Company the decommissioning trust funds for Quad Cities, Units 1 and 2, in the following minimum amounts, when Quad Cities, Units 1 and 2, are transferred to Exelon Generation Company:
Quad Cities, Unit 1—$192,149,504
Quad Cities, Unit 2—$193,209,439

(3) The decommissioning trust agreements for Quad Cities, Units 1 and 2, at the time the transfer of the units to Exelon Generation Company is effected and, thereafter, are subject to the following:

(a) The decommissioning trust agreements must be in a form acceptable to the NRC.

(b) With respect to the decommissioning trust funds, investments in the securities or other obligations of Exelon Corporation or affiliates thereof, or their successors or assigns are prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.

(c) The decommissioning trust agreements for Quad Cities, Units 1 and 2, must provide that no disbursements or payments from the trusts shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreements shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC.

(d) The decommissioning trust agreements must provide that the agreements can not be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.

(e) The appropriate section of the decommissioning trust agreements shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

(4) Exelon Generation Company shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application for approval of the transfer of the Quad Cities, Units 1 and 2, licenses and the requirements of this Order approving the transfer, and consistent with the safety evaluation supporting this Order.

(5) Before the completion of the transfer of the 75 percent interest in Quad Cities, Units 1 and 2, to it, Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that Exelon Generation Company has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

(6) After receipt of all required regulatory approvals of the transfer of the 75 percent interest in Quad Cities, Units 1 and 2, ComEd shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, of such receipt within 5 business days, and of the date of the closing of the transfer no later than 7 business days prior to the date of the closing. Should the transfer of the licenses not be completed by July 31, 2001, this Order shall become null and void, provided, however, upon written application and for good cause shown, such date may in writing be extended.

(7) Approval of the transfer of the licenses for Quad Cities, Units 1 and 2, is conditioned upon all of the PECO and ComEd nuclear units described in the application to be transferred to Exelon Generation Company becoming owned

by Exelon Generation Company contemporaneously.

*It Is Further Ordered* that, consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosure 11 to the cover letter forwarding this Order, to conform the licenses to reflect the subject license transfers are approved. The amendments shall be issued and made effective at the time the proposed license transfers are completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated December 20, 1999, and supplemental submittals dated January 14, March 10, March 23, March 29, and June 16, 2000, and the safety evaluation dated August 3, 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 3rd day of August 2000.

For the Nuclear Regulatory Commission.

**Samuel J. Collins,**

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 00–20572 Filed 8–11–00; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**Docket Nos. 50–373, 50–374**

### In the Matter of Commonwealth Edison Company; (LaSalle County Station, Units 1 and 2); Order Approving Transfer of Licenses and Conforming Amendments

I

Commonwealth Edison Company (ComEd, the licensee) is the holder of Facility Operating Licenses Nos. NPF–11 and NPF–18, which authorize the possession, use, and operation of the LaSalle County Station, Units 1 and 2 (the facility). The facility is located at the licensee's site in LaSalle County, Illinois.

II

Under cover of a letter dated December 20, 1999, ComEd submitted an application requesting approval of the proposed transfer of the facility operating licenses to a new generating company, Exelon Generation Company, LLC (Exelon Generation Company), to be formed in connection with the proposed merger of Unicom Corporation (Unicom), the parent of ComEd, and PECO Energy Company (PECO). ComEd also requested approval of conforming license amendments to reflect the transfer. Supplemental information was provided by submittals dated January 14, March 10, March 23, March 29, and June 16, 2000. Hereinafter, the December 20, 1999, application and supplemental information will be referred to collectively as the "application." The conforming amendments would remove ComEd from the facility operating licenses, add Exelon Generation Company in references to the licensee, and make several miscellaneous administrative changes that accurately reflect the transfer of the licenses to Exelon Generation Company. After completion of the proposed transfer, Exelon Generation Company will be the sole owner and operator of LaSalle, Units 1 and 2.

By a separate application dated December 20, 1999, PECO requested approval of the transfer of the facility operating licenses that it holds to Exelon Generation Company. That application is being addressed separately.

Approval of the transfer of the facility operating licenses and conforming license amendments was requested by ComEd pursuant to 10 CFR 50.80 and 10 CFR 50.90. Notice of the applications for approval and an opportunity for a hearing was published in the **Federal Register** on March 9, 2000 (65 FR 12585). The Commission received no comments or requests for hearing pursuant to such notice.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application by ComEd, and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that Exelon Generation Company is qualified to hold the licenses, and that the transfer of the licenses to Exelon Generation Company is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by a safety evaluation dated August 3, 2000.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *It Is Hereby Ordered* that the transfer of the licenses as described herein to Exelon Generation Company is approved, subject to the following conditions:

(1) Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from Exelon Generation Company to its proposed direct or indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of Exelon Generation Company's consolidated net utility plant, as recorded on Exelon Generation Company's books of account.

(2) ComEd shall transfer to Exelon Generation Company the decommissioning trust funds for LaSalle, Units 1 and 2, in the following minimum amounts, when LaSalle, Units 1 and 2, are transferred to Exelon Generation Company:

LaSalle, Unit 1—$226,262,522

LaSalle, Unit 2—$221,885,059

(3) The decommissioning trust agreements for LaSalle, Units 1 and 2, at the time the transfer of the units to Exelon Generation Company is effected and, thereafter, are subject to the following:

(a) The decommissioning trust agreements must be in a form acceptable to the NRC.

(b) With respect to the decommissioning trust funds, investments in the securities or other obligations of Exelon Corporation or affiliates thereof, or their successors or assigns are prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.

(c) The decommissioning trust agreements for LaSalle, Units 1 and 2, must provide that no disbursements or payments from the trust shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreements shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC.

(d) The decommissioning trust agreements must provide that the agreements can not be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.

(e) The appropriate section of the decommissioning trust agreements shall state that the trustee, investment advisor, or anyone else directing the investments made in the trusts shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

(4) Exelon Generation Company shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application for approval of the transfer of the LaSalle, Units 1 and 2, licenses and the requirements of this Order approving the transfer, and consistent with the safety evaluation supporting this Order.

(5) Before the completion of the transfer of LaSalle, Units 1 and 2, to it, Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation, satisfactory documentary evidence that Exelon Generation Company has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

(6) After receipt of all required regulatory approvals of the transfer of LaSalle, Units 1 and 2, ComEd shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, of such receipt within 5 business days, and of the date of the closing of the transfer no later than 7 business days prior to the date of the closing. Should the transfer of the licenses not be completed by July 31, 2001, this Order shall become null and void, provided, however, upon written application and for good cause shown, such date may in writing be extended.

(7) Approval of the transfer of the licenses for LaSalle, Units 1 and 2, is conditioned upon all of the PECO and ComEd nuclear units described in the application to be transferred to Exelon Generation Company becoming owned by Exelon Generation Company contemporaneously.

*It Is Further Ordered that,* consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosure 10 to the cover letter forwarding this Order, to conform the licenses to reflect the subject license transfers are approved. The amendments shall be issued and made effective at the time the proposed license transfers are completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated December 20, 1999, and supplemental submittals dated January 14, March 10, March 23, March 29, and June 16, 2000, and the safety evaluation dated August 3, 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 3rd day of August 2000.

For the Nuclear Regulatory Commission

**Samuel J. Collins,**

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 00–20573 Filed 8–11–00; 8:45 am]

BILLING CODE 7590–01–P

---

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–10, 50–237, 50–249]**

## In the Matter of Commonwealth Edison Company; Dresden Nuclear Power Station, Units 1, 2, and 3; Order Approving Transfer of Licenses and Conforming Amendments

I

Commonwealth Edison Company (ComEd, the licensee) is the holder of Facility Operating License No. DPR–2, which authorizes possession and maintenance but not operation of Dresden Nuclear Power Station, Unit 1, and Facility Operating Licenses Nos. DPR–19 and DPR–25, which authorize the possession, use, and operation of the Dresden Nuclear Power Station, Units 2 and 3. The facility (Dresden, Units 1, 2, and 3) is located at the licensee's site in Grundy County, Illinois.

II

Under cover of a letter dated December 20, 1999, ComEd submitted an application requesting approval of the proposed transfer of the facility operating licenses to a new generating company, Exelon Generation Company, LLC (Exelon Generation Company or EGC), to be formed in connection with the proposed merger of Unicom Corporation (Unicom), the parent of ComEd, and PECO Energy Company (PECO). ComEd also requested approval of conforming amendments to reflect the transfer. Supplemental information was provided by submittals dated January 14, March 10, March 23, March 29, and June 16, 2000. Hereinafter, the December 20, 1999, application and supplemental information will be referred to collectively as the "application." The conforming amendments would remove ComEd from the facility operating licenses, add Exelon Generation Company in references to the licensee, and make additional administrative changes that accurately reflect the transfer of the licenses to Exelon Generation Company. After completion of the proposed transfer, Exelon Generation Company will be the sole owner of Dresden, Units 1, 2, and 3, and the sole operator of Dresden, Units 2 and 3.

By a separate application dated December 20, 1999, PECO requested approval of the transfer of the facility operating licenses that it holds to Exelon Generation Company. That application is being addressed separately.

Approval of the transfer of the facility operating licenses and conforming license amendments was requested by ComEd pursuant to 10 CFR 50.80 and 10 CFR 50.90. Notice of the request for approval and an opportunity for a hearing was published in the **Federal Register** on March 9, 2000 (65 FR 12582). The Commission received no comments or requests for hearing pursuant to such notice.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application by ComEd, and other information before the Commission, and relying upon the representations and agreements

contained in the application, the NRC staff has determined that Exelon Generation Company is qualified to hold the licenses, and that the transfer of the licenses to Exelon Generation Company is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by a safety evaluation dated August 3, 2000.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *It Is Hereby Ordered* that the transfer of the licenses as described herein to Exelon Generation Company is approved, subject to the following conditions:

(1) Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from Exelon Generation Company to its proposed direct or indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of Exelon Generation Company's consolidated net utility plant, as recorded on Exelon Generation Company's books of account.

(2) ComEd shall transfer to Exelon Generation Company the decommissioning trust funds for Dresden, Units 1, 2, and 3, in the following minimum amounts, when Dresden, Units 1, 2, and 3, are transferred to Exelon Generation Company:

Dresden, Unit 1—$92,836,082
Dresden, Unit 2—$288,233,336
Dresden, Unit 3—$262,231,719

(3) The decommissioning trust agreements for Dresden, Units 1, 2 and 3, at the time the transfer of the units to Exelon Generation Company is effected and, thereafter, are subject to the following:

(a) The decommissioning trust agreements must be in a form acceptable to the NRC.

(b) With respect to the decommissioning trust funds, investments in the securities or other obligations of Exelon Corporation or affiliates thereof, or their successors or assigns are prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.

(c) The decommissioning trust agreements for Dresden, Units 1, 2, and 3, must provide that no disbursements or payments from the trusts shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreements shall further contain a provision that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the NRC.

(d) The decommissioning trust agreements must provide that the agreement can not be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.

(e) The appropriate section of the decommissioning trust agreements shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

(4) Exelon Generation Company shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application for approval of the transfer of the Dresden, Units 1, 2, and 3, licenses and the requirements of this Order approving the transfer, and consistent with the safety evaluation supporting this Order.

(5) Before the completion of the transfer of Dresden, Units 1, 2, and 3, to it, Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that Exelon Generation Company has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

(6) After receipt of all required regulatory approvals of the transfer of Dresden, Units 1, 2 and 3, ComEd shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, of such receipt within 5 business days, and of the date of the closing of the transfer no later than 7 business days prior to the date of the closing. Should the transfer of the licenses not be completed by July 31, 2001, this Order shall become null and void, provided, however, upon written application and for good cause shown, such date may in writing be extended.

(7) Approval of the transfer of the licenses for Dresden, Units 1, 2 and 3 is conditioned upon all of the PECO and ComEd nuclear units described in the application to be transferred to Exelon Generation Company becoming owned by Exelon Generation Company contemporaneously.

*It Is Further Ordered that*, consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosure 9 to the cover letter forwarding this Order, to conform the licenses to reflect the subject license transfers are approved. The amendments shall be issued and made effective at the time the proposed license transfers are completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated December 20, 1999, and supplemental submittals dated January 14, March 10, March 23, March 29, and June 16, 2000, and the safety evaluation dated August 3, 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 3rd day of August 2000.

For the Nuclear Regulatory Commission.

**Samuel J. Collins,**

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 00–20574 Filed 8–11–00; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–295, 50–304]

### In the Matter of Commonwealth Edison Company; Zion Nuclear Power Station, Units 1 and 2; Order Approving Transfer of Licenses and Conforming Amendments

I

Commonwealth Edison Company (ComEd, the licensee) is the holder of Facility Operating Licenses Nos. DPR–39 and DPR–48 for the Zion Nuclear Power Station, Units 1 and 2 (the facility). The facility was shut down permanently in February 1997. ComEd certified the permanent shutdown on February 13, 1998, and certified that all fuel had been removed from the reactor vessels on March 9, 1998. In accordance with 10 CFR 50.82(a)(2), the facility operating licenses no longer authorize ComEd to operate the reactors or to load fuel in the reactor vessels. The facility is located at the licensee's site in Lake County, Illinois.

II

Under cover of a letter dated December 20, 1999, ComEd submitted an application requesting approval of the proposed transfer of the facility operating licenses to a new generating company, Exelon Generation Company, LLC (Exelon Generation Company), to be formed in connection with the proposed merger of Unicom Corporation (Unicom), the parent of ComEd, and PECO Energy Company (PECO). ComEd also requested approval of conforming amendments to reflect the transfer. Supplemental information was provided by submittals dated January 14, March 10, March 23, March 29, and June 16, 2000. Hereinafter, the December 20, 1999, application and supplemental information will be referred to collectively as the "application." The conforming amendments would remove ComEd from the facility operating licenses, add Exelon Generation Company in references to the licensee, and make miscellaneous changes that accurately reflect the transfer of the licenses to Exelon Generation Company. After completion of the proposed transfer, Exelon Generation Company will be the sole owner of Zion, Units 1 and 2.

By a separate application dated December 20, 1999, PECO requested approval of the transfer of the facility operating licenses that it holds to Exelon Generation Company. That application will be addressed separately.

Approval of the transfer of the facility operating licenses and conforming license amendments was requested by ComEd pursuant to 10 CFR 50.80 and 10 CFR 50.90. Notice of the applications for approval and an opportunity for a hearing was published in the **Federal Register** on March 9, 2000 (65 FR 12586). The Commission received no comments or requests for hearing pursuant to such notice.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application by ComEd, and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that Exelon Generation Company is qualified to hold the licenses, and that the transfer of the licenses to Exelon Generation Company is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by a safety evaluation dated August 3, 2000.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *It Is Hereby Ordered* that the transfer of the licenses as described herein to Exelon Generation Company is approved, subject to the following conditions:

(1) Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from Exelon Generation Company to its proposed direct or indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of Exelon Generation Company's consolidated net utility plant, as recorded on Exelon Generation Company's books of account.

(2) ComEd shall transfer to Exelon Generation Company the decommissioning trust funds for Zion, Units 1 and 2, in the following minimum amounts, when Zion, Units 1 and 2, are transferred to Exelon Generation Company:
Zion, Unit 1—$212,081,612
Zion, Unit 2—$222,708,468

(3) The Decommissioning trust agreements for Zion, Units 1 and 2, at the time the transfer of the units to Exelon Generation Company is effected and, thereafter, are subject to the following:

(a) The decommissioning trust agreements must be in a form acceptable to the NRC.

(b) With respect to the decommissioning trust funds, investments in the securities or other obligations of Exelon Corporation or affiliates thereof, or their successors or assigns are prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.

(c) The decommissioning trust agreements for Zion, Units 1 and 2, must provide that no disbursements or payments from the trusts shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreements shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC.

(d) The decommissioning trust agreements must provide that the agreements can not be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.

(e) The appropriate section of the decommissioning trusts agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trusts shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

(4) Exelon Generation Company shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application for approval of the transfer of the Zion, Units 1 and 2, licenses and the requirements of this Order approving the transfer, and consistent with the safety evaluation supporting this Order.

(5) Before the completion of the transfer of Zion, Units 1 and 2, to it, Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation, satisfactory documentary evidence that Exelon Generation Company has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

(6) After receipt of all required regulatory approvals of the transfer of Zion, Units 1 and 2, ComEd shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, of such receipt within 5 business days, and of the date of the closing of the transfer no later than 7 business days prior to the date of the closing. Should the transfer of the licenses not be completed by July 31, 2001, this Order shall become null and void, provided, however, upon written application and for good cause shown, such date may in writing be extended.

(7) Approval of the transfer of the licenses for Zion, Units 1 and 2, is conditioned upon all of the PECO and ComEd nuclear units described in the application to be transferred to Exelon Generation Company becoming owned by Exelon Generation Company contemporaneously.

*It Is Further Ordered* that, consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosure 12 to the cover letter forwarding this Order, to conform the licenses to reflect the subject license transfers are approved. The amendments shall be issued and made effective at the time the proposed license transfers are completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated December 20, 1999, and supplemental submittals dated January 14, March 10, March 23, March 29, and June 16, 2000, and the safety evaluation dated August 3, 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 3rd day of August 2000.

For the Nuclear Regulatory Commission.

**Samuel J. Collins,**

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 00–20577 Filed 8–11–00; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. STN 50–454, STN 50–455]**

## In the Matter of Commonwealth Edison Company (Byron Station, Units 1 and 2); Order Approving Transfer of Licenses and Conforming Amendments

I

Commonwealth Edison Company (ComEd, the licensee) is the holder of Facility Operating Licenses Nos. NPF–37 and NPF–66, which authorize the possession, use, and operation of the Byron Station, Units 1 and 2 (the facility). The facility is located at the licensee's site in Ogle County, Illinois.

II

Under cover of a letter dated December 20, 1999, ComEd submitted an application requesting approval of the proposed transfer of the facility operating licenses to a new generating company, Exelon Generation Company, LLC (Exelon Generation Company or EGC), to be formed in connection with the proposed merger of Unicom Corporation (Unicom), the parent of ComEd, and PECO Energy Company (PECO). ComEd also requested approval of conforming license amendments to reflect the transfer. Supplemental information was provided by submittals dated January 14, March 10, March 23, March 29, and June 16, 2000. Hereinafter, the December 20, 1999, application and supplemental information will be referred to collectively as the "application." The conforming amendments would remove ComEd from the facility operating licenses, add Exelon Generation Company in references to the licensee, and make several miscellaneous administrative changes that accurately reflect the transfer of the licenses to Exelon Generation Company. After completion of the proposed transfer, Exelon Generation Company will be the sole owner and operator of Byron, Units 1 and 2.

By a separate application dated December 20, 1999, PECO requested approval of the transfer of the facility operating licenses that it holds to Exelon Generation Company. That application is being addressed separately.

Approval of the transfer of the facility operating licenses and conforming license amendments was requested by ComEd pursuant to 10 CFR 50.80 and 10 CFR 50.90. Notice of the request for approval and an opportunity for a hearing was published in the **Federal Register** on March 9, 2000 (65 FR 12583). The Commission received no comments or requests for hearing pursuant to such notice.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application by ComEd, and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that Exelon Generation Company is qualified to hold the licenses, and that the transfer of the licenses to Exelon Generation Company is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by a safety evaluation dated August 3, 2000.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *it is hereby ordered* that the transfer of the licenses as described herein to Exelon Generation Company is approved, subject to the following conditions:

(1) Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from Exelon Generation Company to its proposed direct or indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of Exelon Generation Company's consolidated net utility plant, as recorded on Exelon Generation Company's books of account.

(2) ComEd shall transfer to Exelon Generation Company the decommissioning trust funds for Byron, Units 1 and 2, in the following minimum amounts, when Byron, Units 1 and 2, are transferred to Exelon Generation Company:
Byron, Unit 1—$169,659,917
Byron, Unit 2—$156,560,489

(3) The decommissioning trust agreements for Byron, Units 1 and 2, at the time the transfer of the units to Exelon Generation Company is effected and, thereafter, are subject to the following:

(a) The decommissioning trust agreements must be in a form acceptable to the NRC.

(b) With respect to the decommissioning trust funds, investments in the securities or other obligations of Exelon Corporation or affiliates thereof, or their successors or assigns are prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.

(c) The decommissioning trust agreements for Byron, Units 1 and 2, must provide that no disbursements or payments from the trusts shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreements shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC.

(d) The decommissioning trust agreements must provide that the agreements can not be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.

(e) The appropriate section of the decommissioning trust agreements shall state that the trustee, investment advisor, or anyone else directing the investments made in the trusts shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

(4) Exelon Generation Company shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application for approval of the transfer of the Byron, Units 1 and 2, licenses and the requirements of this Order approving the transfer, and consistent with the safety evaluation supporting this Order.

(5) Before the completion of the transfer of Byron, Units 1 and 2, to it, Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that Exelon Generation Company has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

(6) After receipt of all required regulatory approvals of the transfer of Byron, Units 1 and 2, ComEd shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, of such receipt within 5 business days, and of the date of the closing of the transfer no later than 7 business days prior to the date of the closing. Should the transfer of the licenses not be completed by July 31, 2001, this Order shall become null and void, provided, however, upon written application and for good cause shown, such date may in writing be extended.

(7) Approval of the transfer of the licenses for Byron, Units 1 and 2 is conditioned upon all of the PECO and ComEd nuclear units described in the application to be transferred to Exelon Generation Company becoming owned by Exelon Generation Company contemporaneously.

*It Is Further Ordered* that, consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosure 8 to the cover letter forwarding this Order, to conform the licenses to reflect the subject license transfers are approved. The amendments shall be issued and made effective at the time the proposed license transfers are completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated December 20, 1999, and supplemental submittals dated January 14, March 10, March 23, March 29, and June 16, 2000, and the safety evaluation dated August 3, 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 3rd day of August 2000.

For the Nuclear Regulatory Commission.

**Samuel J. Collins,**

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 00–20578 Filed 8–11–00; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. STN 50–456, STN 50–457]**

## In the Matter of Commonwealth Edison Company (Braidwood Station, Units 1 and 2); Order Approving Transfer of Licenses and Conforming Amendments

I

Commonwealth Edison Company (ComEd, the licensee) is the holder of Facility Operating Licenses Nos. NPF–72 and NPF–77, which authorize the possession, use, and operation of the Braidwood Station, Units 1 and 2 (the facility). The facility is located at the licensee's site in Will County, Illinois.

II

Under cover of a letter dated December 20, 1999, ComEd submitted an application requesting approval of the proposed transfer of the facility operating licenses to a new generating company, Exelon Generation Company, LLC (Exelon Generation Company or EGC) to be formed in connection with the proposed merger of Unicom Corporation (Unicom), the parent of ComEd, and PECO Energy Company (PECO). ComEd also requested approval of conforming license amendments to reflect the transfer. Supplemental information was provided by submittals dated January 14, March 10, March 23, March 29, and June 16, 2000. Hereinafter, the December 20, 1999,

application and supplemental information will be referred to collectively as the "application." The conforming amendments would remove ComEd from the facility operating licenses, add Exelon Generation Company in references to the licensee, and make several miscellaneous administrative changes that accurately reflect the transfer of the licenses to Exelon Generation Company. After completion of the proposed transfer, Exelon Generation Company will be the sole owner and operator of Braidwood, Units 1 and 2.

By a separate application dated December 20, 1999, PECO requested approval of the transfer of the facility operating licenses that it holds to Exelon Generation Company. That application is being addressed separately.

Approval of the transfer of the facility operating licenses and conforming license amendments was requested by ComEd pursuant to 10 CFR 50.80 and 10 CFR 50.90. Notice of the request for approval and an opportunity for a hearing was published in the **Federal Register** on March 9, 2000 (65 FR 12584). The Commission received no comments or requests for hearing pursuant to such notice.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application by ComEd, and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that Exelon Generation Company is qualified to hold the licenses, and that the transfer of the licenses to Exelon Generation Company is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by a safety evaluation dated August 3, 2000.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC §§ 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *It Is Hereby Ordered* that the transfer of the licenses as described herein to Exelon Generation Company is approved, subject to the following conditions:

(1) Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from Exelon Generation Company to its proposed direct or indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of Exelon Generation Company's consolidated net utility plant, as recorded on Exelon Generation Company's books of account.

(2) ComEd shall transfer to Exelon Generation Company the decommissioning trust funds for Braidwood, Units 1 and 2, in the following minimum amounts, when Braidwood, Units 1 and 2, are transferred to Exelon Generation Company:

Braidwood, Unit 1—$154,273,345
Braidwood, Unit 2—$154,448,967

(3) The decommissioning trust agreements for Braidwood, Units 1 and 2, at the time the transfer of the units to Exelon Generation Company is effected and, thereafter, are subject to the following:

(a) The decommissioning trust agreements must be in a form acceptable to the NRC.

(b) With respect to the decommissioning trust funds, investments in the securities or other obligations of Exelon Corporation or affiliates thereof, or their successors or assigns are prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.

(c) The decommissioning trust agreements for Braidwood, Units 1 and 2, must provide that no disbursements or payments from the trusts shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreements shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC.

(d) The decommissioning trust agreements must provide that the agreements can not be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.

(e) The appropriate section of the decommissioning trust agreements shall state that the trustee, investment advisor, or anyone else directing the investments made in the trusts shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

(4) Exelon Generation Company shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application for approval of the transfer of the Braidwood, Units 1 and 2, licenses and the requirements of this Order approving the transfer, and consistent with the safety evaluation supporting this Order.

(5) Before the completion of the transfer of Braidwood, Units 1 and 2, to it, Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that Exelon Generation Company has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

(6) After receipt of all required regulatory approvals of the transfer of Braidwood, Units 1 and 2, ComEd shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, of such receipt within 5 business days, and of the date of the closing of the transfer no later than 7 business days prior to the date of the closing. Should the transfer of the licenses not be completed by July 31, 2001, this Order shall become null and void provided, however, upon written application and for good cause shown, such date may in writing be extended.

(7) Approval of the transfer of the licenses for Braidwood, Units 1 and 2,

is conditioned upon all of the PECO and ComEd nuclear units described in the application to be transferred to Exelon Generation Company becoming owned by Exelon Generation Company contemporaneously.

*It Is Further Ordered* that, consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosure 7 to the cover letter forwarding this Order, to conform the licenses to reflect the subject license transfers are approved. The amendments shall be issued and made effective at the time the proposed license transfers are completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated December 20, 1999, and supplemental submittals dated January 14, March 10, March 23, March 29, and June 16, 2000, and the safety evaluation dated August 3, 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 3rd day of August 2000.

For the Nuclear Regulatory Commission.

**Samuel J. Collins,**

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 00–20579 Filed 8–11–00; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–382, License No. NPF–38 EA–00–093]**

## Entergy Operations, Inc., Waterford 3; Confirmatory Order Modifying License (Effective Immediately)

I

Entergy Operations, Inc. (Licensee) is the holder of Facility Operating License No. NPF–38 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 50 on March 16, 1985. The license authorizes the operation of Waterford 3 (facility) in accordance with conditions specified therein. The facility is located on the Licensee's site in Taft, Louisiana.

II

10 CFR 73.55(a) states, in part, that the Licensee shall establish and maintain an onsite physical protection system and security organization which will have as its objective to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety. The physical protection system shall be designed to protect against the design basis threat as stated in Paragraph 73.1(a).

Paragraph 1.3.3 of the Waterford 3 Safeguards Contingency Plan states, in part, that the security concept of operations was based on response to unauthorized entry or activity, and delay of intruders short of the vital areas by barriers and the security/response force. Further, that these basic functions are the responsibility of the security organization in order to assure protection of the plant against hostile acts of sabotage.

On October 4–7, 1999, the NRC conducted an inspection at the Waterford Steam Electric Station, Unit 3 facility to review the Licensee's compliance with 10 CFR Part 73 and its physical security plan (reference NRC Inspection Report 50–382/99–17). Based on the conduct of tabletop exercises, weaknesses were identified with the Licensee's capabilities to respond adequately to a design basis threat intrusion. Specific information about the inspection findings has been classified as Safeguards Information and is not available to the public.

As a result of these October 1999 inspection findings, the Licensee attended a management meeting in the NRC Region IV office on November 10, 1999, to discuss the identified weaknesses. During that meeting, the Licensee indicated that corrective actions would be taken to improve weapons deployment, defensive strategy, and hardened barriers, and that additional training would be conducted as appropriate. The Licensee indicated its belief that, although there were problems, its physical security plan was capable of meeting its intended function, and invited the NRC to assess its program during the conduct of force-on-force exercises. Subsequently, it was agreed that an inspection of the conduct of force-on-force exercises would occur in March 2000.

On March 20–23, 2000, the NRC conducted the follow-up inspection at the Waterford facility, which included tabletop and force-on-force exercises (reference NRC Inspection Report 50–382/00–03). In addition to identifying findings which were similar to those identified during the October 1999 inspection, the NRC identified additional significant weaknesses. Problem areas included target sets, defensive positions, armed responder staffing levels, response time calculations, operations/security interface particularly with respect to drill/target set development and participation, command and control, guidance on the use of protective masks by the armed responders, response weapon proficiency, and administrative controls to ensure that plant conditions are evaluated to ensure protective strategy assumptions remain valid. More specific information about the inspection findings has been classified as Safeguards Information, and is not available to the public. During the exit briefing, the NRC identified an apparent violation of 10 CFR 73.55(a) and the safeguards contingency plan for the failure to demonstrate a capability to protect vital equipment by locating and stopping adversaries during force-on-force exercises. The Licensee implemented immediate interim corrective actions and compensatory measures which were satisfactory to the NRC.

A closed, predecisional enforcement conference was conducted on May 30, 2000, with the Licensee. During the conference, the Licensee identified as the root cause of its weaknesses in the physical security program a breakdown in management controls; specifically that: responsibility and accountability had not been clearly defined; repetitive management changes had resulted in a lack of organization; reduced staffing levels had affected security force training; change management practices had not been applied to a changing environment; a lack of accountability had resulted in a failure to act on available information; and Entergy Operations had not exercised adequate oversight of several critical functions being conducted by contractors. The Licensee identified several contributing causes for its deficiencies as well, including: inadequate design of the security program; poor security program implementation; a complacent culture; and inadequate training. In addition, the Licensee identified several missed opportunities to identify these problems.

During the conference, the Licensee noted the interim compensatory measures it had taken to address these problems and discussed its Security Improvement Plan (SIP) which would provide more permanent improvements. By letter dated June 8, 2000, the NRC requested additional information regarding the SIP. The Licensee responded by letter dated June 23, 2000, and revised the SIP to reflect its response. While acknowledging the interim compensatory measures the Licensee has taken, the NRC believes

issuance of this Order is necessary to ensure corrective actions are effectively implemented over the long term. By letter and telephone call dated July 21, 2000, the NRC proposed that specified commitments be confirmed by Order, and that the Order require the Licensee to demonstrate the ability to protect the plant from the design basis threat. By letter dated July 27, 2000, the Licensee agreed to confirming the identified commitments by Order, and the Licensee waived its right to request a hearing on all or part of the Order.

III

By letter dated July 27, 2000, the Licensee has agreed to the following conditions:

A. Entergy Operations, Inc., shall complete the following items by November 30, 2000:

1. Protective Strategy Corrective Actions

a. Perform independent assessments of the protective strategy to identify areas for improvement, and evaluate the results of the assessments for enhancing the protective strategy.

b. Develop and implement an enhanced protective strategy for protection of target sets and document this strategy.

c. Revise the Physical Security Plan, Safeguards Contingency, and Security Training and Qualifications plans to reflect the enhanced protective strategy.

2. Train the current security response force and other staff, as necessary, on the enhanced protective strategy.

3. Implement modifications within and outside the plant, as necessary, to implement the enhanced protective strategy.

B. Entergy Operations, Inc., shall demonstrate the ability to protect the plant against the design basis threat within 90 days after completion of the conditions set forth above in A.1 through A.3. Such demonstration will be accomplished by conducting force-on-force exercises evaluated by the NRC.

On July 27, 2000, the Licensee consented to issuing this Order with the commitments, as described in Section IV below. The Licensee further agreed in its July 27, 2000, letter that this Order is to be effective upon issuance and that it has waived its right to a hearing. Implementation of these commitments will provide enhanced assurance that the Licensee will be capable of protecting the plant from the design basis threat.

I find that the Licensee's commitments as set forth in Section IV are acceptable and necessary and conclude that with these commitments the plant's safety is reasonably assured. In view of the foregoing, I have determined that public health and safety require that the Licensee's commitments be confirmed by this Order. Based on the above and Licensee's consent, this Order is immediately effective upon issuance.

IV

Accordingly, pursuant to Sections 103, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, *It is hereby ordered*, effective immediately, that License No. NPF–38 is modified as follows:

A. Entergy Operations, Inc., shall complete the following items by November 30, 2000:

1. Protective Strategy Corrective Actions

a. Perform independent assessments of the protective strategy to identify areas for improvement, and evaluate the results of the assessments for enhancing the protective strategy.

b. Develop and implement an enhanced protective strategy for protection of target sets and document this strategy.

c. Revise the Physical Security Plan, Safeguards Contingency, and Security Training and Qualifications plans to reflect the enhanced protective strategy.

2. Train the current security response force and other staff, as necessary, on the enhanced protective strategy.

3. Implement modifications within and outside the plant, as necessary, to implement the enhanced protective strategy.

B. Entergy Operations, Inc., shall demonstrate the ability to protect the plant against the design basis threat within 90 days after completion of the conditions set forth above in A.1 through A.3. Such demonstration will be accomplished by conducting force-on-force exercises evaluated by the NRC.

The Regional Administrator, Region IV, may relax or rescind, in writing, any of the above conditions upon a showing by the Licensee of good cause.

V

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Rulemakings and Adjudications Staff, Washington, DC 20555. Copies of the hearing request shall also be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Associate General Counsel for Hearings, Enforcement & Administration at the same address, to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, and to the Licensee. If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If the hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 4th day of August 2000.

For the Nuclear Regulatory Commission.

**R. W. Borchardt,**

*Director, Office of Enforcement.*

[FR Doc. 00–20583 Filed 8–11–00; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–440, License No. NPF–58 EA 99–012]**

## First Energy Operating Company, FENOC; Perry Nuclear Power Plant, Unit 1; Order Imposing Civil Monetary Penalty

I

First Energy Operating Company (FENOC or Licensee) is the holder of Operating License No. NPF–58 issued by the Nuclear Regulatory Commission

(NRC or Commission) on November 13, 1986. The license authorizes the Licensee to operate the Perry Nuclear Power Plant, Unit 1, in accordance with the conditions specified therein.

II

An investigation of the Licensee's activities was completed by the NRC Office of Investigation (OI) on December 18, 1998. The results of this investigation indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated May 20, 1999. The Notice states the nature of the violation, the provision of the NRC's requirements that the Licensee violated, and the amount of the civil penalty proposed for the violation.

The Licensee responded to the Notice in a letter dated February 25, 2000. In its response, the Licensee denied the violation, requested that the violation be withdrawn, and requested the proposed civil penalty be rescinded.

III

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined the violation occurred as stated and that the penalty proposed for the violation designated in the Notice should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *It is hereby ordered* that:

The Licensee pay a civil penalty in the amount of $110,000 within 30 days of the date of this Order, in accordance with NUREG/BR–0254. In addition, at the time of making the payment, the Licensee shall submit a statement indicating when and by what method payment was made, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738.

V

The Licensee may request a hearing within 30 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, and to the Regional Administrator, NRC Region III, 801 Warrenville Road, Lisle, IL 60532–4351.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order (or if written approval of an extension of time in which to request a hearing has not been granted), the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) whether the Licensee was in violation of the Commission's requirements as set forth in the Notice referenced in Section II above and

(b) whether, on the basis of such violation, this Order should be sustained.

Dated at Rockville, Maryland this 3rd day of August 2000.

For the Nuclear Regulatory Ccommission.

**Frank J. Miraglia, Jr.,**

*Deputy Executive Director for Reactor Programs.*

[FR Doc. 00–20582 Filed 8–11–00; 8:45 am]

BILLING CODE 7590–01–P

---

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–171, 50–277, 50–278]**

## In the Matter of PECO Energy Company; Peach Bottom Atomic Power Station Units 1, 2 and 3; Order Approving Transfer of Licenses and Conforming Amendments

I

PECO Energy Company (PECO, the licensee) is the holder of Facility Operating License No. DPR–12, which authorizes possession and maintenance but not operation of Peach Bottom Atomic Power Station, Unit 1, and is a co-holder of Facility Operating Licenses Nos. DPR–44, and DPR–56, which authorize the possession, use, and operation of the Peach Bottom Atomic Power Station, Units 2 and 3. PECO is the licensed operator of Units 2 and 3. All three units (the facility) are located at the licensee's site in York County, Pennsylvania.

II

Under cover of a letter dated December 20, 1999, PECO submitted an application requesting, *inter alia*, approval of the proposed transfer of the facility operating licenses to the extent now held by PECO to a new generating company, Exelon Generation Company, LLC (Exelon Generation Company), to be formed in connection with the proposed merger of Unicom Corporation (Unicom), the parent of Commonwealth Edison Company, and PECO. PECO also requested approval of conforming license amendments to reflect the transfer. Supplemental information was provided by submittals dated January 3, February 14, March 10, March 23, March 30, and June 15, 2000. Hereinafter, the December 20, 1999, application and supplemental information will be referred to collectively as the "application." The conforming amendments would remove PECO from the facility operating licenses and would add Exelon Generation Company in its place. After completion of the proposed transfer, Exelon Generation Company will be the sole owner of, and be authorized to maintain Peach Bottom, Unit 1, will hold a 42.49 percent ownership interest in Peach Bottom, Units 2 and 3, and will be the sole operator of Peach Bottom, Units 2 and 3.

By a separate application dated December 20, 1999, Commonwealth Edison requested approval of the transfer of the facility operating licenses that it holds to Exelon Generation Company. That application is being addressed separately.

Approval of the transfer of the facility operating licenses and conforming license amendments was requested by PECO pursuant to 10 CFR 50.80 and 10 CFR 50.90. Notice of the request for approval and an opportunity for a hearing was published in the **Federal Register** on March 9, 2000 (65 FR 12588). The Commission received no comments or requests for hearing pursuant to such notice.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application by PECO, and other information before the

Commission, and relying upon the representation and agreements contained in the application, the NRC staff has determined that Exelon Generation Company is qualified to hold the licenses to the extent proposed in the applications, and that the transfer of the licenses to Exelon Generation Company is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by a safety evaluation dated August 3, 2000.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *It Is Hereby Ordered* that the transfer of the licenses as described herein to Exelon Generation Company is approved, subject to the following conditions:

(1) Exelon Generation Company shall provide to the Director of the Office of Nuclear Material Safety and Safeguards and to the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from Exelon Generation Company to its direct or indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of Exelon Generation Company's consolidated net utility plant, as recorded on Exelon Generation Company's books of account.

(2) PECO shall transfer to Exelon Generation Company the decommissioning trust funds for Peach Bottom, Units 1, 2, and 3, in the following minimum amounts, when Peach Bottom, Units 1, 2, and 3, are transferred to Exelon Generation Company:

Peach Bottom, Unit 1—$16,621,647
Peach Bottom, Unit 2—$71,250,231
Peach Bottom, Unit 3—$73,497,654

(3) The decommissioning trust agreements for Peach Bottom, Units 1, 2 and 3 at the time the transfer of the units to Exelon Generation Company is effected and thereafter, are subject to the following:

(a) The decommissioning trust agreements must be in a form acceptable to the NRC.

(b) With respect to the decommissioning trust funds, investments in the securities or other obligations of Exelon Corporation or affiliates thereof, or their successors or assigns are prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.

(c) The decommissioning trust agreements for Peach Bottom, Units 1, 2, and 3, must provide that no disbursements or payments from the trusts shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Material Safety and Safeguards in the case of Peach Bottom, Unit 1, or the Director of the Office of Nuclear Reactor Regulation, in the case of Peach Bottom, Units 2 and 3, 30 days prior written notice of payment. The decommissioning trust agreements shall further contain a provision that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the NRC.

(d) The decommissioning trust agreements must provide that the agreement can not be amended in any material respect without prior written consent of the Director of the Office of Nuclear Material Safety and Safeguards in the case of Peach Bottom, Unit 1, or the Director of the Office of Nuclear Reactor Regulation in the case of Peach Bottom, Units 2 and 3.

(e) The appropriate section of the decommissioning trust agreements shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

(4) Exelon Generation Company shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application for approval of the transfer of the Peach Bottom, Units 1, 2, and 3, licenses and the requirements of this Order approving the transfer, and consistent with the safety evaluation supporting this Order.

(5) Before the completion of the transfer of Peach Bottom, Units 1, 2, and 3, to it, Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation, satisfactory documentary evidence that Exelon Generation Company has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

(6) After receipt of all required regulatory approvals of the transfer of Peach Bottom, Units 1, 2 and 3, PECO shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, of such receipt within 5 business days, and of the date of the closing of the transfer no later than 7 business days prior to the date of the closing. Should the transfer of the licenses not be completed by July 31, 2001, this Order shall become null and void, provided, however, upon written application and for good cause shown, such date may in writing be extended.

(7) Approval of the transfer of the licenses for Peach Bottom, Units 1, 2, and 3 is conditioned upon all of the PECO and Commonwealth Edison Company nuclear units described in the application to be transferred to Exelon Generation Company becoming owned by Exelon Generation Company contemporaneously.

*It Is Further Ordered* that, consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosure 4 to the cover letter forwarding this Order, to conform the licenses to reflect the subject license transfers are approved. The amendments shall be issued and made effective at the time the proposed license transfers are completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated December 20, 1999, and supplemental submittals dated January 3, February 14, March 10, March 23, March 30, and June 15, 2000, and the safety evaluation dated August 3, 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 3rd day of August 2000.

For the Nuclear Regulatory Commission.

**Samuel J. Collins,**

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 00–20575 Filed 8–11–00; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–272 and 50–311]**

## PECO Energy Company (Salem Generating Station Units 1 and 2); Order Approving Transfer of Licenses and Conforming Amendments

I

PECO Energy Company (PECO) owns 42.59 percent of Salem Generating Station, Units 1 and 2 (the facility) and in connection therewith is a co-holder of Facility Operating Licenses Nos. DPR–70 and DPR–75, which authorize possession, use, and operation of the facility. Public Service Gas and Electric Company (PSE&G) another co-owner of the facility, is the licensed operator. The facility is located at the licensee's site in Salem County, New Jersey.

II

Under cover of a letter dated December 20, 1999, PECO submitted an application requesting approval of the transfer of the licenses for the facility, to the extent held by PECO, in connection with the proposed transfer of its ownership interest in Salem, Units 1 and 2, to a new generating company, Exelon Generation Company, LLC (Exelon Generation Company), to be formed in connection with the proposed merger of Unicom Corporation (Unicom), parent of Commonwealth Edison Company (ComEd), and PECO. Supplemental information was provided by submittals dated January 3, February 14, March 10, March 23, March 30, and June 15, 2000. Hereinafter, the December 20, 1999, application and supplemental information will be referred to collectively as the "application." Pursuant to 10 CFR 50.90, PSE&G submitted an application dated December 22, 1999, for conforming license amendments to reflect the proposed license transfer. This application was supplemented by the PECO submittal dated June 15, 2000. The conforming amendments would remove PECO from the facility operating licenses and would add Exelon Generation Company in its place. After completion of the proposed transfer, Exelon Generation Company will be the owner of PECO's 42.59 percent interest in Salem, Units 1 and 2. PSE&G will continue to be the sole operator of the facility.

By a separate application dated December 20, 1999, ComEd requested approval of the transfer of the facility operating licenses that it holds to Exelon Generation Company. That application is being addressed separately.

Approval of the transfer of the facility operating licenses was requested by PECO pursuant to 10 CFR 50.80. Notice of the request for approval and consideration of approval of the conforming amendments, and an opportunity for a hearing was published in the **Federal Register** on March 9, 2000 (65 FR 12591). The Commission received no comments or requests for hearing pursuant to such notice.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application by PECO, and other information before the Commission, and relying upon the representation and agreements contained in the application, the NRC staff has determined that Exelon Generation Company is qualified to hold the licenses to the extent proposed in the application, and that the transfer of the licenses to Exelon Generation Company is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act and the rules and regulation of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by a safety evaluation dated August 3, 2000.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *It is hereby ordered* that the transfer of the licenses as described herein to Exelon Generation Company is approved, subject to the following conditions:

(1) Exelon Generation Company shall provide to the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from Exelon Generation Company to its direct or indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of Exelon Generation Company's consolidated net utility plant, as recorded on Exelon Generation Company's book of accounts.

(2) PECO shall transfer to Exelon Generation Company the decommissioning trust funds for Salem, Units 1 and 2, in the following minimum amounts, when Salem, Units 1 and 2, are transferred to Exelon Generation Company:

Salem, Unit 1—$53,780,652

Salem, Unit 2—$45,059,302

(3) At the time the transfer of the units to Exelon Generation Company is effected and thereafter, the decommissioning trust agreements for Salem, Units 1 and 2 shall be subject to the following:

(a) The decommissioning trust agreements must be in a form acceptable to the NRC.

(b) With respect to the decommissioning trust funds, investments in the securities or other obligations of Exelon Corporation or affiliates thereof, or their successors or assigns are prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.

(c) The decommissioning trust agreements for Salem, Units 1 and 2, must provide that no disbursements or payments from the trust shall be made by the trustee unless the trustee has first

given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreements shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC.

(d) The decommissioning trust agreements must provide that the agreements can not be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.

(e) The appropriate section of the decommissioning trust agreements shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

(4) Exelon Generation Company shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application for approval of the transfer of the Salem, Units 1 and 2, licenses and the requirements of this Order approving the transfer, and consistent with the safety evaluation supporting this Order.

(5) Before the completion of the transfer of the subject ownership interest in Salem, Units 1 and 2, to it, Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that Exelon Generation Company has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

(6) After receipt of all required regulatory approvals of the transfer of its ownership interest in Salem, Units 1 and 2, PECO shall inform the Director of the Office of Nuclear Reactor Regulation in writing, of such receipt within 5 business days, and of the date of the closing of the transfer no later than 7 business days prior to the date of the closing. Should the transfer of the licenses not be completed by July 31, 2001, this Order shall become null and void, provided, however, upon written application and for good cause shown, such date may in writing be extended.

(7) Approval of the transfer of the licenses for Salem, Units 1 and 2 is conditioned upon all of the PECO and Commonwealth Edison Company nuclear units described in the application to be transferred to Exelon Generation Company becoming owned by Exelon Generation Company contemporaneously.

*It is further ordered* that, consistent with 10 CFR 2.1315(b), a license amendment that makes changes, as indicated in Enclosure 6 to the letter forwarding this Order, to conform the licenses to reflect the subject license transfers is approved. The amendments shall be issued and made effective at the time the proposed license transfers are completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial transfer application dated December 20, 1999, and amendment application dated December 22, 1999, and supplemental submittals dated January 3, February 14, March 10, March 23, March 30, and June 15, 2000, and safety evaluation dated August 3, 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 3rd day of August 2000.

For the Nuclear Regulatory Commission.

**Samuel J. Collins,**

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 00–20580 Filed 8–11–00; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–352 and 50–353]**

## PECO Energy Company (Limerick Generating Station, Units 1 and 2); Order Approving Transfer of Licenses and Conforming Amendments

I

PECO Energy Company (PECO, the licensee) is the holder of Facility Operating Licenses Nos. NPF–39 and NPF–85, which authorize the possession, use, and operation of the Limerick Generating Station (Limerick), Units 1 and 2 (the facility). The facility is located at the licensee's site in Montgomery County, Pennsylvania.

II

Under cover of a letter dated December 20, 1999, PECO submitted an application requesting approval of the proposed transfer of the facility operating licenses to a new generating company, Exelon Generation Company, LLC (Exelon Generation Company) to be formed in connection with the proposed merger of Unicom Corporation (Unicom), the parent of Commonwealth Edison Company, and PECO. PECO also requested approval of conforming license amendments to reflect the transfer. Supplemental information was provided by submittals dated January 3, February 14, March 10, March 23, March 30, and June 15, 2000. Hereinafter, the December 20, 1999, application and supplemental information will be referred to collectively as the "application." The conforming amendments would remove PECO from the facility operating licenses and would add Exelon Generation Company in its place. After completion of the proposed transfer, Exelon Generation Company will be the sole owner and operator of Limerick.

By a separate application dated December 20, 1999, Commonwealth Edison requested approval of the transfer of the facility operating licenses that it holds to Exelon Generation Company. That application is being addressed separately.

Approval of the transfer of the facility operating licenses and conforming license amendments was requested by PECO pursuant to 10 CFR 50.80 and 10 CFR 50.90. Notice of the request for approval and an opportunity for a hearing was published in the **Federal Register** on March 9, 2000 (65 FR 12587). The Commission received no comments or requests for hearing pursuant to such notice.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application by PECO, and other information before the Commission, and relying upon the representation and agreements contained in the application, the NRC staff has determined that Exelon Generation Company is qualified to hold the licenses, and that the transfer of the licenses to Exelon Generation Company is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act and the rules and regulation of the Commission; there is reasonable

assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by a safety evaluation dated August 3, 2000.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *It Is Hereby Ordered* that the transfer of the licenses as described herein to Exelon Generation Company is approved, subject to the following conditions:

(1) Exelon Generation Company shall provide to the Director of the Office of Nuclear Reactor Regulation a copy of any application at the time it is filed, to transfer (excluding grants of security interests or liens) from Exelon Generation Company to its direct or indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of Exelon Generation Company's consolidated net utility plant, as recorded on Exelon Generation Company's books of account.

(2) PECO shall transfer to Exelon Generation Company the decommissioning trust funds for Limerick, Units 1 and 2, in the following minimum amounts, when Limerick, Units 1 and 2, are transferred to Exelon Generation Company:
Limerick, Unit 1—$94,127,446
Limerick, Unit 2—$59,687,081

(3) The decommissioning trust agreements for Limerick, Units 1 and 2, at the time the transfer of the units to Exelon Generation Company is effected and thereafter, are subject to the following:

(a) The decommissioning trust agreements must be in a form acceptable to the NRC.

(b) With respect to the decommissioning trust funds, investments in the securities or other obligations of Exelon Corporation or affiliates thereof, or their successors or assigns are prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.

(c) The decommissioning trust agreements for Limerick, Units 1 and 2, must provide that no disbursements or payments from the trusts shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreements shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC.

(d) The decommissioning trust agreements must provide that the agreement can not be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.

(e) The appropriate section of the decommissioning trust agreements shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations. ]

(4) Exelon Generation Company shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application for approval of the transfer of Limerick, Units 1 and 2, licenses and the requirements of this Order approving the transfer, and consistent with the safety evaluation supporting this Order.

(5) Before the completion of the transfer of Limerick, Units 1 and 2, to it, Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that Exelon Generation Company has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

(6) After receipt of all required regulatory approvals of the transfer of Limerick, Units 1 and 2, PECO shall inform the Director of the Office of Nuclear Reactor Regulation in writing, of such receipt within 5 business days, and of the date of the closing of the transfer no later than 7 business days prior to the date of the closing. Should the transfer of the licenses not be completed by July 31, 2001, this Order shall become null and void, provided, however, upon written application and for good cause shown, such date may in writing be extended.

(7) Approval of the transfer of the licenses for Limerick, Units 1 and 2 is conditioned upon all of the PECO and Commonwealth Edison Company nuclear units described in the application to be transferred to Exelon Generation Company becoming owned by Exelon Generation Company contemporaneously

*It is further ordered* that, consistent with 10 CFR 2.1315(b), a license amendment that makes changes, as indicated in Enclosure 5 to the cover letter forwarding this Order, to conform the licenses to reflect the subject license transfers is approved. The amendments shall be issued and made effective at the time the proposed license transfers are completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated December 20, 1999, and supplemental submittals dated January 3, February 14, March 10, March 23, March 30, and June 15, 2000, and the safety evaluation dated August 3, 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 3rd day of August 2000.

For the Nuclear Regulatory Commission.

**Samuel J. Collins,**

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 00–20581 Filed 8–11–00; 8:45 am]

BILLING CODE 7590–01–U

## NUCLEAR REGULATORY COMMISSION

### Consolidated Guidance About Materials Licenses: Guidance for Agreement State Licensees About NRC Form 241 "Report of Proposed Activities in Non-Agreement States, Areas of Exclusive Federal Jurisdiction, or Offshore Water" and Guidance for NRC Licensees Proposing to Work in Agreement State Jurisdiction (Reciprocity)

**AGENCY:** U. S. Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of Availability and Request for Comments.

**SUMMARY:** The NRC is announcing the availability of, and requesting comments on, draft NUREG–1556, Volume19, "Consolidated Guidance About

Materials Licenses: Guidance For Agreement State Licensees About NRC Form 241 'Report of Proposed Activities in Non-Agreement States, Areas of Exclusive Federal Jurisdiction, or Offshore Waters' and Guidance For NRC Licensees Proposing to Work in Agreement State Jurisdiction (Reciprocity)," dated July 2000.

The NRC is using Business Process Redesign techniques to redesign its materials licensing process, as described in NUREG–1539, "Methodology and Findings of the NRC's Materials Licensing Process Redesign." A critical element of the new process is consolidating and updating numerous guidance documents into a NUREG-series of reports. This draft NUREG report is the nineteenth guidance developed for the new process.

This guidance is intended for use by Agreement State licensees, NRC licensees, and NRC staff and will also be available to Agreement States. This document also provides contact organization guidance to NRC licensees who wish to work in Agreement States.

This document combines and updates the guidance for applicants and licensees previously found in NRC Inspection Manual Chapter 1220, "Processing of 'Report of Proposed Activities in Non-Agreement States, Areas of Exclusive Federal Jurisdiction, and Offshore Waters,' and Inspection of Agreement State Licensees Operating Under 10 CFR 150.20'; NRC Information Notice No. 90–15: "Reciprocity: Notification Of Agreement State Radiation Control Directors Before Beginning Work In Agreement States"; All Agreement States Letter 96–022, Policy and Guidance Directives (P&GD) 83–19 "Jurisdiction at Reactor Facilities" and 84–17 "Jurisdiction 10 CFR Parts 30, 40 and 70 Licenses at Reactor Facilities." In addition, this draft report also contains pertinent information found in Technical Assistance Requests and Information Notices, as listed in Appendix F of the NUREG.

This draft report is strictly for public comment and is not for use in preparing or reviewing notifications of proposed use in NRC jurisdiction until it is published in final form. It is being distributed for comment to encourage public participation in its development. NRC is requesting comments on the information provided about the notification of proposed use in NRC jurisdiction. Please submit comments within 30 days of the draft report's publication. Comments received after that time will be considered if practicable.

**DATES:** The comment period ends September 13, 2000. Comments received after that time will be considered if practicable.

**ADDRESSES:** Submit written comments to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U. S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001. Hand-deliver comments to 11545 Rockville Pike, Rockville, Maryland, between 7:15 a.m. and 4:30 p.m. on Federal workdays. Comments may also be submitted through the Internet by addressing electronic mail to dlm1@nrc.gov.

Those considering public comment may request a free single copy of draft NUREG–1556, Volume 19, by writing to the U.S. Nuclear Regulatory Commission, ATTN: Mrs. Carrie Brown, Mail Stop TWFN 9–C24, Washington, D.C. 20555–0001. Alternatively, submit requests through the Internet by addressing electronic mail to cxb@nrc.gov. A copy of draft NUREG–1556, Volume 19, is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, D.C. 20555–0001.

The Presidential Memorandum dated June 1, 1998, entitled, "Plain Language in Government Writing," directed that the Federal government's writing be in plain language. The NRC requests comments on this licensing guidance NUREG specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed above.

**FOR FURTHER INFORMATION, CONTACT:** Mrs. Carrie Brown, TWFN 9–F–C24, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 415–8092; electronic mail address: cxb@nrc.gov.

### Electronic Access

Draft NUREG–1556, Vol. 19 is available electronically by visiting the NRC's Home Page *(http://www.nrc.gov/nrc/nucmat.html).*

Dated at Rockville, Maryland; this 7th day of August, 2000.

For the Nuclear Regulatory Commission.

**Patricia K. Holahan,**

*Chief, Rulemaking and Guidance Branch, Division of Industrial and Medical Nuclear Safety, NMSS.*

[FR Doc. 00–20576 Filed 8–11–00; 8:45 am]

BILLING CODE 7590–01–P

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of August 14, 2000.

A closed meeting will be held on Thursday, August 17, 2000 at 11:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8)(A) and (10), permit consideration for the scheduled matters at the closed meeting.

The subject matters of the closed meeting scheduled Thursday, August 17, 2000 will be:

Institution and settlement of injunctive actions; and

Institution and settlement of administrative proceedings of an enforcement nature

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: August 10, 2000.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 00–20656 Filed 8–10–00; 11:48 am]

BILLING CODE 8010–01–M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43127; File No. SR–BSE–99–1]

## Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to an Amendment to the Proposed Rule Change by the Boston Stock Exchange, Inc. To Allow Specialists Remote Access to the BEACON System

August 8, 2000.

### I. Introduction

On March 26, 1999, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to implement a program for remote specialist trading.

The Commission published notice of the proposed rule change in the **Federal Register** on June 10, 1999.[3] The Commission did not receive any comment letters on the proposal. The Exchange amended the proposed rule change on June 26, 2000.[4] For the reasons discussed below, the Commission is approving the proposed rule change and is granting accelerated approval to the amendment to the proposed rule change.

### II. Description of the Proposal

The Exchange proposes to permit BSE specialists to conduct regular trading activities off the BSE's trading floor using the BEACON trading system.[5] Currently, specialists can access the BEACON system only from the Exchange's physical trading floor, and all market making occurs on that floor. Under the program, specialists will have the ability to access the BEACON system from remote locations using terminals and related equipment. Like floor specialists, remote specialists will receive orders, commitments over the Intermarket Trading System ("ITS"), and administrative messages through the BEACON system.

The Exchange states that it seeks to give BSE specialist firms the option to operate remotely under existing Exchange systems and rules, while retaining the ability to permit specialists to trade on the physical trading floor. The Exchange notes that it views the remote specialist proposal as being "a natural first step in the progression from a manual open outcry system of trading to an automated electronic trading system." According to the Exchange, all executions occurring within BEACON, whether conducted on the floor or electronically from remote locations, will be considered to be executions occurring on the Exchange.

To authorize the remote specialist program, the Exchange proposes to add new Section 9, "BEACON Remote," to Chapter XXXIII of the Exchange's rules, which governs the BEACON system. The introductory part of Section 9 generally explains that the Exchange will provide terminals linked to the BEACON system for specialist trading at remote member firm locations with the same functions that are available to on-floor specialists, and that all orders directed to remote specialists will be sent through the BEACON system. The introductory part of Section 9 further explains that the Exchange will not have remote floor brokerage services, and the BEACON system will route floor broker orders under existing rules.[6] The remainder of proposed Section 9 describes how remote specialists will operate, discusses the information barrier requirements that remote specialists must follow, and sets forth the way that the Exchange will select and surveil remote specialists as well as other minimum criteria that remote specialists must satisfy.

#### *A. Rights, Duties and Operation of Remote Specialists*

##### 1. Application of BSE rules to remote specialists

The Exchange will apply all of its membership, net capital, equity, examination, specialist performance evaluation, competing specialist, stock allocation, and trading rules and policies to remote specialists in the same way that the Exchange applies those rules and policies to on-floor specialists.[7] For example, the Exchange will require remote specialists—like other specialists—to make two-sided markets in specialty securities, execute customer orders they have accepted, and act as odd-lot dealers. The Exchange will also require remote specialists to maintain records as required by Exchange rules.

Proposed Section 9(h) provides that each remote specialist must adopt a written confidentiality policy regarding the location of equipment and access to information, terminals and equipment, that must be filed with and approved by the Exchange prior to the commencement of remote trading.[8] This policy must conform to all requirements set forth in the rules of the Exchange, including but not limited to provisions requiring confidentiality of the specialist's book, governing information barriers when specialists are affiliated with approved persons, and governing the obligation to establish procedures to prevent the misuse of inside information. Firms must apply reasonable principles to limit remote specialist access to the firm's other trading desks, including verbal or visible communications (whether or not intentional).[9] Moreover, proposed Section 9(i) specifies that access to the remote specialist's designated area must be restricted to the specialist, backup specialists, clerks, designated management of the specialist firm, and Exchange-authorized personnel.[10]

Under the proposal, participating firms cannot remotely trade securities that the firm trades on the Exchange's floor, unless the Exchange's Market Performance Committee provides otherwise. Proposed Section 9(d) further states that a specialist firm may not trade individual securities in more than one location. Finally, no specialist account may remotely trade more than 200 specialty stocks.

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 41471 (June 2, 1999), 64 FR 31332 (June 10, 1999) ("Notice").

[4] *See* Letter from George Mann, Senior Vice President and General Counsel, BSE, to Sharon Lawson, Senior Special Counsel, Division of Market Regulation ("Division"), Commission, dated June 23, 2000 ("Amendment No. 1"). Amendment No. 1 requested that the Commission approve the program on a permanent basis, rather than as a one-year pilot. Amendment No. 1 also changed the proposed rule language to more clearly state the information barrier obligations applicable to remote specialists and to clarify other requirements and standards, as is discussed below.

[5] The BEACON system is the Exchange's securities communication, order-routing and execution system. *See generally* BSE Rules, Chapter XXXIII.

[6] As proposed in the Notice, the introductory part of Section 9 also referred to the remote specialist program being a 12 month pilot. Amendment No. 1 removed all references to a pilot program.

[7] Proposed Section 9(a) states that all Exchange rules and policies will apply to remote specialists except as specifically excluded or amended. Moreover, proposed Section 9(g) states that all BSE rules pertaining to the Exchange's trading floor apply to remote trading, and identifies several of those rules. Section 9(i), however, states that floor policies regarding dress codes and smoking shall not apply to remote specialists.

[8] Subsequent to the Notice, the sections were renumbered.

[9] Amendment No. 1 noted that these confidentiality provisions must be consistent with the Exchange's rules, added the specific references to Chapter XV, Section 6, and Chapter II, Sections 36 and 37. Amendment No 1 further stated that the firm was obligated to apply reasonable principles to restrict access.

[10] Language proposing to exempt remote specialists from Exchange rules regarding visitors was removed in Amendment No. 1.

2. Remote specialist access to BSE systems

Remote specialist terminals will be linked to the BEACON trading system using dedicated lines and connected via the same wide area network that the Exchange currently uses to link the physical trading floor to the Exchange's data center. These terminals will provide the same functionality that is available to on-floor specialists. Like on-floor specialists, remote specialists will have access to the Intermarket Trading System.

Remote specialists will be routed orders, ITS commitments, and administrative messages from the Exchange's data center through BEACON. Thus, any type of order entry that has not been approved and is not already in use in accordance with the rules of the Exchange will be prohibited, including verbal orders placed directly with the specialist. Remote specialists will be subject to the same limit order display requirements that apply to other BSE specialists.[11]

Floor broker orders will also be routed to remote specialists under the same criteria by which they are routed to on-floor specialists.[12] Members will not be able to use the BEACON remote specialists program to conduct floor brokerage services.

3. Remote specialist communication with the Exchange

All Exchange correspondence, memoranda, bulletins, and other publications will be sent to remote specialists via electronic mail through BEACON and via U.S. mail or overnight delivery. Remote specialists will have access to the physical trading floor through stentofon[13] or a similar speakderphone, as well as through dedicated telephone lines. Any regulatory requirements requiring the involvement of floor officials, such as trading halts and other trading practices, will be coordinated by Exchange personnel with the remote specialist through the dedicated telephone lines.[14] Finally, any arbitration or disciplinary action arising out of remote trading activity will be held at the Exchange's offices in Boston.

4. Surveillance

The Exchange states that it will conduct surveillance and compliance monitoring of remote specialist trading activity through the BEAM on-line surveillance system[15] as it does today with on-floor specialists. Remote specialists will be required to use layoff systems that are electronically linked to BEACON to help ensure that a surveillance audit trail is created by a drop copy report.[16]

Moreover, the Exchange's examination program will include the remote specialist operations of all firms. Every firm must submit supervisory procedures relating to remote specialist operations and to identify all individuals who will have access to remote specialist operations, including all supervisory personnel.[17]

*B. Selection of Remote Specialists*

Proposed Section 9(c) provides that any eligible firm may apply to the Market Performance Committee to participate in the program. Applicant specialists must meet the current minimum requirements for specialists set forth in Chapter XV of the Exchange's rules, including requirements related to their background,[18] experience, staffing, training procedures, adequacy of proposed confidentiality policy, adequacy of contingency plans for communication or technology failures, adequacy of offsite facilities, and performance standards, as well as the minimum margin, capital, and equity requirements set forth in Chapters VIII and XXII of the Exchange's rules.[19]

*C. Implementation*

The Exchange states that, upon the Commission's approval of the proposed rule change, the Exchange will allow time to install terminals and make other arrangements before beginning the program. The Exchange expects to implement the program later this year.[20]

Proposed Section 9(b) and the Commentary to Rule 9 state that during the preliminary stages of the remote specialist program, the Exchange will only permit member firms with existing Exchange specialist operations to participate because the Exchange has already evaluated current floor member firms as to their familiarity with the Exchange's rules, capital, equity and margin requirements, experience, staffing and training procedures, and performance standards. As soon as practicable after the rollout of the program, the Exchange will consider applications from other firms, based on the other criteria identified in Section 9(c), including adequate off-site facilities to ensure compliance with the Exchange's rules, and adequate capital to manage the risks associated with the program. For every applicant who is not an existing on-floor specialist, the Exchange will require a two week on-floor training period.

---

[11] Like other BSE specialists, remote specialists will maintain customer limit orders on the BEACON system, where they will have the opportunity to interact with other orders that arrive on the Exchange. The Exchange will conduct surveillance of limit order display practices by remote specialists to ensure that those practices are consistent with all applicable requirements, including the Commission's limit order display rule, 17 CFR 240.11Ac1–4. Conversation between George Mann, BSE, and Joshua Kans, Division, Commission, August 7, 2000.

[12] For example, the exchange's order routing system may route floor hrokers to a remote specialists if that remote specialist is quoting with time priority on the Exchange. Conversation between George Mann, BSE, John Boese, Assistant Vice President, BSE, and Joshua Kans, Division, Commission, June 30, 2000.

Proposed Section 9(i) provides that serving of BEACON terminals and related equipment will be hy Exchange authorized and trained personnel only.

[13] BSE's stentofon system provides electronic voice communications among BSE memhers.

[14] Amendment No. 1 clarified that Exchange personnel will coordinate floor official involvement with remote specialists.

The Exchange explains that there are only limited situations in which a specialist would consult with a floor official—trading halts, issues involving ITS, and executions at an inferior price. The Exchange further explains that the Exchange keeps a record of any situation that requires a floor official ruling, and that the Exchange will continue to follow that procedure for remote specialists.

[15] The BEAM system provides the Exchange with real-time capahilities to monitor specialist trading activity within the BEACON systems.

[16] The drop copy system generates a report of all executions of orders sent to other market centers for purposes of specialist position updating, clearance and settlement, and audit trail. BSE members may send orders to the New York Stock Exchange through the Designated Order Turnaround ("DOT") system and to the American Stock Exchange through the Post Execution Reporting ("PER" system.

[17] The Exchange conducts a full examination of the books and records of those member firms assigned to it as the Designated Examining Authority ("DEA"). In addition, the Exchange conducts a more limited examination of the hooks and records of all non-DEA member firms with specialist operations on the floor (limited to books and records related to specialist operations only). This review will be expanded to include the examination of the books and records of all firms with remote specialist operations.

[18] The Commission notes that an applicant's background will include, among other things, any disciplinary history.

[19] Amendment No. 1 added those specific requirements to the text of the rule. Amendment No. 1 also clarified that eligibility requirements set forth in Section 9(c) do not differ from any of the requirements for an on-floor specialist, other than additional criteria needed for off-site operational capability. Amendment No. 1 also stated that any firm may apply for membership on the Exchange but must meet the various eligihility requirements, and that applications for a seat, as well as to become a specialist firm, can take place at the same time as applications to be a remote specialist.

When the Committee evaluates a firm's request to change the location where a stock is traded, the Committee will consider the requirements set forth in Section 9(c).

[20] Conversation between John Boese, BSE, and Joshua Kans, Division, Commission, June 29, 2000.

## III. Discussion

### *A. General Findings*

The Commission finds that the proposed rule change is consistent with Section 6(b)(5) and 11A of the Act.[21] Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[22] Section 11A of the Act promotes, among other things, the development of a national market system for securities to assure economically efficient execution of securities transactions and fair competition among brokers and dealers, among exchange markets and markets other than exchange markets.[23]

After having carefully reviewed the proposal, the Commission finds that it will promote efficiency by potentially reducing the costs associated with transactions on the Exchange, and that it will promote liquidity and competition on the Exchange by facilitating the ability of specialists to make markets either on or off of the BSE's physical floor. In particular, by allowing BSE specialists to conduct their activities off of the Exchange's physical trading floor, while retaining the availability of on-floor market making, the proposal will permit BSE specialists to choose the most efficient and cost-effective way of conducting their business. At the same time, remote specialists will have full access to the information and functions available on the BEACON trading system, and the BEACON system will maintain and display limit orders represented by remote specialists consistent with the practices applicable to other BSE specialists. Accordingly, the proposal uses technology in a manner that should promote competition in the securities markets, consistent with the congressional mandate set forth in Section 11A of the Act.

The remote specialist proposal is consistent with other competitive developments in securities trading. For example, the Cincinnati Stock Exchange has traded stocks without a floor for several years. The Nasdaq Stock Market has never had a physical trading floor. In 1998, the Commission promulgated Regulation ATS because it recognized that technology had moved beyond earlier concepts of what constitutes an "exhange."[24] To facilitate competition among trading systems, the Regulation ATS, among other things, enhanced the ability of existing stock exchanges to operate alternative trading system pilot programs. The BSE's remote specialist proposal is yet another initiative that uses technology to promote competition among market centers.

At the same time, the BSE's proposal differs from those initiatives in that BSE will continue to maintain a physical trading floor while also allowing specialists to trade from off-floor locations. That raises special and distinct issues related to the BSE's responsibilities to conduct market surveillance, enforce members' compliance with BSE's rules and the Act, and coordinate regulatory actions both on and off the floor. The Commission is satisfied that the BSE's proposed rules provide an adequate framework to address those issues.

### *B. Remote Specialist Confidentiality Safeguards*

As noted above, all firms that apply to serve as BSE remote specialists must submit, for the Exchange's prior approval, a written confidentiality policy regarding the location of equipment and the access to information, terminals, and equipment. Among other things, the policy must conform with specific standards applicable to all specialists, including compliance with BSE rules that govern the conditions under which a broker-dealer may conduct specialist operations in conjunction with a diversified broker-dealer's other operations.[25] Those rules permit diversified broker-dealers with non-floor operations to also act as specialists on the BSE floor, subject to certain conditions. The Exchange is also implementing specific confidentiality rules relevant to remote specialists to address the regulatory concerns associated with having a firm's specialist facilities located in proximity to the firm's other trading desks. For example, proposed Section 9(i) will restrict access to the remote specialist's trading area to certain designated persons. Proposed Section 9(h) will require that a firm apply reasonable procedures to limit access by non-specialists to remote specialist facilities and information, and to limit remote specialist access to other proprietary trading venues. Those requirements are intended, in part, to help prevent the improper flow of information back and forth between remote specialists and a firm's trading desk personnel located in proximity to the specialists.

The BSE's remote specialist rules will implement those standards in part by specifically requiring the Exchange's Market Performance Committee to evaluate, among other factors, the adequacy of the firm's proposed confidentiality policy and offsite facilities when determining whether to approve a firm's application to act as a remote specialist. Indeed, the Exchange states that it will examine each applicant firm's remote site to ensure compliance with those standards, "focusing on policies, procedures and physical barriers which restrict access to the remote specialist in all ways."

The BSE also notes that all orders received by remote specialists must be routed through BEACON, and that the Exchange will prohibit any kind of other entry that has not been approved and is not already in use in accordance with the rules of the Exchange. Among other things, this prohibits verbal orders placed directly with the specialist.

Based on these requirements, and the Exchange's commitment to examine remote specialist locations to ensure adequate compliance with BSE rules, the Commission believes the Exchange has provided an adequate framework for addressing the confidentiality issues associated with allowing specialists to trade from remote locations in proximity to a diversified broker-dealer's other off-floor operations. BSE's requirements also should help to ensure that a member firm's traders will not get a market advantage because of their physical proximity to the specialist trading unit, and vice versa.[26]

---

[21] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[22] 15 U.S.C. 78f(b)(5).

[23] 15 U.S.C. 78k–1.

[24] *See* Securities Exchange Act Release No. 40760 (December 8, 1998), 63 FR 70844 (December 22, 1998).

[25] For example, Chapter II, Section 36 of BSE's rules provides that a specialist firm affiliated with an "approved person" must establish functional separation "as appropriate to its operation and further establish, maintain and enforce written procedures reasonably designed to prevent the misuse of material, non-public information." Among other things, the rule also specifically bars the approved person from influencing specialist trading decisions, and restricts the ability of the specialist to disclose information about speciality stocks. Chapter II, Section 37 of the Exchange's rules requires member organizations to establish, maintain and enforce procedures to prevent the misuse of material, non-public information.

Chapter XV, Section 6 of the Exchange's rules further restricts a specialist's ability to disclose information about limit orders that the specialist represents.

[26] As discussed below, the Exchange will not be able to commence remote specialist trading until it

Continued

*C. Communications With Remote Specialists*

The BSE proposal is also designed to ensure that the Exchange can properly communicate with specialists operating from remote locations. In this regard, the remote specialist locations will be linked to the Exchange through either stentofon or similar device, as well as a dedicated line. Using those links, Exchange personnel will coordinate regulatory rulings requiring floor official approval or involvement, such as trading halts, ITS issues and executions at an inferior price. Any ruling will continue to be recorded in a log maintained by the Surveillance Department. Moreover, when reviewing applications to become a remote specialist, the Exchange's Market Performance Committee must evaluate the adequacy of the firm's contingency plans for communications or technology failures, as well as the adequacy of the off-site facilities generally. The Commission agrees that these rules are reasonable, and that adequate means exist for Exchange personnel to communicate with remote specialists and facilitate transactions in securities consistent with the requirements of Section 6(b)(5) of the Act. The Commission expects that the BSE will carefully monitor such communications to ensure they are done in a timely manner, particularly if the communication involves a regulatory issue.

*D. Implementation*

The Commission finds that the Exchange has proposed a reasonable schedule for implementing its remote specialist program. During the preliminary stages of the program, only member firms with existing specialist operations on the Exchange will be eligible to participate in the program. The Exchange explains that this is because the Exchange has already evaluated current floor member firms' familiarity with the Exchange's rules and procedures. As soon as practicable following the rollout of the program, the Exchange will consider other applicants. The Commission finds that this is a reasonable approach to allow the Exchange to implement the program while reducing potential difficulties.

*E. Conclusion*

Based on the above, the Commission finds that the BSE proposal satisfies the minimum necessary framework for operating specialist units off of the physical trading floor. Accordingly, the Commission finds that the proposal is consistent with the Section 11A and 6(b)(5) of the Act. By applying general specialist standards to remote specialists, but exempting them from irrelevant rules, the Exchange will promote the fair application of its rules and competitive market making by specialists. The Commission further finds that the Exchange's other proposed remote specialist rules, such as conditions on eligibility for the remote specialist program, are suitable because they will allow the Exchange to implement and evaluate the program while minimizing disruptions to Exchange operations, and because they otherwise appear reasonably geared to promote the fair and efficient implementation of the program.[27]

As noted above, however, although the Exchange's proposal requires that adequate protections against the misuse of information be put into place, the proposed rules do not enunciate the specific standards that are necessary to satisfy that requirement. Accordingly, the Commission is conditioning its approval of the proposed rule change to require that, before the Exchange begins remote specialist trading, the Exchange must develop and put into place specific information barrier policies and surveillance policies that are consistent with the Exchange's existing rules and that are acceptable to the Commission's Office of Compliance Inspections and Examinations.[28]

The Commission finds good cause for approving Amendment No. 1 prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. Amendment No. 1 requested that the Commission approve the program on a permanent basis, rather than as a one-year pilot program. Permanent approval of the program is appropriate because it will permit the Exchange to implement the program in a manner that will expedite the ability of firms to take advantage of the program, subject to the Exchange exercising its responsibility for ensuring that remote specialist firms follow all applicable rules. Amendment No. 1 also modified several of the proposed remote specialist rules to specify the nature of the information barrier procedures that remote specialist firms must follow. In addition, Amendment No. 1 identified the factors that will govern applications involving remote specialists, and otherwise clarified the rules and practices involving remote specialists. Those modifications did not change the underlying nature of the original proposal that was noticed for comment, and for which no comments were received. Based on the above, the Commission believes that good cause exists, consistent with Section 6(b)(5) and 19(b)(2)[29] of the Act, to accelerate approval of Amendment No. 1.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1, including whether it is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–BSE–99–1 and should be submitted by September 5, 2000.

## V. Conclusion

*It is Therefore Ordered,* pursuant to Section 19(b)(2) of the Act, that the proposed rule change SR–BSE–99–1, including Amendment No. 1, is approved.

---

has developed specific procedures, acceptable to the Commission, for the Exchange to evaluate whether a firm has adequately implemented those confidentiality standards.

[27] The Commission also notes that while the remote specialist program may have the effect of attracting additional order flow to the BSE, this must occur consistent with best execution principles. Accordingly, broker-dealers choosing where to route orders must assess periodically the quality of competing markets to assure that order flow is directed to markets providing the most advantageous terms for their customers' orders. Thus, a broker-dealer may not simply employ default order routing to a BSE remote specialist without undertaking such an evaluation on an ongoing basis. To reach this conclusion, the broker-dealer must rigorously and regularly examine the executions likely to be obtained for customer orders in the different markets trading the security, in addition to any other relevant considerations in routing customer orders.

[28] Before the BSE allows remote specialist trading to begin at an off-site facility, the Exchange must fully investigate that facility, and ensure that trading at the facility will be subject to information barrier and surveillance policies that address the particular circumstances of the facility.

The Commission notes that the participants to the ITS plan are proposing amendments to the plan to accommodate remote specialists.

[29] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[30]

Margaret H. McFarland,
*Deputy Secretary.*

[FR Doc. 00–20512 Filed 8–11–00; 8:45 am]
BILLING CODE 8010–01–M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–43126; File No. SR–Phlx–00–34]**

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by the Philadelphia Stock Exchange, Inc. To Require Immediate Display of Customer Limit Orders by Specialists

Date: August 7, 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 April 11, 2000, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. On July 5, 2000, the Phlx filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change and Amendment No. 1 from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Rule 19b–4 of the Act, proposes to amend Phlx Rule 1020, and Options Floor Procedure Advice ("OFPA") A–1, "Responsibility of Displaying Best Bids and Offers," to require the immediate display of customer limit orders by specialists. As amended, the Phlx proposal would require specialists to immediately display customer limit orders as soon as practicable, and under normal market conditions, no later than 30 seconds after receipt. Additionally, the proposed rule change would increase the amount of the fines imposed for violations of OFPA A–1. The Phlx proposes to aggregate an individual's total number of violations for a period of three years. The Exchange is proposing to amend its minor rule violation enforcement and reporting plan ("minor rule plan") accordingly.[4]

### 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 Phlx 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 Phlx 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 purpose of the proposed rule change is to amend Exchange Rule 1020 and OFPA A–1 to require immediate display of customer limit orders by specialists. Currently, OFPA A–1 ("Responsibility of Displaying Best Bids and Offers) and Phlx Rule 1020 ("Registration and Functions of Options Specialists") require that specialists use due diligence to display the best bid and offer in an option series. The proposed rule change, as amended, would require specialists to immediately display customer orders that better the market. The proposal states that under normal market conditions, a specialist must immediately display customer limit orders (*i.e.*, as soon as practicable and no later than 30 seconds after receipt). The proposal replaces the current "due diligence" standard with an immediate display requirement.

Currently, the fine schedule for violations of OFPA A–1 is as follows: first offense, $50; second offense, $100; third offense, $250; fourth offense and more, sanction discretionary with the Exchange's Business Conduct Committee. The Phlx implements this fine schedule on a one-year running basis.

The proposed rule change would increase the amount of the fines as follows: First offense, $250; second offense, $500 third offense, $1,000; fourth offense and more, sanction discretionary with the Exchange's Business Conduct Committee. The proposed fine schedule would be implemented on a three-year running basis during which an individual's total violations will be counted.[5]

The Exchange believes that the proposal to require specialists to immediately display customer limit orders and to increase the fine schedule for a specialist's failure to comply reflects the Exchange's attempt to make more current, accurate market information available to the public and to make a specialist's failure to comply a more severe violation of the Exchange's rules.

2. *Statutory Basis*

The Exchange believes that the proposed rule change is consistent with the requirements of Section 6 of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in facilitating transactions in securities, and remove impediments to and perfect the mechanism of a free and open market and a national market system.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance 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

[30] *See* 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Letter from Richard S. Rudolph, Counsel, Phlx, to Jennifer Colihan, Attorney, SEC, dated July 3, 2000 ("Amendment No. 1"). In Amendment No. 1, the Phlx clarified that immediate display of customer limit orders meant that customer limit orders would be displayed as soon as practicable, and under normal market conditions, no later than 30 seconds after receipt. Amendment No. 1 also changed the proposed rule language for the implementation of the fine schedule from a "three year running calendar basis" to a "three year running basis."

[4] The Phlx's minor rule plan, codified in Phlx Rule 970, contains floor procedure advices with accompanying fine schedules. Rule 19d–1(c)(2) under the Act authorizes national securities exchanges to adopt minor rule violation plans for summary discipline and abbreviated reporting; Rule 19d–1(c)(1) requires prompt filing with the Commission of any final disciplinary action. However, fines for minor rule violations not exceeding $2,500 are deemed not final, thereby permitting periodic, as opposed to immediate, reporting.

[5] *See* Amendment No. 1, *supra* note 3.

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(5)

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 Exchange consents, the Commission will:

A. By order approve the 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, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submissions, 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 at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549–0609. 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–Phlx–00–34 and should be submitted by September 5, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00–20513 Filed 8–11–00; 8:45 am]

BILLING CODE 8010–01–M

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Disaster #3269; (Amendment #3)]**

### State of North Dakota

In accordance with a notice from the Federal Emergency Management Agency, dated August 2, 2000, the above-numbered Declaration is hereby amended to include McIntosh County, North Dakota as a disaster area due to damages caused by severe storms, flooding, and ground saturation beginning on April 5, 2000 and continuing through July 21, 2000.

All counties contiguous to the above-named primary county have been previously declared. All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is August 26, 2000 and for economic injury the deadline is March 27, 2001.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 3, 2000.

**James E. Rivera,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 00–20476 Filed 8–11–00; 8:45 am]

BILLING CODE 8025–01–U

[8] 17 CFR 200.30–3(a)(12).

## SOCIAL SECURITY ADMINISTRATION

### Agency Information Collection Activities: Proposed Request and Comment Request

In compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, SSA is providing notice of its information collections that require submission to the Office of Management and Budget (OMB). SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

The information collections listed below have been submitted to OMB for clearance. Written comments and recommendations on the information collections would be most useful if received within 30 days from the date of this publication. Comments should be directed to the SSA Reports Clearance Officer and the OMB Desk Officer at the addresses listed at the end of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him.

1. *Integrated Registration for Employers and Submitters* (IRES)–0960–NEW. The IRES authentication system is a free service designed to allow employers to access SSA's electronic wage reporting services, and to replace the use of a handwritten signature with an electronic signature. Employer representatives will use an IRES generated PIN and password as their electronic signature. IRES was designed to be more efficient, reducing the costs to both employers and SSA, and will facilitate the filing of wage data electronically.

SSA's paramount interest in the development of IRES was to ensure that the new electronic method of identifying wage report submitters provides the same security features as the current paper-based method. Security features will include message integrity, originator authentication, non-repudiation and confidentiality. The PIN and password will be issued to an individual designated by the employer after SSA authenticates the company and contact information provided by the individual.

SSA plans to use the IRES in conjunction with SSA's wage reporting processes. It will be used as the gateway for electronic wage reporting and the Online Employee Verification Service. It will also be used when SSA implements additional electronic services such as electronic notices and error information. The PIN will also be used in the AWR diskette process to replace the signature on IRS paper form 6559. SSA has received approval from IRS to use an alternative signature.

Respondents to IRES will be Employers and Submitters who utilize SSA's electronic wage reporting and Online Employee Verification Services.

*Number of respondents:* 250,000.

*Number of Response:* 1.

*Average burden per response:* 2 minutes.

*Estimated Annual Burden:* 8,333 hours.

2. *Psychiatric Review Technique*–0960–0413. The information collected on Form SSA–2506 is needed by SSA to facilitate the adjudication of claims involving mental impairments. The information is used to identify the need for additional evidence in the determination of impairment severity; to consider aspects of mental impairment relevant to the individual's ability to work; and to organize and present the findings in a clear, concise manner. The respondents are State DDS's administering titles II and XVI disability programs.

*Number of Respondents:* 1,005,804.

*Frequency of Response:* 1.

*Average Burden Per Response:* 15 minutes.

*Estimated Annual Burden:* 251,451 hours.

(SSA Address)

Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235

(OMB Address)

Office of Management and Budget, OIRA, Attn: Desk Officer for SSA, New Executive Office Building, Room 10235, 725 17th St., NW, Washington, D.C. 20503

Dated: August 8, 2000.

**Frederick W. Brickenkamp,**

*Reports Clearance Officer, Social Security Administration.*

[FR Doc. 00–20470 Filed 8–11–00; 8:45 am]

BILLING CODE 4191–02–U

## DEPARTMENT OF STATE

**[Public Notice 3383]**

### Culturally Significant Objects Imported for Exhibition Determinations: "Byzantine Art"

**DEPARTMENT:** Department of State.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition "Byzantine Art" imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. The loan will be for a period of one year, with the potential for renewal annually, beginning on November 14, 2000 through December 2004. I also determine that the exhibition or display of the exhibit objects at the Metropolitan Museum of Art, New York, NY is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of exhibit objects, contact Jacqueline Caldwell, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–6982). The address is U.S. Department of State, SA–44; 301–4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: August 4, 2000.

**William B. Bader,**

*Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State.*

[FR Doc. 00–20542 Filed 8–11–00; 8:45 am]

BILLING CODE 4710–08–P

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Request for Public Comment Regarding the United States-European Union Transatlantic Economic Partnership as It Concerns Services Trade

**AGENCY:** Office of the United States Trade Representative (USTR).

**ACTION:** Notice and Request for Comments.

**SUMMARY:** The Office of the United States Trade Representative (USTR) seeks written public comments on general U.S. negotiating objectives as they concern the services trade component of the Transatlantic Economic Partnership (TEP). Under the TEP, the United States and the European Union (EU) have undertaken to facilitate opportunities for dialogue between regulators and to explore whether it is possible to develop mutual recognition agreements (MRAs) or other regulatory cooperation for certain insurance, architectural, and engineering services, while maintaining high standards of safety and protection for consumers. Comments received will be considered by USTR in its further work to formulate objectives and priorities for these deliberations.

**DATES:** Public comments should be submitted no later than September 11, 2000.

**ADDRESSES:** Gloria Blue, Executive Secretary, Trade Policy Staff Committee, Office of the U.S. Trade Representative, Room 122, 600 17th Street, NW, Washington, DC 20508.

**FOR FURTHER INFORMATION CONTACT:** Bernard Ascher (architectural and engineering services) or Ann Main (insurance or related services), Offices of Services, Investment, and Intellectual Property, (202) 395–4510. Procedural inquiries concerning the public comment process should be directed to Gloria Blue, Executive Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative, (202) 395–3475.

**SUPPLEMENTARY INFORMATION:** On May 18, 1998, President Clinton and his EU counterparts issued a joint statement announcing the Transatlantic Economic Partnership (TEP) initiative. [**Federal Register** notice published on, June 9, 1998, describes the TEP.] On November 9, 1998, the United States and the EU agreed on a joint "Action Plan," as called for in the May 18 TEP statement. A copy of the Action Plan is available on USTR's website (www.ustr.gov) or upon request from Ms. Gloria Blue. On June 9 and December 9, 1998, USTR published **Federal Register** Notices requesting public comment on the TEP. This notice is an additional request for information, focusing on the TEP as it relates to trade in services.

In the TEP initiative, the United States and the EU have undertaken to facilitate opportunities for dialogue between regulators and to explore whether it is possible to develop mutual recognition agreements (MRAs) or other regulatory cooperation for certain insurance, architectural, and engineering services, while maintaining high standards of safety and protection for consumers. Regulatory authorities are full participants in the process.

Architectural and Engineering Services: U.S. trade agreements, such as the U.S.-Canada Free Trade Agreement the North American Free Trade Agreement, provide a framework for the competent authorities and professional organizations to negotiate mutual recognition agreements with their counterparts in other countries. Mutual recognition in the architectural and engineering services sector would enable those licensed in one country to be licensed or recognized to practice in another country. U.S. officials are working with a number of national engineering and architectural organizations to develop negotiating approaches that could lead toward mutual recognition of U.S. and EU architects and engineers, while maintaining high quality standards of safety and protection of consumers. Licensed practitioners must meet the requirements of the jurisdiction in which they practice and must comply with all applicable laws and regulations of the host jurisdiction.

Insurance and Related Services: Regarding insurance services, U.S. officials are working with state insurance regulators to determine whether it is possible to develop mutual recognition or other regulatory cooperation for certain insurance sectors (*e.g.*, commercial lines, reinsurance, agency/brokers). Private pension fund management, which is regulated at the federal level in the United States, is also a subject of consideration. Mutual recognition or other regulatory cooperation for insurance and related services could take various forms, including the possibility of greater uniformity of regulatory practices, or for regulators in one country to recognize the other country's regulatory practices as being sufficient for home country requirements.

Public Comments: All written comments should be addressed to Gloria Blue, Executive Secretary, Trade Policy

Staff Committee, Office of the United States Trade Representative, 600 17th Street NW, Room 122, Washington, DC 20508. Persons submitting written comments should provide twenty (20) typed copies, as soon as possible, and by no later than September 11, 2000. USTR invites written comments from interested persons on the feasibility and desirability of negotiating MRAs in each sector identified above. Comments are invited in particular on: (a) The benefits of pursuing an MRA in each sector; and (b) any specific concerns regarding an MRA in any of the sectors, particularly any concerns regarding consumer protection. Comments should state clearly the position taken and should describe the specific information (including data, if possible) supporting that position. All submissions must be in English and should conform to the information requirements of 15 CFR Part 2003. Where possible, please supplement written comments with a computer disk of the submission, either in spreadsheet or word processing table format. The disk should have a label identifying the software used and the submitter.

Written comments submitted in connection with this request, except for information granted "business confidential" status pursuant to 15 CFR 2003.6, will be available for public inspection in the USTR Reading Room, Room 101, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC. An appointment to review the file may be made by calling Brenda Webb at (202) 395–6186. The reading room is open to the public by appointment only from 10 a.m. to 12 noon, and from 1 p.m. to 4 p.m. Monday through Friday.

Business confidential information, including any information submitted on disks, will be subject to the requirements of 15 CFR 2003.6. If the submission contains business confidential information, twenty (20) copies of a public version that does not contain confidential information must also be submitted. A justification as to why the information contained in the submission should be treated confidentially must be included in the submission. In addition, any submissions containing business confidential information must be clearly marked "Confidential" at the top and bottom of the cover page (or letter) and each succeeding page of the submission. The version that does not contain confidential information should also be clearly marked, at the top and bottom of each page, "public version" or "non-confidential."

**David Walters,**

*Acting Chair, Trade Policy Staff Committee.*

[FR Doc. 00–20547 Filed 8–11–00; 8:45 am]

BILLING CODE 3190–01–M

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

### Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

**AGENCY:** Office of the Secretary, DOT.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for renewal and comment. The ICR describes the nature of the information collection and its expected cost and burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 17, 2000 [65 FR 20507]. No comments were received.

**DATES:** Comments must be submitted on or before September 13, 2000.

**FOR FURTHER INFORMATION COMMENT:** Mr. Luther Dietrich or Mr. Dennis DeVany; EAS and Domestic Analysis Division, X–53; Office of Aviation Analysis; Office of the Secretary; U.S. Department of Transportation, 400 7th Street, SW.; Washington, DC 20590–0002. Telephone (202) 366–1046 or (202) 366–1061.

**SUPPLEMENTARY INFORMATION:**

**Office of the Secretary (OST)**

*Title:* Supporting Statements—Air Carriers' Claims for Subsidy Payments.

*OMB Control Number:* 2106–0044.

*Affected Public:* Small air carriers selected by the Department in docketed cases to provide subsidized essential air service.

*Abstract:* The requested collection of information covers OST Form 397 and OST Form 398.

*Need:* In 14 CFR part 271 of its Aviation Economic Regulations, the Department provided that subsidy to air carriers for providing essential air service will be paid to the carriers monthly, and that payments will vary according to the actual amount of service performed during the month. The reports of subsidized air carriers of essential air service performed on the Department's OST Form 397, "Air Carrier's Report of Departures Performed in Scheduled Service" and OST Form 398, "Air Carrier's Claim for Subsidy" establish the fundamental basis for paying these air carriers on a timely basis.

*Annual Estimated Burden:* 4,176*.

*The annual estimated burden has been increased from 4,020 hours primarily because the essential air service program has been expanded in the amount of service supported (number of round trips per week) in response to increased funding from Congress.

Comments are invited on whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on August 8, 2000.

**Michael Robinson,**

*Information Resource Management, United States Department of Transportation.*

[FR Doc. 00–20603 Filed 8–11–00; 8:45 am]

BILLING CODE 4910–62–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Proposed Advisory Circular on Outdoor Laser Operations

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed advisory circular.

**SUMMARY:** The Federal Aviation Administration (FAA) invites public comment on a draft Advisory Circular (AC) that provides guidance for proponents interested in conducting outdoor laser operations that may affect operators in the navigable airspace.

**DATES:** Comment must be received on or before September 28, 2000.

**ADDRESSES:** Send comments on the proposed AC to the FAA, Manager, Airspace and Rules Division, ATA–400, 800 Independence Avenue, SW, Room 423, Washington, DC 20591. Comments may also be submitted electronically to the following email address: Bnelson@faa.gov.

**FOR FURTHER INFORMATION CONTACT:** Bil Nelson at the above address, telephone (202) 267–8783, facsimile (202) 267–9328, or e-mail to: *Bnelson@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**How Do I Obtain A Copy of the Proposed AC?**

You may obtain a copy of the AC by contacting the person named above under **FOR FURTHER INFORMATION CONTACT.**

**How Do I Submit Comments on the AC?**

Interested persons are invited to comment on the proposed AC material by submitting such written data, views, or arguments as they may desire. Comments can be mailed to the above address or by electronic method Bnelson@faa.gov. Comments must identify the title of the AC and be submitted in duplicate to the address specified above. The FAA will consider all comments received on or before the closing date for comment before making a final determination in regard to AC material.

**Background**

In November 1995, in response to safety concerns from National Airspace System (NAS) users, the FAA initiated actions to address the potential effect of laser emissions (light beams) on aircraft operations in the NAS.

One of the actions taken by the FAA was to solicit assistance from the Food and Drug Administration (FDA), the regulatory oversight agency for performance standards for laser equipment and operations. In addition, the FAA tasked and received recommendations from the Flight Deck Laser Hazards Safety Committee of the Society of Automobile Engineers (SAE–G10t).

One of the outcomes of the above effort is the subject draft AC. The draft AC reflects the FAA's use of information and recommendations from the Center for Devices and Radiological Health (a component of the FDA) and the SAEG10t to further develop policy and establish guidance regarding the protection of aircraft operations from the potential impact of laser activity.

The AC provides information for those proponents planning to conduct lasers operations that may affect aircraft operations in the navigable airspace. The AC explains who should file a notice of a laser event, why notification to the FAA is necessary, how to notify the FAA of the laser operation, as well as what action the FAA will take to respond to such notifications.

Additionally, the AC explains what type of information is needed by the FAA to make an appropriate determination regarding proposed outdoor laser operations.

Issued in Washington, DC, on August 8, 2000.

**Reginald C. Matthews,**

*Manager, Airspace and Rules Division.*

[FR Doc. 00–20586 Filed 8–11–00; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Docket No. FAA–2000–7758]**

### Pilot Program To Permit Cost-Sharing of Air Traffic Modernization Projects

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice and request for comments on proposed program guidance; request for sponsors' expressions of interest for air traffic modernization cost-sharing projects for fiscal years 2001, 2002, and 2003.

**SUMMARY:** This notice provides FAA's proposed program guidance on Section 304 of the Wendell H. Ford Aviation and Investment Reform Act for the 21st Century (FAIR–21), which authorizes a pilot program for cost-sharing of air traffic modernization projects. The purpose of Section 304 is to improve aviation safety and enhance mobility by encouraging non-Federal investment on a pilot program basis in critical air traffic control facilities and equipment. Under the pilot program, the Secretary of Transportation may make grants to eligible project sponsors for not more than ten eligible projects, with each project limited to Federal funding of $15,000,000 and a 33 percent Federal cost share. A project sponsor may be a public-use airport (or a group of public-use airports), or a joint venture between a public-use airport (or a group of public-use airports) and one or more U.S. air carriers. In addition to requesting comments on the proposed program guidance, this notice requests sponsors' expressions of interest for cost-sharing projects for fiscal years 2001, 2002, and 2003.

**DATES:** Comments on the proposed program guidance should be received at the U.S. Department of Transportation Dockets Room on or before September 29, 2000. Initial sponsors' expressions of interest should be received by the FAA's Air Traffic System Requirements Service on or before December 15, 2000.

**ADDRESSES:** Comments on the proposed program guidance should be mailed or delivered, in duplicate, to U.S. Department of Transportation Dockets Room, Docket No. FAA–2000–7758, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590. Comments may also be sent electronically to the following internet address: *9-NPRM-CMTS@faa.gov.* Comments may be filed and/or examined in Room Plaza 401 between 10 a.m. and 5 p.m. weekdays, except Federal holidays. Sponsors' expressions of interest should be mailed or delivered, in duplicate, to the Federal Aviation Administration, Air Traffic System Requirements Service (ARS–1), Room 8206, 400 7th Street, SW., Washington, DC 20590. Electronic submissions of expressions of interests will not be accepted. Deliveries may be made between 8:30 a.m. and 5 p.m. weekdays, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Ward Keech (202–267–3312) or Charles Monico (202–267–9527), Office of Aviation Policy and Plans (APO), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:**

**1. Comments Invited**

Interested parties are invited to submit written comments, data, views, or arguments on the proposed program guidance. Comments on possible environmental, economic, and federalism- or energy-related impacts of this proposal are welcomed. Comments concerning the proposed application and selection processes are also welcomed.

Comments should carry the docket or notice number and should be submitted in duplicate to the Rules Docket address specified above. All comments received and a report summarizing any substantive public contact with FAA personnel on this matter will be filed in the docket. The docket is available for inspection both before and after the closing date for receiving comments.

Before taking any final action on this notice, the Administrator will consider the comments made on or before the closing date for comments, and the proposed guidance may be changed in light of the comments received.

The FAA will acknowledge receipt of comments if the commenter includes a self-addressed, stamped postcard with the comments. The postcard should be marked "Comments to Docket No. FAA–2000–7758." When the FAA receives the comments, the FAA will date, time stamp, and return the postcard to the commenter.

An electronic copy of this document may be downloaded using a modem and suitable communications software from

the FAA regulations section of the FedWorld electronic bulletin board service (telephone: 703–321–3339) or the Government Printing Office's electronic bulletin board service (telephone: 202–512–1661).

**2. Background**

In performing its mission of providing a safe and efficient air transportation system, the FAA operates and maintains a complex air traffic control system infrastructure. Section 304 of the Wendell H. Ford Aviation and Investment Reform Act for the 21st Century (FAIR–21) authorizes a pilot program to permit cost-sharing of air traffic modernization projects, under which airports and airport/airline joint ventures may procure and install facilities and equipment in cooperation with the FAA. The purpose of Section 304 is to improve aviation safety and enhance mobility of the air transportation system by encouraging non-Federal investment on a pilot program basis in critical air traffic control facilities and equipment. The pilot program is intended to allow project sponsors to achieve accelerated deployment of eligible facilities or equipment, and to help expand aviation infrastructure.

This notice responds to congressional direction that the FAA issue advisory guidelines on implementation of the pilot program.

**3. Proposed Program Guidance**

This section restates the statutory language of FAIR–21 Section 304 and outlines proposed supplementary threshold criteria that the FAA proposes for the pilot program. FAA's proposed evaluation and screening criteria are outlined in Section 5 of this notice. Commenters are reminded that FAA has no authority to change the statutory provisions.

*3.1 Eligible Project Sponsors*

3.1.1 Statutory Provisions for Sponsor Eligibility

The term 'project sponsor' means a public-use airport or a joint venture between a public-use airport and one or more air carriers.

3.1.2 Supplementary FAA Criteria for Sponsor Eligibility

An eligible project sponsor is a public-use airport (or group of airports), either publicly or privately owned, acting on its own or in a joint venture with one or more U.S. air carriers. In the case of a joint venture, either the airport(s) or the air carrier(s) may serve as the key principal. All landing facilities meeting these criteria are eligible, including but not limited to commercial service airports, reliever airports, general aviation airports, heliports, etc. All eligible sponsors are encouraged to participate.

*3.2 Eligible Projects*

3.2.1 Statutory Provisions for Project Eligibility

The term 'eligible project' means a critical project relating to the Nation's air traffic control system that is certified or approved by the Administrator and that promotes safety, efficiency, or mobility. Such projects may include:

a. airport-specific air traffic facilities and equipment, including local area augmentation systems, instrument landings systems, weather and wind shear detection equipment, lighting improvements, and control towers;

b. automation tools to effect improvements in airport capacity, including passive final approach spacing tools and traffic management advisory equipment; and

c. facilities and equipment that enhance airspace control procedures, including consolidation of terminal radar control facilities and equipment, or assist in en route surveillance, including oceanic and offshore flight tracking.

The statute limits the pilot program to 10 eligible projects.

3.2.2 Supplementary FAA Threshold Criteria for Project Eligibility

a. The project must be consistent with FAA's air traffic equipment/systems infrastructure and architecture and must be a validated project of an FAA program. The project must be initiated within two years of project approval and completed/commissioned within five years of project approval (allowing for an environmental impact study (if necessary), acquisition, supply support, training programs, *etc.*).

b. Equipment and facilities must meet applicable FAA advisory circulars and specifications. New or modified computer software is eligible if it meets all other criteria. Software source code, data rights, and support tools must be provided to the FAA at no additional cost to the FAA.

c. The project must serve the general welfare of the flying public; it cannot be used for the exclusive interest of a for-profit entity.

d. Any facility/equipment acquired under the project must be a new asset, not an asset that the sponsor has already acquired or committed to acquiring. Either the FAA or the sponsor may perform and manage the acquisition. Unless otherwise stipulated in the agreement executed between the sponsor and the FAA, liability for cost over-runs will be shared between the FAA and the sponsor in accordance with their project cost shares (however, the FAA's total cost share is limited by statute to $15,000,000 per project). Equipment in FAA's inventory, that has not been previously deployed, qualifies as eligible equipment.

e. Project software must have a useful and expected life of more than two years. Project hardware must have a useful and expected life of ten years or more.

f. If a sponsor submits more than one project nomination, each project must form part or all of an integrated system.

g. A project may not be co-mingled with other FAA cost-sharing programs (*e.g.*, the provisions of FAIR–21 Section 131 that authorize cost-sharing programs for airport traffic control tower operations and construction).

h. All equipment and structures must meet OSHA standards for employee safety and fire protection. Where land is involved, the property must meet all environmental compliance requirements, including noise, hazardous material, property access, and zoning rights.

i. A project may not create an increase in the controller or airways facility workforces during the pre-transfer period.

*3.3 Funding*

3.3.1 Statutory Provisions for Funding

The Federal share of the cost of an eligible project carried out under the pilot program shall not exceed 33 percent. No project may receive more than $15,000,000 in Federal funding under the program. The sponsor's share of the cost of an eligible project shall be provided from non-Federal sources, including revenues collected pursuant to Section 40117 of Title 49, United States Code (passenger facility charges).

The Secretary shall use amounts appropriated under Section 48101(a) of Title 49, United States Code (FAA's Facilities and Equipment appropriation), for fiscal years 2001 through 2003 to carry out the program.

3.3.2 Supplementary FAA Criteria for Funding

FAA is not obligated to fund one-third of the total project costs; rather, FAA's share may not exceed this threshold. The project sponsor must provide two-thirds or more of the total project cost. The Federal and non-Federal shares of project cost may take the form of in-kind contributions. If selected for the pilot program, a sponsor may use PFC

revenues to acquire and install eligible facilities and equipment, but not to fund their operation or maintenance. Normal PFC processing procedures under Federal Aviation Regulation 14 CFR Part 158 will be used to approve the imposition of a PFC or the use of PFC revenue as the non-Federal share of a pilot program project.

Project funding may be effected through a grant, a cooperative agreement, or other applicable instrument. The sponsor's costs share may not be met by a non-Federal matching contribution applied to any other Federal project or grant, unless specifically authorized by law. Either the FAA or the sponsor may use its acquisition authority and acquisition vehicles to procure and install facilities and equipment under the pilot program. In the case where the FAA manages the procurement, existing FAA contracts will be used where possible. FAA also may utilize equipment in its inventory that has not been previously deployed.

The following proposed criteria apply to the calculation of the cost-sharing ratio:

a. Project costs are limited to those costs that the FAA would normally incur in conventional facilities and equipment funding (*e.g.*, if land/right-of-way must be acquired or leased for a project, its cost can be included in the cost-sharing ratio only if FAA would otherwise incur it in conventional program funding).

b. Operations and maintenance costs of the project, both before and after transfer of the project to the FAA, will not be considered as part of the cost-share contributions.

c. Non-federal funding may include cash, substantial equipment contributions that are wholly utilized as an integral part of the project, and personnel services dedicated to the proposed project prior to commissioning, as long as such personnel are not otherwise supported with Federal funds. The non-federal cost may include in-kind contributions (*e.g.*, buildings). In-kind contributions will be evaluated as to whether they present a cost that FAA would otherwise incur in conventional facilities and equipment funding.

d. Aside from in-kind contributions, only funds expended by the sponsor after the project approval date will be eligible for inclusion in the cost-sharing ratio.

e. Unless otherwise specified by these criteria, the principles and standards for determining costs should be conducted in accordance with OMB Circular A–87, Cost Principles for State, Local, and Indian Tribal Governments.

f. As with other U.S. DOT cost-sharing grants, it is inappropriate for a management/administrative fee to be included as part of the sponsor's contribution. This does not prohibit appropriate fee payments to vendors or others that may provide goods or services to support the project.

By statute, funding to carry out the Federal share of the program may be available from amounts authorized to be appropriated under 49 U.S.C. 4810(a) (FAA's Facilities and Equipment authorization) for fiscal years 2001 through 2003. FAA funding decisions will be made in concert with the project evaluation and project selection processes discussed later in this notice. FAA may choose to use specifically appropriated funds, to re-program funds from within existing facilities and equipment project appropriations, or to fund from within existing budget line items.

The U.S. Department of Transportation and the comptroller General of the United States have the right to access all documents pertaining to the use of Federal and non-Federal contributions for selected projects. Sponsors must maintain sufficient documentation during negotiations and during the life of the project to substantiate costs.

### *3.4 Transfer of Facility or Equipment to FAA*

#### 3.4.1 Statutory Provisions for Facility or Equipment Transfer

Notwithstanding any other provision of law, project sponsors may transfer, without consideration, to the FAA, facilities, equipment, and automation tools, the purchase of which was assisted by a grant made under this section. The FAA shall accept such facilities, equipment, and automation tools, which shall thereafter be operated and maintained by the FAA in accordance with criteria of the FAA.

#### 3.4.2 Supplementary FAA Criteria for Facility or Equipment Transfer

Project transfers to the FAA must comply with FAA Order 6700.20, Non-Federal Navigational Aids and Air Traffic Control Facilities. At the time of transfer, the project must be operable and maintainable by the FAA.

### *3.5 Application Requirements*

The FAA proposes a two-phased application process because it is uncertain about the degree and extent of interest in the program on the part of potential sponsors. At one extreme, the program could generate intense interest and a large number of immediate applications; at the other extreme, the program may serve only limited needs. Given this uncertainty, the FAA proposes to first solicit input from potential sponsors through initial expressions of interest (Phase 1). The purpose of Phase 1 is to allow the FAA to gauge the level of interest, to provide preliminary responses to potential sponsors without causing applicant sponsors to expend excessive resources on project applications that have very limited chances of acceptance because of need or cost, and to plan for subsequent program implementation. In Phase 2, sponsors would provide more detailed applications, and FAA evaluations/project selections would be completed.

#### 3.5.1 Sponsor's Expression of Interest

A Phase 1 expression of interest should not be submitted by a potential sponsor as a placeholder, but rather should reflect meaningful interest. The Phase 1 submission is not binding but it should reflect accurate estimates of project cost and sponsor contributions. Sponsors should submit written expressions of interest in accordance with the sections captioned **ADDRESSES** and **DATES** in this notice. Electronic submissions will not be accepted. A sponsor's initial expression of interest should include the following:

a. Identity of sponsor (including point-of-contact's name, mailing address, telephone number, fax number, and e-mail address) and all participating authorities or entities in the case of joint ventures.

b. Description and location of the proposed project.

c. Statement of need for the project, including a brief assessment of the projected benefits—site-specific, regional, and the national airspace system.

d. Preferred project schedule, including start date, completion date, and any other significant interim milestones.

e. Statement of intent or non-intent to transfer project to the FAA, including envisioned date.

f. Schedule of estimated project costs, including: (1) Up-front costs divided into proposed shares between the sponsor and the FAA, and (2) annual and life-cycle operations and maintenance costs (before and after transfer to the FAA).

g. Self-assessment of the ability to acquire and commit the non-Federal share of funding.

The FAA will review and evaluate the expressions of interest submitted during Phase 1, using a panel of technical program experts. The FAA will contact

the sponsor if it has questions or has suggestions on how the sponsor may improve its proposal. Following its evaluations and preliminary selections, the review panel will recommend to the Director of FAA's Airway Facilities Service and the Director of FAA's Office of System Architecture and Investment Analysis those applicant sponsors who should be invited to participate in Phase 2, as described below. These officials will notify and invite selected sponsors to participate in Phase 2.

3.5.2 Phase 2: Formal Application and Selection of Projects

During Phase 2 each sponsor that has been invited to participate should submit an expanded application with the following elements: Project Description, Economic Analysis, Schedule, Financial Plan, Letter of Commitment, and a Letter of Acknowledgment/Support from the applicable State Department of Transportation and/or other appropriate jurisdiction. The following subsections describe the information needed by the FAA to evaluate the merits of each application.

a. Project Description: The project description should contain: (1) The identity of the submitting sponsor (including point-of-contact's name, mailing address, telephone number, fax number, and e-mail address) and all participating authorities or entities in the case of joint ventures; (2) project name and location; and (3) a detailed project description.

b. Economic Analysis: All applications should describe the need for the project and demonstrate its safety, efficiency, capacity, productivity, and other benefits, as applicable, at the airport, regional, and system-wide levels. The sponsor may conduct its own analysis, may opt to summarize existing analyses from FAA's acquisition management system, and/or may use the investment criteria in FAA Order 7031.2C, Airway Planning Standard Number One. The analysis should include a schedule of project costs, including: (1) Up-front costs broken down into proposed shares between the sponsor and the FAA; and (2) annual and life-cycle operations and maintenance costs before and after transfer to the FAA. The level of effort devoted to the analyses should be tailored to the scope and cost of the project. The economic analyses should be consistent with FAA economic analysis guidance contained in Report FAA–APO–98–4, Economic Analysis of Investment and Regulatory Programs—Revised Guide, and Report FAA–APO–98–8, Economic Values for Evaluation of Federal Aviation Administration Investment and Regulatory Programs.

c. Schedule: The Schedule should list all significant proposed project dates, including the start date, completion date, date of project transfer to the FAA, and key interim milestone dates.

d. Financial Plan: The Financial Plan should contain: (1) The proposed local and Federal cost shares, (2) evidence of the sponsor's ability to provide funds for its cost share (*e.g.*, approved local appropriation or Memorandum of Agreement); and (3) any commitment the sponsor might choose to offer for the assumption and liability of cost overruns aside from the liability criterion provided in section 3.2.2 of this notice.

e. Letter of Commitment: Sponsors should demonstrate a commitment to the project, as evidenced by a Letter of Commitment signed by all project participants (including any participating air carriers). The letter should, at a minimum, include a list of the participating agencies and organizations in the proposed project; the roles, responsibilities and relationship of each participant; and the name, address, and telephone number of the individual representing the sponsor.

f. Letter of Acknowledgement/Support: The application should include a letter of acknowledgment/support from the applicable State Department of Transportation and/or other appropriate jurisdiction (to avoid circumventing State and metropolitan planning processes).

The FAA will review and evaluate the Phase 2 applications using a panel of technical program experts, based on the criteria outlined below in Section 4. Following its evaluations, the review panel will prioritize and recommend to the FAA's Associate Administrator for Air Traffic Services and the Associate Administrator for Research and Acquisition those applications that it believes should be accepted. If the FAA selects a project for inclusion in the pilot program, an agreement will be executed between the sponsor and the FAA.

3.5.3 Subsequent Application and Selection Cycles (If Any)

If fewer than the statutorily-limited ten projects have been approved following the initial round of Phase 1 and 2 applications, FAA will repeat the Phase 1 and 2 application processes on an annual basis, until the earlier of: May 15, 2003, or that point in time when the ten project limit is reached (see Schedule Summary in Section 5 below). The May 15, 2003, cutoff date is based on an allowance of time for FAA to process Phase 2 applications and make selections prior to the statutory authorization expiring at the end of fiscal year 2003. FAA cannot and does not extend any assurance or implication that any residual authority will remain following the first round of Phase 1 and 2 applications.

**4. Application Evaluation and Screening Criteria**

This section explains how FAA proposes to evaluate and screen applications. FAA solicits comments on these proposed evaluation and screening criteria. In addition, the FAA asks whether additional evaluation criteria should be added.

a. Compliance with statutory criteria, FAA's supplemental criteria, and application procedures.

b. Degree to which the project relates to FAA's strategic goals for safety, efficiency and mobility, as well as the national airspace system architecture.

c. Impact on the airport, region, and national airspace system.

d. Likelihood of project success.

e. Availability of FAA resources.

f. Ease of administration (acquisition, installation, *etc.*).

g. Ability of sponsor to provide its cost share.

h. Evidence that the project can be implemented in a timely manner.

i. Equity and diversity with respect to project type, geography, and population served.

j. Degree of Federal leveraging (degree to which the proposal minimizes the ratio of federal costs to total project costs).

k. Cost to the FAA: (1) up-front cost-share; and (2) post-transfer life-cycle operating and maintenance costs.

*5.0 Schedule Summary*

| Milestone | Date |
|---|---|
| Comments due to FAA on Proposed Guidance | 9/29/2000 |
| Final Guidance issued by FAA | 10/31/2000 |
| First-Round of Applications: | |
| Phase 1 Applications due to FAA | 12/15/2000 |
| FAA Responses to Sponsors' Phase 1 Applications | 2/15/2001 |
| Phase 2 Applications due to FAA | 5/15/2001 |
| FAA Announcement of First-Round Approvals | 7/13/2001 |
| Second-Round of Applications (if needed): | |
| Phase 1 Applications due to FAA | 12/14/2001 |
| FAA Responses to Sponsors' Phase 1 Applications | 2/15/2002 |

| Milestone | Date |
|---|---|
| Phase 2 Applications due to FAA | 5/15/2002 |
| FAA Announcement of Second-Round Approvals | 7/15/2002 |
| Third-Round of Applications (if needed): | |
| Phase 1 Applications due to FAA | 12/13/2002 |
| FAA Responses to Sponsors' Phase 1 Applications | 2/14/2003 |
| Phase 2 Applications due to FAA | 5/15/2003 |
| FAA Announcement of Third-Round Approvals | 7/15/2003 |

**6. Project Implementation Information**

During the life of the project, the FAA may collect data from the sponsor and conduct (with non-project funds) independent evaluations of the project's impact on safety, efficiency, and mobility objectives. This will allow the FAA to ascertain the success of the pilot program. The life of the program is currently limited by FAIR–21 to the end of fiscal year 2003.

**7. Impact of Proposed Guidelines**

Potential costs and benefits of the proposed guidelines have been reviewed consistent with the intent of Executive Order 12866 (Regulatory Planning and Review), the Regulatory Flexibility Act of 1980, Executive Order 13132 (Federalism), Office of Management and Budget direction on evaluation of international trade impacts, and the Unfunded Mandates Reform Act of 1995.

With respect to the focus of Executive Order 12296, there are no significant costs imposed by the proposed guidelines. The benefit of the proposed guidelines is efficient communication between the FAA and potential project sponsors about the basis and timing which the FAA will employ in selecting pilot program projects and the type of information needed by the FAA to evaluate proposed projects. Potential pilot program project sponsors will only apply for consideration if they believe that they will benefit from consideration. To minimize the costs of application, the guidelines encourage sponsors to provide information wherever possible from existing studies, plans, and other documents. Further, the proposed guidelines request that initial project proposals provide limited detail about the project. Potential sponsors will be asked for additional information only if the FAA believes that the proposal meets the objective of the pilot program based on the limited initial information submission. Facilities and equipment currently incorporated in the federal airport and airway system architecture and approved for acquisition will be implemented, regardless of whether they are selected as a pilot project. Further, in implementing the pilot program, the FAA will not alter the sequence of implementation of system architecture in a manner that would delay achieving overall safety or efficiency benefits. Therefore, the FAA believes that the benefits of the proposed guidelines exceed their costs.

Airports that are considered small entities may apply to sponsor or participate in pilot projects. Small airports are defined by the Small Business Administration as airports owned by local governments for areas with populations of 200,000 or less. Program participation is voluntary and as explained above, the cost of application is not considered significant. Because, by statute, the majority of project funding must be provided by the sponsor, few small airports or airlines are likely to elect to participate in the pilot program. Therefore, The FAA certifies that the proposed guidelines would not have a significant economic impact on a substantial number of small entities.

The FAA has analyzed the proposed guidelines under the principles and criteria of Executive Order 13132, Federalism. With few exceptions, states do not directly own or operate airports, but public airports are frequently owned and operated by either regional transportation authorities or local governments. The pilot program authorized by Congress which is the subject of these guidelines does not require participation by states, regional transportation authorities, or local governments, but rather permits the formation of voluntary partnerships between the FAA, airports, and airlines on projects considered to be of mutual benefit. These projects will ultimately be paid for by air passengers and shippers, either through fares or freight tariffs, airport charges, or aviation user taxes. FAA facilities and equipment are currently financed by passenger and shippers through aviation user taxes. Program guidelines described in this notice are intended to facilitate communication necessary to implement the pilot projects. By entering into these cooperative relationships, the FAA will not abrogate its responsibilities for the provision and maintenance of air traffic control and airway facilities and equipment, but rather may expedite the implementation of such facilities and equipment. In the absence of the pilot program, the facilities and equipment would ultimately be provided by the federal government and paid for by airline passengers and shippers. Once completed, the projects will be operated and maintained as a part of the federal airway system. The FAA has determined that this action does 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, the FAA has determined that these guidelines do not have federalism implications.

The proposed guidelines would not impose a competitive advantage or disadvantage on either U.S. air carriers operating abroad or on foreign carriers operating to and from the United States. Further, proposed guidelines, per se, would have no effect on the sale of foreign aviation products or services in the United States, nor would it have any effect on the sales of U.S. aviation products in foreign countries. To the extent that pilot program projects improve aviation safety and airport and airway system efficiency, both domestic and foreign commerce will generally be enhanced.

The proposed guidelines do not create a federal mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

**8. References**

The following list outlines references cited above:

OMB Circular A–87, Cost Principles for State, Local, and Indian Tribal Governments, revised August 29, 1997.

Report FAA–APO–98–4, Economic Analysis of Investment and Regulatory Programs—Revised Guide. Available upon request from the FAA's Office of Aviation Policy and Plans, telephone 202–267–3308. It may also be found on the Internet at: http://api.hq.faa.gov/apo__pubs.htm.

Report FAA–APO–88–0, Economic Values for Evaluation of Federal Aviation Administration Investment and Regulatory Programs. Available upon request from the FAA's Office of Aviation Policy and Plans, telephone 202–267–3308. It may also be found on the Internet at: http://api.hq.faa.gov/apo__pubs.htm

FAA Order 7031.2C, Airway Planning Standard Number One, through Change 12. Available upon request from the FAA's Office of Aviation Policy and Plans, telephone 202–267–3308.

FAA Order 6700.20, Non-Federal Navigational Aids and Air Traffic Control Facilities. Available upon request from the FAA's NAS Operations Program Office, telephone 202–267–3034.

Issued in Washington, DC, on August 8, 2000.

Nan Shellabarger,

*Deputy Director, Aviation Policy and Plans.*

[FR Doc. 00–20587 Filed 8–11–00; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### RTCA; Future Flight Data Collection Committee

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for the Future Flight Data Collection Committee meeting to be held September 7, 2000, starting at 9:00 a.m. This meeting will be held at RTCA, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

The agenda will include: (1) Welcome, Introductory and Administrative Remarks; (2) Review of Meeting Agenda; (3) Review Summary of Previous Meeting; (4) Review of FAA Flight Data Recorder Specifications and Regulations; (5) Discuss Changes to EUROCAE Recorder Specifications; (6) Receive Report on the first meeting of Working Group 1; (7) Review and Discuss Tasking of Working Groups 2 and 3; (8) Industry Speakers; (9) Other Business; (10) Establish Agenda for Next Meeting; (11) Date and Location of Next Meeting; (12) Closing.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements, obtain information or pre-register for the committee should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone); (202) 833–9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 9, 2000.

John A. Scardina,

*Designated Official.*

[FR Doc. 00–20589 Filed 8–11–00; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Docket No. 30086]**

### Report to Congress on Effects of Nonmilitary Helicopter Noise on Individuals in Densely Populated Areas in the Continental United States

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice, extend comment period.

**SUMMARY:** This notice is announcing an extension to the comment period on a recent notice regarding the effects of nonmilitary helicopter noise that otherwise impacts individuals of densely populated areas in the continental United States. The recent notice was published in the **Federal Register** on June 23. This notice also announces the FAA plans to hold two public workshops regarding submitted comments on the nonmilitary helicopter noise issue.

**DATES:** Comments must be received on or before September 15, 2000.

**ADDRESSES:** Comments on this notice should be mailed, in triplicate to the Federal Aviation Administration, Office of Chief Counsel, Attn: Rules Docket, Docket No. 30086, 800 Independence Avenue, SW., Room 915H, Washington, DC 20591. Comments may be inspected in Room 915G between 8:30 a.m. and 5 p.m., weekdays, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Sandy R. Liu, Noise Division (AEE–100), Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 493–4864; fax (202) 267–5594.

**SUPPLEMENTARY INFORMATION:**

#### Comments Invited

On June 23, the FAA published a notice in the **Federal Register** (65 FR 39220) requesting comments and information to specific issues that the FAA would consider in preparing its report to Congress on effects of nonmilitary helicopter noise on individuals in densely populated areas. Given the concerns expressed by several commenters regarding the public interest on helicopter noise, the FAA is extending the opportunity for public comment from July 24 to September 15 in order that interested persons can express their concerns and contribute to the study process. In addition, to expound on the information gathering process, the FAA plans to conduct two public workshops to allow for the submitted comments to be reviewed and discussed prior to being compiled for the report to Congress due in April 2001. Since this is a national study and program, the public workshops will be in Washington, DC. The two workshops are scheduled to be held on:

August 16, 2000 (Wednesday), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 3rd floor in FAA Auditorium, from 8:30 a.m. to 5 p.m. and

October 20, 2000 (Friday), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 2nd Floor in Bessie Coleman Meeting Room, from 8:30 a.m. to 5 p.m.

All comments received at the public workshops concerning this notice will be filed in the docket. The docket is available for public inspection both before and after the closing date for comments.

#### Background

Section 747 of the Federal Aviation Administration Authorization Act of 2000 is a congressional mandate that is on a fast track 1-year schedule with nominal funds. This mandate specifies the FAA to conduct a noise study on the effects of nonmilitary helicopter noise on individuals in densely populated areas in the continental United States and report associated noise reduction recommendations to Congress. This study shall focus on air traffic control procedures to address the helicopter noise problems and take into account the needs of law enforcement. The major goal of the study is to identify the type of helicopter operations (either law enforcement, electronic news gathering (ENG), sightseeing tour, emergency medical services (EMS), or corporate executive commute) that elicit negative response by individuals for typical densely populated areas and understand whether air traffic control procedures are applicable to addressing helicopter noise reduction in ways which are not unduly restrictive on operations.

The FAA encourages public participation in this initiative. The data received will be considered in preparing the report to Congress. Comments responding to the questions stated in the June 23 **Federal Register** notice should be mailed to the office designated in the **ADDRESSES** heading and include the docket number. Commenters who wish the FAA to acknowledge the receipt of their comments must submit with their comments a pre-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 30086." The postcard will be

date-stamped by the FAA and returned to the commenter.

Look for more detailed information regarding this effort to be posted on: http://www.aee.faa.gov/

Issued in Washington, DC, on August 9, 2000.

**Paul R. Dykeman,**

*Deputy Director of Environment and Energy.*

[FR Doc. 00–20588 Filed 8–11–00; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[FMCSA Docket No. FMCSA 2000–7645]**

### Developing and Implementing a Long-Term Strategy and Performance Plan for Improving Commercial Motor Vehicle, Operator, and Carrier Safety

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice; request for comments.

**SUMMARY:** To comply with section 104 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA), the FMCSA is developing a long-term strategy and performance plan for the period between fiscal years 2001 and 2010. Both the Congress and the Department of Transportation have stated long-term goals for improving commercial motor vehicle safety. This notice asks for public comment on the means by which the goals can be achieved and on the process to develop the plan.

**DATES:** You should submit your comments to this notice no later than December 15, 2000. We will consider late comments if we can within our tight deadline for action.

**ADDRESSES:** Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at *http://dmses.dot.gov/submit.* Please include the docket number that appears in the heading of this document. You can examine and copy comments at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal Holidays. If you want notification of receipt of comments, you must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically.

**FOR FURTHER INFORMATION CONTACT:** Mr. Bob Proferes, Chief, Strategic Planning and Program Evaluation Division, Telephone (202) 366–9220, Office of Policy Plans and Regulations, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:30 a.m. to 4:00 p.m., et, Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

#### Electronic Access and Filing

You may submit or retrieve comments online through the Document Management System (DMS) at: *http://dmses.dot.gov/submit.* Acceptable formats include: MS Word (versions 95 to 97), MS Word for Mac (versions 6 to 8), Rich Text File (RTF), American Standard Code Information Interchange (ASCII)(TXT), Portable Document Format (PDF), and WordPerfect (versions 7 to 8). The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the web site.

Internet users also may find this document on the FMCSA web site at *http://www.fmcsa.dot.gov/sap/stratplan.htm.*

#### Background

Section 104 of the MCSIA, Public Law 106–159, 113 Stat. 1748, at 1754, requires that the Secretary of Transportation (Secretary) develop a long-term strategy for improving commercial motor vehicle, operator, and carrier safety. The strategy shall include an annual plan and a schedule of achieving, at a minimum, the following goals:

(1) Reducing the number and rates of crashes, injuries, and fatalities involving commercial motor vehicles;

(2) Improving the consistency and effectiveness of commercial motor vehicle, operator, and carrier enforcement and compliance programs;

(3) Identifying and targeting enforcement efforts at high-risk commercial motor vehicles, operators, and carriers; and

(4) Improving research efforts to enhance and promote commercial motor vehicle, operator, and carrier safety and performance.

The strategy and annual plans shall include, at a minimum, specific numeric or measurable goals designed to achieve the strategic goals, and estimates of the funds and staff resources needed to accomplish each activity.

In 1999, the Secretary established a Departmental goal for improving motor carrier safety of reducing large truck-related fatalities by 50 percent by the end of fiscal year 2009. Based on this goal, a long-term strategy will be developed for the planning period between fiscal years 2001 and 2010. The long term strategy will be aligned with the Department's 5-year strategic plan and annual performance plans, which are mandated by the Government Performance and Results Act of 1993, Public Law 103–62, 107 Stat. 285. A strategy and performance plan framework consisting of the Agency goals, strategies, measures, and resources will be prepared by the FMCSA and submitted to the Congress by the end of calendar year 2000.

A more detailed description of the planning process that the FMCSA will use to prepare the strategy and performance plan is available in this public docket and on the Internet at *http://www.fmcsa.dot.gov/sap/stratplan.htm.* A series of project deliverables will be developed and placed in the public docket and on the Internet as soon as they become available. The deliverables will include: (1) Assessment of the truck and bus-related crash problem; (2) a statement of the FMCSA mission, vision, values, and goals; (3) a series of papers on trends impacting truck and bus safety; (4) a series of issues papers outlining the key commercial vehicle safety challenges and potential solutions; (5) FMCSA and Department long-term strategies and discussion of current and future resource requirements; and (6) program performance model, including an outcome monitoring and evaluation plan.

This request offers the opportunity for any comments on the means by which the Agency and Department can achieve the stated goals, as well as comments on the planning process.

(**AUTHORITY:** 49 U.S.C. 322; 49 CFR 1.73)

Issued on: August 4, 2000.

**Clyde J. Hart, Jr.,**

*Acting Deputy Administrator.*

[FR Doc. 00–20523 Filed 8–11–00; 8:45 am]

BILLING CODE 4910–22–U

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA 2000–7739; Notice 1]**

### Utilimaster Corporation; Receipt of Application for Decision of Inconsequential Noncompliance

Utilimaster Corporation has determined that some of the 2730 walk-in van trucks that it manufactured during the period September 30, 1997 through October 6, 1999, contain a noncompliance with Federal Motor Vehicle Safety Standard (FMVSS ) 108,

"Lamps, Reflective Devices, and Associated Equipment."

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Utilimaster has petitioned for a determination that this condition is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports."

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

The noncompliant trucks, supplied to fleet accounts, have light emitting diode (LED) front clearance and identification lamps mounted at a 30-degree set-back position. At least a portion of these lamps do not comply with the 0.62 candela requirement at 20-degrees down. The noncompliance involves two of the required test points of Standard 108.

Utilimaster believes that this noncompliance with FMVSS 108 is inconsequential to motor vehicle safety. Its reasoning is that the lighting array and coverage of the clearance, identification, sidemarker and parking lamps on the subject vehicles provide (and even exceed) the requisite outboard visibility under FMVSS 108. Although the clearance and identification lamps on the subject walk-in van vehicles do not meet two requirements of FMVSS 108, Utilimaster believes that the system of lighting as installed on these vehicles meets the intent of FMVSS 108 for the purpose of providing a visually safe vehicle. Utilimaster bases its position on the fact that the company is using a front turn signal and parking lamp which is actually designed to meet the greater photometric angles required of turn signal and clearance lamp applications.

More specifically, the front turn signal and parking lamps mounted on each side of the front of the walk-in vans provide light out to a 45-degree angle both left and right instead of the 20-degree angle left and right required for parking lamps. The light intensity at these greater angles (45 degrees) is 50 percent greater than that required for clearance lamps (0.93 cd min. compared with 0.62 cd min. required). In addition, these front turn signal/parking lamps are mounted low on the subject vehicles so that the light output covers the lower angles where the clearance and identification lamps are deficient. Further, the front sidemarker lamps cover the 45 degree to the front to 45 degree to the rear low angles of light, so that there is not any degradation of visibility to the side of the vehicle. The light from the sidemarker lamps exactly parallels the outboard light from the parking lamps.

The petitioner believes that the noncompliance in no way compromises the safety of vehicles on which the clearance and identification lamps have been installed as original equipment. The lighting system as a whole on these vehicles provides functionally equivalent lighting to FMVSS 108 requirements.

Interested persons are invited to submit written data, views, and arguments on the application described above. Comments should refer to the docket number and be submitted to : U.S. Department of Transportation, Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, D.C., 20590. It is requested that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below. Comment closing date: September 13, 2000.

(49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: August 8, 2000.

**Stephen R. Kratzke,**

*Associate Administrator for Safety Performance Standards.*

[FR Doc. 00–20600 Filed 8–11–00; 8:45 am]

BILLING CODE 4910–59–P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA 2000–7744; Notice 1]**

### General Motors Corporation, Receipt of Application for Decision of Inconsequential Noncompliance

General Motors Corporation (GM) has determined that certain headlamps on 1999 Buick Century and Buick Regal models may not meet the photometric requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, "Lamps, Reflective Devices, and Associated Equipment." GM's testing indicates that some photometric locations above the horizon, which are intended to provide light for reading overhead signs, are below the minimum candela requirements specified in FMVSS No. 108.

Pursuant to 49 U.S.C. 30118(d) and 30120(h), GM has petitioned for a determination that this condition is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports."

This notice of receipt of this application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

To evaluate the condition, 10 pairs of lamps were randomly collected from production and photometrically tested. Additionally, GM tested the same 10 pairs of lamps using accurate rated bulbs. The test results indicate that 5 test points (production bulbs) and 3 test points (accurate rated bulbs), respectively, failed to meet the minimum candela requirements.

The tests results indicate that the amount of light below the minimum required was generally less than 10 percent, with the maximum variation being 24.4 percent at one point with a production bulb. Transport Canada conducted tests on the same headlamps and all the test points in question met the requirements, indicating the non-complying results were related to manufacturing variations and were present in only a portion of the lamps.

The petitioner believes that this noncompliance in inconsequential to motor vehicle safety for the following reasons:

The test points at issue are all above the horizon and are intended to measure illumination of overhead signs. They do not represent areas of the beam that illuminate the road surface, and the headlamps still fulfill applicable Federal Motor Vehicle Safety Standard 108 requirements regarding road illumination.

For years the rule of thumb has been that a 25 percent difference in light intensity is not significant to most people for certain lighting conditions.

GM has not received any complaints from owners of the subject vehicles about their ability to see overhead signs.

GM is not aware of any accidents, injuries, owner complaints or field reports related to this condition for these vehicles.

Interested persons are invited to submit written data, views, and arguments on the application described above. Comments should refer to the docket number and be submitted to: U.S. Department of Transportation, Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC, 20590. It is requested that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The

application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below. Comment closing date: September 13, 2000.

(49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: August 8, 2000.

**Stephen R. Kratzke,**

*Associate Administrator for Safety Performance Standards.*

[FR Doc. 00–20601 Filed 8–11–00; 8:45 am]

BILLING CODE 4910–59–P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

### Federal Motor Vehicle Safety Standards; Review: Antilock Brake Systems, Heavy Trucks; Evaluation Plan; Review: Rear Impact Guards, Truck Trailers; Evaluation Plan

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Notice of evaluation plan.

**SUMMARY:** This notice announces NHTSA's publication of a plan for reviewing and evaluating its existing Safety Standards 121, Air Brake Systems, 223, Rear Impact Guards, and 224, Rear Impact Protection. The plan's title is Proposed Evaluations of Antilock Brake Systems for Heavy Trucks and Rear Impact Guards for Truck Trailers. The plan is available on the Internet for viewing on line at *www.nhtsa.dot.gov/cars/rules/regrev/evaluate/121223.html.*

**FOR FURTHER INFORMATION CONTACT:** Charles J. Kahane, Chief, Evaluation Division, NPP–22, Plans and Policy, National Highway Traffic Safety Administration, Room 5208, 400 Seventh Street, SW, Washington, DC 20590. Telephone: 202–366–2560. FAX: 202–366–2559. E-mail: *ckahane@nhtsa.dot.gov.*

John L. Jacobus, Mechanical Engineer, NPP–21, Plans and Policy, National Highway Traffic Safety Administration, Room 5208, 400 Seventh Street, SW, Washington, DC 20590. Telephone: 202–366–2586. FAX: 202–366–2559. E-mail: *jjacobus@nhtsa.dot.gov.*

For information about NHTSA's evaluations of the effectiveness of existing regulations and programs: Visit the NHTSA web site at *http://www.nhtsa.dot.gov* and click "Regulations & Standards" underneath "Car Safety" on the home page; then click "Regulatory Evaluation" on the "Regulations & Standards" page.

**SUPPLEMENTARY INFORMATION:** As required by the Government Performance and Results Act of 1993 and Executive Order 12866 (58 FR 51735), NHTSA reviews existing regulations to determine if they are achieving policy goals. Safety Standard 121 (49 CFR 571.121) requires Antilock Brake Systems (ABS) on air-brake equipped truck-tractors manufactured on or after March 1, 1997 and on semi-trailers and single-unit trucks equipped with air brakes and manufactured on or after March 1, 1998. Safety Standards 223 (49 CFR 571.223) and 224 (49 CFR 571.224) set minimum requirements for the geometry, configuration, strength and energy absorption capability of rear impact guards on full trailers and semi-trailers over 10,000 pounds Gross Vehicle Weight Rating manufactured on or after January 26, 1998. NHTSA's Office of Plans and Policy is planning to obtain crash data and statistically evaluate the effectiveness of ABS and rear impact guards for heavy trucks.

NHTSA proposes to work with the State police from at least two large States. They will send data to NHTSA on every crash they investigate that involves a tractor-trailer, a bobtail tractor, or a medium or heavy single-unit truck. The data will include the basic State crash report plus a supplemental form identifying if the truck or trailer are ABS-equipped (as evidenced by presence of the malfunction indicator lights). The data will comprise approximately 10,000 tractor-trailer crashes and 5,000 single-unit trucks. On the subset of approximately 1,000 truck-trailers and 700 single-unit trucks that were hit in the rear by the front of a passenger vehicle, police will fill out a second supplemental form describing the rear impact guard on the trailer and the damage pattern on the passenger vehicle. Data collection will start in January 2001, or as soon as feasible after that, and run for two years. NHTSA believes these samples will be adequate for statistically evaluating ABS and rear impact guards.

The purpose of ABS is to help maintain directional stability and control during braking, and possibly reduce stopping distances on some road surfaces, especially on wet roads. ABS could reduce crashes involving jackknife, loss-of-control, run-off-road, lane departure, or skidding, or where trucks with conventional brakes were unable to stop in time to avoid hitting something frontally. On the other hand, ABS is unlikely to affect a control group of crashes where the truck was standing still, moving too slowly for ABS activation, or proceeding straight ahead when another vehicle unexpectedly hit it in the side or rear. The ratios of the various crash types where ABS has potential benefits to control group crashes will be compared for tractor-trailers where both units are equipped with ABS versus tractor-trailers where neither unit is equipped; also for ABS-equipped single-unit trucks vs. non-equipped trucks.

The goal of a rear impact guard is to arrest the forward motion of the striking passenger vehicle and prevent a damage pattern called "underride with passenger compartment intrusion (PCI)" that is dangerous for occupants of the passenger vehicle. The proportion of rear impacts that result in underride with PCI will be compared for trailers with guards that meet NHTSA and/or industry standards versus older trailers with guards that do not meet NHTSA or industry standards. Since the NHTSA standard does not apply to single-unit trucks, the analysis for these trucks will be limited to estimating the overall incidence rate of underride with PCI in rear-impact crashes.

The full text of the plan is available on the Internet for viewing on line at *www.nhtsa.dot.gov/cars/rules/regrev/evaluate/121223.html.*

#### How Can I Influence NHTSA's Thinking on This Evaluation?

NHTSA welcomes your review and suggestions on the evaluation plan. You may send your suggestions or comments to Mr. Kahane or Mr. Jacobus, by e-mail, phone or letter, at the addresses shown above, preferably by October 1, 2000.

**Authority:** 49 U.S.C. 30111, 30168; delegation of authority at 49 CFR 1.50 and 501.8.

**William H. Walsh,**

*Associate Administrator for Plans and Policy.*

[FR Doc. 00–20493 Filed 8–11–00; 8:45 am]

BILLING CODE 4910–59–P

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

**[Docket No. RSPA–00–7740 (PDA–25(R))]**

### Application by the Kiesel Company for a Preemption Determnination as to Missouri Prohibition of Recontainerization of Hazardous Waste at Transfer Facility

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Public notice and invitation to comment.

**SUMMARY:** Interested parties are invited to submit comments on an application by The Kiesel Company (Kiesel) for an administrative determination whether Federal hazardous material transportation law preempts a Missouri regulation prohibiting the recontainerization of hazardous waste by a transporter at a transfer facility.

**DATES:** Comments received on or before September 28, 2000, and rebuttal comments received on or before November 13, 2000, will be considered before issuance of an administrative ruling on Kiesel's application. Rebuttal comments may discuss only those issues raised by comments received during the initial comment period and may not discuss new issues.

**ADDRESSES:** The application and all comments received may be reviewed in the Dockets Office, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590–0001. The application and all comments are also available on-line through the home page of DOT's Docket Management System, at "http://dms.dot.gov."

Comments must refer to Docket No. RSPA–00–xxxx and may be submitted to the docket either in writing or electronically. Send three copies of each written comment to the Dockets Office at the above address. If you wish to receive confirmation of receipt of your written comments, include a self-addressed, stamped postcard. To submit comments electronically, log onto the Docket Management System website at http://dms.dot.gov, and click on "Help & Information" to obtain instructions.

A copy of each comment must also be sent to (1) Kiesel's attorney, Mr. Richard Greenberg, Rosenbloom, Goldenhersh, Silverstein & Zafft, P.C., 7743 Forsyth Blvd., Fourth Floor, St. Louis, MO 63105–1812, and (2) Mr. Stephen M. Mahood, Director, Missouri Department of Natural Resources, P.O. Box 176, Jefferson City, MO 65102. A certification that a copy has been sent to these persons must also be included with the comment. (The following format is suggested: "I certify that copies of this comment have been sent to Messrs. Greenberg and Mahood at the addresses specified in the **Federal Register**.")

A list and subject matter index of hazardous materials preemption cases, including all inconsistency rulings and preemption determinations issued, are available through the home page of RSPA's Office of the Chief Counsel, at "http://rspa-atty.dot.gov." A paper copy of this list and index will be provided at no cost upon request to the individual named in **FOR FURTHER INFORMATION CONTACT** below.

**FOR FURTHER INFORMATION CONTACT:** Frazer C. Hilder, Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001 (Tel. No. 202–366–4400).

**SUPPLEMENTARY INFORMATION:**

## I. Application for a Preemption Determination

Kiesel has applied for a determination that Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, preempts Missouri's prohibition of recontainerization of hazardous wastes by a transporter at a transfer facility.

In its application, Kiesel states that it is a licensed hazardous waste transporter that has a rail siding at its facility located within the City of St. Louis, Missouri. Kiesel advises that it wants to off-load hazardous waste from rail cars to trucks "for transport to a disposal site in Illinois licensed to receive and dispose of hazardous waste." According to Kiesel, it has been advised by the Missouri Department of Natural Resources (DNR) that this transfer from rail car to motor vehicle would constitute a prohibited "recontainerization" of hazardous waste. Kiesel states that DOT has found "an identical regulation" preempted in Preemption Determination (PD) No. 12(R), New York Department of Environmental Conservation Requirements on the Transfer and Storage of Hazardous Waste Incidental to Transportation, 63 FR 62517 (Dec. 6, 1995), decision on petition for reconsideration, 65 FR 15970 (Apr. 3, 1997), petition for judicial review dismissed, *New York* v. *U.S. Dep't of Transportation*, 37 F. Supp. 2d 152 (N.D.N.Y. 1999). Kiesel refers to these decisions in which, according to Kiesel, DOT "recognized that the prohibition of recontainerization 'applies to the "repackaging" and "handling" of hazardous materials and transportation and is not substantively the same as requirements in the HMR.'"

The DNR's regulations on transporters of hazardous waste are set forth in 10 CSR 25–6.263 and consist of Federal regulations issued by DOT and the Environmental Protection Agency (EPA), plus additional State requirements. Among the additional State requirements is the following prohibition against recontainerization in 10 CSR 25–6.263(2)(A).10.H:

> Recontainerization of hazardous wastes at a transfer facility is prohibited; however, hazardous waste containers may be overpacked to contain leaking or to safeguard against potential leaking. When containers are overpacked, the transporter shall affix labels to the overpack container, which are identical to the labels on the original shipping container; * * *

In 10 CSR 25–6.263(1), DNR has adopted and incorporated by reference EPA's "Standards Applicable to Transporters of Hazardous Waste" in 40 CFR part 263; DOT's Hazardous Materials Regulations in 49 CFR parts 171–180; and DOT's Drug Testing and Federal Motor Carrier Safety Regulations in 49 CFR parts 40, 383, 387, and 390–397 (except for § 390.3(f)(2)). As discussed in PD–12(R), 60 FR at 62534, neither EPA's regulations nor the HMR contain any general prohibition against the transfer of hazardous materials from one container to another, or the combination of commodities within the same packaging. Specific provisions in the HMR prohibit:

—mixing two materials in the same packaging or container when it "is likely to cause a dangerous evolution of heat, or flammable or poisonous gases or vapors, or to produce corrosive materials." 49 CFR 173.21(e).

—loading two or more materials in the same cargo tank motor vehicle "if, as a result of any mixture of the materials, an unsafe condition would occur, such as an explosion, fire, excessive increase in pressure or heat, or the release of toxic vapors." 49 CFR 173.33(a)(2).

—loading certain flammable materials from tank trucks or drums into tank cars on the carrier's property. 49 CFR 173.10(e).

—transferring a Class 3 (flammable liquid) material between containers or vehicles "on any public highway, street, or road, except in case of emergency." 49 CFR 177.856(d).

In addition, the HMR contain segregation requirements, applicable to rail and motor carriers, limiting which hazardous materials may be "loaded, transported, or stored together." 49 CFR 174.81(f), 177.848(d). EPA's regulations provide that a hazardous waste transporter must also follow the requirements applicable to generators if it "[m]ixes hazardous wastes of different DOT shipping descriptions by placing them into a single container." 40 CFR 263.10(c).

## II. Federal Preemption

Section 5125 of Title 49 U.S.C. contains several preemption provisions that are relevant to Kiesel's application. Subsection (a) provides that—in the absence of a waiver of preemption by

DOT under § 5125(e) or specific authority in another Federal law—a requirement of a State, political subdivision of a State, or Indian tribe is preempted if—

(1) complying with a requirement of the State, political subdivision or tribe and a requirement of this chapter or a regulation issued under this chapter is not possible; or

(2) the requirement of the State, political subdivision, or Indian tribe, as applied or enforced, is an obstacle to the accomplishing and carrying out this chapter or a regulation prescribed under this chapter.

These two paragraphs set forth the "dual compliance" and "obstacle" criteria that RSPA had applied in issuing inconsistency rulings prior to 1990, under the original preemption provision in the Hazardous Materials Transportation Act (HMTA). Pub. L. 93–633 § 112(a), 88 Stat. 2161 (1975). The dual compliance and obstacle criteria are based on U.S. Supreme Court decisions on preemption. *Hines* v. *Davidowitz*, 312 U.S. 52 (1941); *Florida Lime & Avocado Growers, Inc.* v. *Paul*, 373 U.S. 132 (1963); *Ray* v. *Atlantic Richfield, Inc.*, 435 U.S. 151 (1978).

Subsection (b)(1) of 49 U.S.C. 5125 provides that a non-Federal requirement concerning any of the following subjects, that is not "substantively the same as" a provision of Federal hazardous material transportation law or a regulation prescribed under that law, is preempted unless it is authorized by another Federal law or DOT grants a waiver of preemption:

(A) the designation, description, and classification of hazardous material.

(B) the packing, repacking, handling, labeling, marking, and placarding of hazardous material.

(C) the preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents.

(D) the written notification, recording, and reporting of the unintentional release in transportation of hazardous material.

(E) the design, manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing of a packaging or a container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

To be "substantively the same," the non-Federal requirement must "conform[] in every significant respect to the Federal requirement. Editorial and other similar de minimis changes are permitted." 49 CFR 107.202(d).

These preemption provisions in 49 U.S.C. 5125 carry out Congress's view that a single body of uniform Federal regulations promotes safety in the transportation of hazardous materials. In considering the HMTA, the Senate Commerce Committee "endorse[d] the principle of preemption in order to preclude a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation." S. Rep. No. 1102, 93rd Cong. 2nd Sess. 37 (1974). When it amended the HMTA in 1990, Congress specifically found that:

(3) many States and localities have enacted laws and regulations which vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers which attempt to comply with multiple and conflicting registration, permitting, routing, notification, and other regulatory requirements,

(4) because of the potential risks to life, property, and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials is necessary and desirable,

(5) in order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable.

Pub. L. 101–615 § 2, 104 Stat. 3244. A Federal Court of Appeals has found that uniformity was the "linchpin" in the design of the HMTA, including the 1990 amendments that expanded the original preemption provisions. *Colorado Pub. Util. Comm'n* v. *Harmon*, 951 F.2d 1571, 1575 (10th Cir. 1991). (In 1994, Congress revised, codified and enacted the HMTA "without substantive change," at 49 U.S.C. Chapter 51. Pub. L. 103–272, 108 Stat. 745.)

## III. Preemption Determinations

Under 49 U.S.C. 5125(d)(1), any directly affected person may apply to the Secretary of Transportation for a determination whether a State, political subdivision or Indian tribe requirement is preempted. The Secretary of Transportation has delegated authority to RSPA to make determinations of preemption, except for those that concern highway routing, which have been delegated to the Federal Motor Carrier Safety Administration. 49 CFR 1.53(b).

Section 5125(d)(1) requires that notice of an application for a preemption determination must be published in the **Federal Register**. Following the receipt and consideration of written comments, RSPA will publish its determination in the **Federal Register**. See 49 CFR 107.209. A short period of time is allowed for filing of petitions for reconsideration. 49 CFR 107.211. Any party to the proceeding may seek judicial review in a Federal district court. 49 U.S.C. 5125(f).

Preemption determinations do not address issues of preemption arising under the Commerce Clause, the Fifth Amendment or other provisions of the Constitution or under statutes other than the Federal hazardous material transportation law unless it is necessary to do so in order to determine whether a requirement is authorized by another Federal law. A State, local or Indian tribe requirement is not authorized by another Federal law merely because it is not preempted by another Federal statute. *Colorado Pub. Util. Comm'n* v. *Harmon*, above, 951 F.2d at 1581 n.10.

In making preemption determinations under 49 U.S.C. 5125(d), RSPA is guided by the principles and policies set forth in Executive Order No. 13132, entitled "Federalism" (64 FR 43255 (August 4, 1999). Section 4(a) of that Executive Order authorizes preemption of State laws only when a statute contains an express preemption provision, there is other clear evidence that Congress intended to preempt State law, or the exercise of State authority directly conflicts with the exercise of Federal authority. Section 5125 contains express preemption provisions, which RSPA has implemented through its regulations.

## IV. Public Comments

All comments should be limited to the issue whether 49 U.S.C. 5125 preempts the first sentence of 10 CSR 25–6.263(2)(A)10.H. Comments should specifically address the preemption criteria detailed in Part II, above, and set forth in detail the manner in which the Missouri prohibition against recontainerization is applied and enforced. Persons intending to comment should review the standards and procedures governing consideration of applications for preemption determinations, set forth at 49 CFR 107.201–107.211.

Issued in Washington, DC on August 4, 2000.

**Robert A. McGuire,**

*Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration.*

[FR Doc. 00–20482 Filed 8–11–00; 8:45 am]

BILLING CODE 4910–60–P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Finance Docket No. 33871]**

### The Burlington Northern and Santa Fe Railway Company—Acquisition Exemption—Lines of Union Pacific Railroad Company

**AGENCY:** Surface Transportation Board.

**ACTION:** Notice of exemption.

**SUMMARY:** The Board grants an exemption under 49 U.S.C. 10502, from the prior approval requirements of 49 U.S.C. 11323–25, for The Burlington Northern and Santa Fe Railway Company (BNSF) to purchase and operate a 2.25-mile segment of Union Pacific Railroad Company's (UP) line from Orin to Orin Junction, WY, and UP's undivided one-half ownership interest in a 3.06-mile segment of rail line between Orin Junction and Fisher, WY.

**DATES:** This exemption will be effective September 13, 2000. Petitions to stay must be filed by August 24, 2000, and petitions to reopen must be filed by September 5, 2000.

**ADDRESSES:** Send an original and 10 copies of pleadings referring to STB Finance Docket No. 33871 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, send one copy of pleadings to petitioner's representative: Michael A. Smith, Freeborn & Peters, 311 South Wacker Drive, Suite 300, Chicago, IL 60606.

**FOR FURTHER INFORMATION CONTACT:** Beryl Gordon, (202) 565–1600. [TDD for the hearing impaired: 1–800–877–8339.]

**SUPPLEMENTARY INFORMATION:** Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dā-To-Dā Office Solutions, 1925 K Street, N.W., Suite 405, Washington, DC 20006. Telephone: (202) 466–5530. [Assistance for the hearing impaired is available through TDD Services 1–800–877–8339.]

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: August 4, 2000.

By the Board, Chairman Morgan, Vice Chairman Burkes, and Commissioner Clyburn.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 00–20435 Filed 8–11–00; 8:45 am]

**BILLING CODE 4915–00–P**

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

August 3, 2000.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

**DATES:** Written comments should be received on or before September 13, 2000 to be assured of consideration.

**U.S. Customs Service (CUS)**

*OMB Number:* 1515–0053.

*Form Number:* Customs Form 3299.

*Type of Review:* Extension.

*Title:* Declaration for Free Entry of Unaccompanied Articles.

*Description:* The Declaration for Free Entry of Unaccompanied Articles, Customs Form 3299, is prepared by the individual or the broker acting as agent for the individual, or in some cases, the Customs Officer. It serves as a declaration of duty-free entry of merchandise under one of the applicable provisions of the tariff schedule.

*Respondents:* Business or other for-profit, Individuals or households, Not-for-profit institutions.

*Estimated Number of Respondents:* 10,000.

*Estimated Burden Hours Per Respondent:* 10 minutes.

*Frequency of Response:* On occasion.

*Estimated Total Reporting Burden:* 25,000 hours.

*OMB Number:* 515–0183.

*Form Number:* None.

*Type of Review:* Extension.

*Title:* Centralized Examination Station.

*Description:* A port director decides when their port needs one or more Centralized Examination Stations (CES). They announce this need and solicits applications to operate a CES. The information contained in the application will be used to determine the suitability of the applicant's facility, the fairness of his fee structure, his knowledge of cargo handling operations and his knowledge of Customs procedures.

*Respondents:* Business or other for-profit, Not-for-profit institutions.

*Estimated Number of Respondents:* 50.

*Estimated Burden Hours Per Respondent:* 2 hours.

*Frequency of Response:* On occasion.

*Estimated Total Reporting Burden:* 100 hours.

*Clearance Officer:* J. Edgar Nichols, (202) 927–1426, U.S. Customs Service, Information Services Branch. Ronald Reagan Building, 1300 Pennsylvania Avenue, N.W., Room 3.2.C, Washington, DC 20229.

*OMB Reviewer:* Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

**Mary A. Able,**

*Departmental Reports Management Officer.*

[FR Doc. 00–20553 Filed 8–11–00; 8:45 am]

**BILLING CODE 4820–02–P**

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

August 8, 2000.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

**DATES:** Written comments should be received on or before September 13, 2000 to be assured of consideration.

**Internal Revenue Service (IRS)**

*OMB Number:* 1545–1690.

*Notice Number:* Notice 2000–28.

*Type of Review:* Extension.

*Title:* Coal Exports.

*Description:* Notice 2000–28 provides guidance relating to the coal excise tax imposed by section 4121 of the Internal Revenue Code. The notice provides rules under the Code for making a nontaxable sale of coal for export or for obtaining a credit or refund when tax has been paid with respect to a nontaxable sale of coal for export.

*Respondents:* Business or other for-profit.

*Estimated Number of Respondents:* 400.

*Estimated Burden Hours Per Respondent:* 1 hour.

*Frequency of Response:* On occasion.

*Estimated Total Reporting Burden:* 400.

*Clearance Officer:* Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.

*OMB Reviewer:* Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

**Mary A. Able,**

*Departmental Reports Management Officer.*

[FR Doc. 00–20554 Filed 8–11–00; 8:45 am]

BILLING CODE 4830–01–P

# Corrections

Federal Register
Vol. 65, No. 157
Monday, August 14, 2000

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 141 and 142**

**[WH–FRL–6570–5]**

**RIN 2040–AD18**

## National Primary Drinking Water Regulations: Long Term 1 Enhanced Surface Water Treatment and Filter Backwash Rule

*Correction*

In proposed rule document 00–8155 beginning on page 19046 in the issue of Monday, April 10, 2000, make the following correction:

On pages 19057 and 19058, Table II.7 is corrected to read as follows:

TABLE II.7.—CRYPTOSPORIDIUM OCCURRENCE IN FILTER BACKWASH AND OTHER RECYCLE STREAMS

| Name/location of study | Number of samples (n) | Type of sample | Cyst/oocyst concentration | Number of treatment plants sampled | Reference |
|---|---|---|---|---|---|
| Drinking water treatment facilities. | 2 | backflush waters from rapid sand filters. | sample 1: 26,000 oocysts/gal (calc. as 686,900 oocysts/100L).<br>sample 2: 92,000 oocysts/gal (calc as 2,430,600 oocysts/100L) | 2 | Rose et al. 1986. |
| Thames, U.K., | not reported | backwash water from rapid sand filter. | Over 1,000,000 oocysts/100L in backwash water on 2/19/89.<br>100,000 oocysts/100L in supernatant from settlement tanks during the next few days | 1 | Colbourne 1989. |
| Potable water supplies in 17 States. | not reported | filter backwash from rapid sand filters (10 to 40 L sample vol.). | 217 oocysts/ 100 L (geometric mean). | not reported | Rose et al. 1991. |
| Name/location not reported. | not reported | raw water<br>initial backwash water | 7 to 108 oocysts/100L<br>detected at levels 57 to 61 times higher than in the raw water. | not reported<br>not reported | LeChevallier et al. 1991c. |
| Bangor Water Treatment Plant (PA). | *Round 1:* 1 (8-hour composite). | raw water<br>filter backwash<br>supernatant recycle | 6 oocysts/100L<br>902 oocysts/100L.<br>141 oocysts/100L. | 1 | Cornwell and Lee 1993. |
| | *Round 2:* 1 (8-hour composite). | raw water<br>filter backwash<br>supernatant recycle | 140 oocysts/100L<br>850 oocysts/100L.<br>750 oocysts/100L. | 1 | Cornwell and Lee 1993. |
| Moshannon Valley Water Treatment Plant. | Round 1: 1 (8-hour composite). | raw water<br>spent backwash<br>supernatant recycle<br>sludge | 13 oocysts/100L<br>16,613 oocysts/100L.<br>82 oocysts/100L.<br>2,642 oocysts/100L. | 1 | Cornwell and Lee 1993. |

TABLE II.7.—CRYPTOSPORIDIUM OCCURRENCE IN FILTER BACKWASH AND OTHER RECYCLE STREAMS—Continued

| Name/location of study | Number of samples (n) | Type of sample | Cyst/oocyst concentration | Number of treatment plants sampled | Reference |
|---|---|---|---|---|---|
| | *Round 2:* 1 (8-hour composite). | raw water ..... | 20 oocysts/100L ..... | 1 ..... | Cornwell and Lee 1993. |
| | | supernatant recycle ..... | 420 oocysts/100L. ..... | | |
| Plant "C" ..... | 11 samples using continuous flow centrifugation;. | backwash water from rapid sand filters; samples collected from sedimentation basins during sedimentation phase of backwash water at depths of 1, 2, 3, and 3.3 m. | continuous flow: range 1 to 69 oocysts/100 L; 8 of 11 samples positive. | 1 ..... | Karanis et al. 1996. |
| | 39 samples using cartridge filters. | | cartridge filters: ranges 0.8 to 252/100 L; 33 of 39 samples positive. | | |
| Pittsburgh Drinking Water Treatment Plant. | 24 (two years of monthly samples). | filter backwash ..... | 328 oocysts/ 100 L (geometric mean); (38 percent occurrence rate). | 1 ..... | States et al. 1997. |
| | | | non-detect-13,158 ..... oocysts/100L. ..... | | |
| "Plant Number 3" ..... | not reported .... | raw water ..... | 140 oocysts/100L ..... | not reported .... | Cornwell 1997. |
| | | spent backwash ..... | 850 oocysts/100L. ..... | | |
| "Plant C" (see Karanis, et al., 1996). | 12 ..... | raw water ..... | avg. 23.2 oocysts/100L (max. 109 oocysts/100L) in 8 of 12 samples. | 1 ..... | Karanis et al 1998 (Table 8, p. 14). |
| | ..... | ..... | | | |
| | ..... | ..... | | | |
| | 50. | backwash water from rapid sand filters. | avg. 22.1 oocysts/100L (max. 257 oocysts/100L) in 41 of 50 samples. | | |
| "Plant A" ..... | 1 ..... | rapid sand filter (sample taken 10 min. after start of backwashing). | 150 oocysts/100L. | | |

[FR Doc. C0–8155 Filed 8–11–00; 8:45 am]
BILLING CODE 1505–01–D


Federal Register

Monday,
August 14, 2000

Part II

# Department of the Treasury

**Community Development Financial Institutions Fund**

**12 CFR Part 1805**
**Community Development Financial Institutions Program; Interim Rule**
**Funds Availability Inviting Applications for the Community Development Financial Institutions Program-Core and Intermediary Component; Notices**

**DEPARTMENT OF THE TREASURY**

**Community Development Financial Institutions Fund**

**12 CFR Part 1805**

**RIN 1505–AA71**

**Community Development Financial Institutions Program**

**AGENCY:** Community Development Financial Institutions Fund, Department of the Treasury.

**ACTION:** Revised interim rule with request for comment.

**SUMMARY:** The Department of the Treasury is issuing a revised interim rule implementing the Community Development Financial Institutions Program (CDFI Program) administered by the Community Development Financial Institutions Fund (Fund). The purpose of the CDFI Program is to promote economic revitalization and community development through investment in and assistance to Community Development Financial Institutions (CDFIs). Under the CDFI Program, the Fund provides financial and technical assistance in the form of grants, loans, equity investments and deposits to competitively selected CDFIs. The Fund provides such assistance to CDFIs to enhance their ability to make loans and investments, and to provide services for the benefit of designated investment areas, targeted populations, or both (target markets). In order for an organization to qualify as a CDFI, the organization must meet specific eligibility criteria. Two such criteria are that the organization shall have a primary mission of promoting community development and its total activities must be principally directed toward serving a target market. This revised interim rule makes three changes. First, it clarifies the primary mission eligibility test. Second, the revised interim rule provides that an organization can establish that its target market has either significant unmet needs for or lacks adequate access to loans or equity investments by demonstrating a lack of adequate access to financial services. Third, this revised interim rule reduces the burden for an organization to demonstrate that it serves a targeted population comprised of an identifiable group of individuals lacking access to loans, equity investments, or financial services. In order to facilitate implementation of the CDFI Program by participating CDFIs, the complete text of the regulations, as amended, is published by this revised interim rule.

**DATES:** Revised interim rule effective August 14, 2000.

Comments must be received in the offices of the Fund on or before October 13, 2000.

**ADDRESSES:** All comments concerning this interim rule should be addressed to the Deputy Director for Policy and Programs, Community Development Financial Institutions Fund, Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005. Comments may be inspected at the above address weekdays between 9:30 a.m. and 4:30 p.m. Other information regarding the Fund and its programs may be obtained through the Fund's web site at http://www.treas.gov/cdfi.

**FOR FURTHER INFORMATION CONTACT:** Maurice A. Jones, Deputy Director for Policy and Programs, Community Development Financial Institutions Fund, at (202) 622–8662. (This is not a toll free number.)

**SUPPLEMENTARY INFORMATION:**

## I. Background

The Community Development Financial Institutions Fund (Fund) was established as a wholly owned government corporation by the Community Development Banking and Financial Institutions Act of 1994 (the Act). Subsequent legislation placed the Fund within the Department of the Treasury and gave the Secretary of the Treasury all powers and rights of the Administrator of the Fund as set forth in the authorizing statute.

The Fund's programs are designed to facilitate the flow of lending and investment capital to distressed communities and to individuals who have been unable to take full advantage of the financial services industry. The initiative is an important step in rebuilding poverty-stricken and transitional communities and creating economic opportunity for people often left out of the economic mainstream.

Access to credit, investment capital, and financial services are essential ingredients for creating and retaining jobs, developing affordable housing, revitalizing neighborhoods, unleashing the economic potential of small businesses, and empowering people. Over the past several decades, community-based financial institutions have proven that strategic lending and investment activities tailored to the unique characteristics of underserved markets are highly effective in improving the economic well being of communities and the people who live in them.

The Fund was established to promote economic revitalization and community development through, among other things, investment in and assistance to community development financial institutions (CDFIs), which specialize in serving underserved markets and the people who live there. CDFIs—while highly effective—are typically small in scale and often have difficulty raising the capital needed to meet the demands for their products and services. Under the CDFI Program, the Fund provides CDFIs with financial and technical assistance in the form of grants, loans, equity investments, and deposits in order to enhance their ability to make loans and investments, and provide services for the benefit of designated investment areas, targeted populations or both. Applicants participate in the CDFI Program through a competitive application and selection process in which the Fund makes funding decisions based on pre-established evaluation criteria. Program participants generally receive monies from the Fund only after being certified as a CDFI and entering into an assistance agreement with the Fund. These assistance agreements include performance goals, matching funds requirements and reporting requirements.

This issue of the **Federal Register** contains two separate Notices of Funds Availability (NOFAs) for the CDFI Program, one for the sixth round of the Core Component of the CDFI Program and another for the fifth round of the Intermediary Component of the CDFI Program. Under the Core Component, the Fund provides financial and technical assistance to CDFIs that directly serve their Target Markets through loans, investments and other activities, rather than primarily through the financing of other CDFIs. Under the Intermediary Component, the Fund provides financial and technical assistance to CDFIs that primarily provide assistance to other CDFIs and/or support the formation of CDFIs. In January 2001, the Fund expects to issue a NOFA for the first round of the Small and Emerging CDFI Assistance (SECA) Component, which will replace the Technical Assistance Component of the CDFI Program. Under the SECA Component, the Fund will provide small and emerging CDFIs with financial assistance and/or technical assistance.

On November 1, 1999, the Fund published in the **Federal Register** a revised interim rule (64 FR 59076) implementing the CDFI Program (the current rule). The deadline for the submission of comments was January 14, 2000.

**II. Comments on the November 1, 1999 Interim Rule**

By the close of the January 14, 2000 comment period, the Fund received comments on the November 1, 1999 interim rule from six organizations. The following includes a discussion of the significant and most heavily commented upon issues:

*Financing Entity Eligibility Test*

Section 1805.201(b)(2) of the current rule provides that in order for an organization to qualify as a CDFI, such organization shall be an entity whose predominant business activity is the provision, in arms-length transactions, of Financial Products, Development Services, and/or other similar financing. Three commenters were concerned that requiring an organization's predominant business activity to be a combination of Financial Products and Development Services would have a dilutive effect on the Financing entity eligibility test. The commenters expressed concern that the Fund's consideration of the combination of Development Services and Financial Products could result in the certification of organizations whose predominant business activity is the provision of technical assistance. One commenter also advised that the current rule is in direct violation of the Act.

The Fund shares the view that a CDFI should not pass the Financing entity eligibility test if its predominant business activity is the provision of technical assistance. However, the Fund disagrees that the current rule would have a dilutive effect that could result in the certification of organizations whose predominant business activity is the provision of technical assistance. Specifically, § 1805.104(q) of the current rule defines Development Services as activities that are integral to the provision of Financial Products in that such services must prepare or assist an organization's borrowers or investees to utilize its Financial Products. As a result, in order for an organization that provides Development Services to meet the Financing entity eligibility test, it must provide such services in conjunction with, and in support of, its Financial Products. The current rule also is wholly consistent with the Act, which expressly provides that a CDFI "means a person (other than an individual) that—provides development services in conjunction with equity investments or loans, directly or through a subsidiary or affiliate * * *" *See* 12 U.S.C. 4702(5)(A)(iii). Congress thus clearly contemplated that the Fund combine Financial Products and Development Services without any fixed percentage threshold. As a result, § 1805.201(b)(2) remains substantively unchanged.

Four commenters also suggested that the Fund include the provision of Financial Services in determining whether an organization meets the Financing entity eligibility test. The commenters noted that for community development credit unions and community development banks, the provision of Financial Services is the primary way in which they serve their Target Markets. The Fund agrees with the commenters' point that provision of Financial Services should be considered when evaluating whether a regulated financial institution meets the Financing entity eligibility test, and believes that the current rule effectively accomplishes the commenters' objectives. Specifically, §§ 1805.201(b)(2)(i)(B) and (C) provide, respectively, that community development credit unions and community development banks automatically meet the Financing entity eligibility test by virtue of their status as insured depository institutions and insured credit unions.

Section 1805.201(b)(2)(ii)(C) requires organizations to submit a copy of their most recent year-end financial statements documenting their assets dedicated to Financial Products, Development Services and/or other similar financing. One commenter suggested that the Fund require three years of year-end financial statements instead of one. In an effort to minimize reporting burdens on Applicants, the Fund intends to continue to request only the most recent year-end financial statements for the purpose of reviewing an Applicant's assets dedicated to Financial Products, Development Services, and/or other similar financing activities. Thus, § 1805.201(b)(2)(ii)(C) remains substantively unchanged. However, in the preamble to the current rule, the Fund expressly reserved its right, consistent with § 1805.600 of the current rule, to require the submission of additional years of year-end financial statements if the Fund deems it appropriate.

Section 1805.201(b)(2)(ii)(C) also requires organizations to submit information on the percentage of staff time dedicated to the provision of Financial Products, Development Services, and/or other similar financing. One commenter suggested that this level of information was insufficient for purposes of accurately reflecting the qualifications of an organization as a CDFI. The commenter suggested that the Fund consider additional factors such as the business plan and alternative sources of committed capital/investment. While the Fund believes that considering the additional factors suggested by the commenter is appropriate as a part of the qualitative evaluation of an organization's application for assistance pursuant to § 1805.701(b), the Fund believes that such factors need not be considered for purposes of determining whether an organization meets the Financing entity eligibility test. As a result, § 1805.201(b)(2)(ii)(C) remains substantively unchanged.

*Primary Mission Eligibility Test*

Section 1805.201(b)(1) provides that in order for an organization to qualify as a CDFI, such organization's and its Affiliates' primary mission, when viewed collectively (as a whole), must be purposefully directed toward improving the social and/or economic conditions of underserved people and/or residents of distressed communities. Three commenters expressed concern that an organization that does not individually meet the Primary Mission eligibility test could meet such test based on it being an Affiliate of a larger organization, which individually meets such test. The commenters were concerned that if the Primary Mission eligibility test were to be applied this way, the end result would be a dilution of such test. The Fund recognizes the merits of these comments, and has revised the regulation accordingly. Section 1805.201(b)(1) of the revised interim rule provides that the Fund will consider whether the activities of the Applicant individually and the Applicant and its Affiliates, when viewed collectively (as a whole), are purposefully directed toward improving the social and/or economic conditions of underserved people (which may include Low-Income persons and persons who lack adequate access to capital and/or Financial Services) and/or residents of distressed communities (which may include Investment Areas).

*Definition of Equity Investment*

Section 1805.104(r) of the current rule provides that Equity Investments comprise a stock purchase, a purchase of a partnership interest, a purchase of a limited liability company membership interest, a loan made on such terms that it has sufficient characteristics of equity, or any other investment deemed to be an Equity Investment by the Fund. In the preamble to the current rule, the Fund stated that it considers Equity Investments also to include secondary capital accounts established with low-income designated credit unions. One commenter supported the inclusion of

secondary capital accounts within the meaning of Equity Investment, and encouraged the Fund to consider alternative sources of capital for credit unions as falling within the meaning of Equity Investment. The Fund agrees with the comment and will consider, on a case-by-case basis, under § 1805.104(q), whether other sources of capital for credit unions qualify as Equity Investments.

*Investment Area Eligibility*

Section 1805.201(b)(3)(ii)(A)(2) of the current rule provides that in order for a geographic area to qualify as an Investment Area, generally it must have, among other things, significant unmet needs for loans or Equity Investments. Two commenters suggested that in addition to loans or Equity Investments, the Fund also should consider whether a geographic area has significant unmet needs for Financial Services. The Fund shares the view that access to Financial Services is critical to underserved communities and, in addition, believes that a lack of access to Financial Services is indicative of, or a proxy for, a lack of access to loans and Equity Investments. Moreover, the Fund believes that utilizing a lack of adequate access to Financial Services, as a proxy for lack of adequate access to loans or Equity Investments is consistent with Congressional intent. Specifically, the Conference Report underlying the Act expressly provides that the Fund is required to develop objective criteria for determining unmet needs for loans and Equity Investments. Thus, § 1805.201(b)(3)(ii)(A)(2) has been modified in the manner suggested by the two commenters.

*Targeted Population Eligibility*

Section 1805.201(b)(3)(iii) of the current rule provides that a Targeted Population shall mean individuals, or an identificable group of individuals, who are Low-Income people or lack adequate access to loans or Equity Investments in an organization's service area. One commenter suggested that a Targeted Population also should include individuals or an identifiable group of individuals who lack adequate access to Financial Services. The Fund shares the commenter's view that access to Financial Services is critical to underserved populations, and, in addition, believes that a lack of access to Financial Services is indicative of, or a proxy for, a lcak of access to loans and Equity Investments. Moreover, the Fund believes that utilizing a lack of adequate access to Financial Services, as a proxy for lack of access to loans or Equity Investments is consistent with Congressional intent. Specifically, the Conference Report underlying the Act expressly provides that in determining which groups or individuals qualify as a Targeted Population, the Fund should focus on Low-Income persons and those who are otherwise underserved by financial institutions (including those historically denied access to Financial Services based on their race, gender, ethnicity or national origin). Thus, § 1805.201(b)(3)(iii) has been modified in the manner suggested by the commenter.

*Target Market Eligibility Test*

Section 1805.201(b)(3) of the current rule provides that in order for an organization to meet the Target Market eligibility test, such organization must demonstrate that its total activities are principally directed to serving an Investment Area(s), Targeted Population(s) or both. One commenter suggested that the Fund deem insured credit unions that have received a low-income designation from the National Credit Union Administration (NCUA) to have met the Target Market eligibility test. While the Fund utilizes NCUA's low-income designation as an indicator that such designated credit unions have a primary mission of community development, the Fund must reject this comment because NCUA's low-income designation criteria are not wholly consistent with the Target Market criteria of the Fund. For example, in order to receive a low-income designation from NCUA, the credit union must predominantly serve (*i.e.*, more than 50 percent) low-income members; whereas, in order for the same credit union to meet the Fund's Target Market eligibility test, 60 percent of the credit union's activities must be directed to serving low-income members. In addition, NCUA includes in its definition of low-income credit union members, individuals who are full or part-time students. Accordingly, if an insured credit union's membership predominantly comprises full or part-time students, such insured credit union would be eligible for designation by NCUA as a low-income credit union. The Fund does not deem full or part-time students, or any other group, to be low-income without regard to actual incomes. As a result, § 1805.201(b)(3) of the current rule remains substantively unchanged.

*Eligibility of Credit Unions as CDFIs*

Section 1805.201(b)(6) of the current rule provides that in order for an organization to be certified as a CDFI, the organization shall not be an agency or instrumentality of the United States. One commenter sought clarification on whether insured credit unions could be certified as CDFIs in light of certain case law holding that insured credit unions are instrumentalities of the United States. The Fund's review of such case law indicates that it does not address whether insured credit unions are Federal instrumentalities under the Act and, additionally, the Fund believes that such cases are of limited relevance in light of the plain language of the Act. Specifically, several sections of the Act expressly provide that insured credit unions can be CDFIs, and as such can receive assistance from the Fund. For example, the Act defines the term "insured community development financial institution" as including insured credit unions. *See* 12 U.S.C. 4702(13). The Act also expressly provides that the Fund may provide financial assistance to credit unions in the form of "credit union shares." *See* 12 U.S.C. 4707(a)(1)(A). Accordingly, the Fund believes that there is no case law barring insured credit unions from qualifying as CDFIs under the Act.

*Application Format*

In the preamble to the current rule, the Fund advised that it was deleting a provision from the regulations that allowed Applicants to present their applications for assistance in an order and format that they believed to be the most appropriate. The Fund advised that affording applicants such flexibility made it considerably more difficult for the Fund to evaluate applications. One commenter disagreed with this deletion claiming that it requires applicants to rework business plans to conform to a prescribed format. Another commenter supported a more structured application format, provided that the Fund set forth the specific requirements in the application and provide applicants the flexibility to present their own circumstances within that format. The Fund agrees with the latter comment, and believes that the current application format allows applicants sufficient flexibility to present their best case for funding. Moreover, the Fund has found that a prescribed format is necessary for a fair and orderly application evaluation process.

*Annual Report Due Date*

Section 1805.803(e)(3) of the current rule provides that an awardee shall submit an annual report to the Fund within 60 days after the end of its fiscal year, or by such alternative deadline as may be agreed to by the awardee and the Fund. One commenter suggested that, in order to ensure that any references to an awardee's financial condition be

accurately reflected, this time frame should be increased to 120 days to conform to the general deadline set forth in § 1805.803(e)(4) for submission of audited financial statements. The Fund is committed to ensuring that awardees have sufficient time to meet Fund reporting requirements. For example, § 1805.803(e)(3) of the current rule allows the Fund and awardees to agree to a deadline greater than 60 days for the submission of an annual report. For this reason and because the annual report does not require the submission of information on the financial condition of an awardee, § 1805.803(e) remains substantively unchanged.

**III. Summary of Additional Change**

*Target Market Eligibility Test—Targeted Population*

Section 1805.201(b)(3)(iii) of the current rule provides that an organization may meet the Target Market eligibility test by serving a Targeted Population. A Targeted Population, under the current rule, means individuals, or an identifiable group of individuals, who are either Low-Income persons or lack adequate access to loans or Equity Investments. Section 1805.201(b)(3)(iii)(B)(2) of the current rule provides that in order for an Applicant to demonstrate that it serves a Targeted Population comprising individuals who lack adequate access to loans or Equity Investments, the Applicant must provide: (1) A description of the service area from which the Targeted Population is drawn; (2) studies, analyses or other information demonstrating that the identifiable group of individuals, either on a national basis or on a localized basis in the Applicant's service area, lacks adequate access to loans or Equity Investments; and (3) studies, analyses or other information demonstrating that the Applicant's clients who comprise the identifiable group of individuals, lack adequate access to loans or Equity Investments. The Fund believes that this three-part test imposes undue burdens on Applicants. Specifically, it would be unduly burdensome to require Applicants to submit studies demonstrating that an identifiable group of individuals, on a national basis or within the Applicant's service area, has traditionally been denied access to loans or Equity Investments, and then demonstrate that the Applicant's clients who comprise the identifiable group of individuals lack adequate access to loans or Equity Investments. As a result, the Fund is modifying what an Applicant must provide. In lieu of studies, an Applicant must provide, under § 1805.201(b)(3)(iii) of the revised interim rule, a brief analytical narrative with information demonstrating that the members of the identifiable group in the Applicant's service area lack adequate access to loans, Equity Investments, or Financial Services. An Applicant may not have to provide the aforementioned analytical narrative if its Targeted Population is one listed by the Fund in the applicable NOFA and/or application for certification as one with respect to which the Fund believes that credible evidence exists demonstrating that such Targeted Population lacks adequate access to loans, Equity Investments or Financial Services in the Applicant's service area.

**IV. Rulemaking Analysis**

*Executive Order (E.O.) 12866*

It has been determined that this regulation is not a significant regulatory action as defined in Executive Order 12866. Therefore, a Regulatory Assessment is not required.

*Regulatory Flexibility Act*

Because no notice of proposed rule making is required for this revised interim rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

*Paperwork Reduction Act*

The collections of information contained in this interim rule have been previously reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 and assigned OMB Control Number 1505–0154. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. This document restates the collections of information without substantive change.

Comments concerning suggestions for reducing the burden of collections of information should be directed to the Deputy Director for Policy and Programs, Community Development Financial Institutions Fund, 601 13th Street, NW., Suite 200 South, Washington, DC 20005.

*National Environmental Policy Act*

Pursuant to Treasury Directive 75–02 (Department of the Treasury Environmental Quality Program), the Department has determined that these interim regulations are categorically excluded from the National Environmental Policy Act and do not require an environmental review.

*Administrative Procedure Act*

Because the revisions to this interim rule relate to loans and grants, notice and public procedure and a delayed effective date are not required pursuant to the Administrative Procedure Act found at 5 U.S.C. 553(a)(2).

*Comment*

Public comment is solicited on all aspects of this interim regulation. The Fund will consider all comments made on the substance of this interim regulation, but does not intend to hold hearings.

*Catalog of Federal Domestic Assistance Number*

Community Development Financial Institutions Program—21.020.

**List of Subjects in 12 CFR Part 1805**

Community development, Grant programs—housing and community development, Loan programs—housing and community development, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth in the preamble, 12 CFR part 1805 is revised to read as follows:

## PART 1805—COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS PROGRAM

### Subpart A—General Provisions

Sec.



### Subpart B—Eligibility



### Subpart C—Use of Funds/Eligible Activities



### Subpart D—Investment Instruments



### Subpart E—Matching Funds Requirements



### Subpart F—Applications for Assistance

**Authority:** 12 U.S.C. 4703, 4703 note, 4717; and 31 U.S.C. 321.

## Subpart A—General Provisions

### § 1805.100 Purpose.

The purpose of the Community Development Financial Institutions Program is to facilitate the creation of a national network of financial institutions that is dedicated to community development.

### § 1805.101 Summary.

Under the Community Development Financial Institutions Program, the Fund will provide financial and technical assistance to Applicants selected by the Fund in order to enhance their ability to make loans and investments and provide services. An Awardee must serve an Investment Area(s), Targeted Population(s), or both. The Fund will select Awardees to receive financial and technical assistance through a competitive application process. Each Awardee will enter into an Assistance Agreement which will require it to achieve performance goals negotiated between the Fund and the Awardee and abide by other terms and conditions pertinent to any assistance received under this part.

### § 1805.102 Relationship to other Fund programs.

(a) *Bank Enterprise Award Program.* (1) No Community Development Financial Institution may receive a Bank Enterprise Award under the Bank Enterprise Award Program (part 1806 of this chapter) if it has:

(i) An application pending for assistance under the Community Development Financial Institutions Program;

(ii) Directly received assistance in the form of a disbursement under the Community Development Financial Institutions Program within the preceding 12-month period; or

(iii) Ever directly received assistance under the Community Development Financial Institutions Program for the same activities for which it is seeking a Bank Enterprise Award.

(2) An equity investment (as defined in part 1806 of this chapter) in, or a loan to, a Community Development Financial Institution, or deposits in an Insured Community Development Financial Institution, made by a Bank Enterprise Award Program Awardee may be used to meet the matching funds requirements described in subpart E of this part. Receipt of such equity investment, loan, or deposit does not disqualify a Community Development Financial Institution from receiving assistance under this part.

(b) *Liquidity enhancement program.* No entity that receives assistance through the liquidity enhancement program authorized under section 113 (12 U.S.C. 4712) of the Act may receive assistance under the Community Development Financial Institutions Program.

### § 1805.103 Awardee not instrumentality.

No Awardee (or its Community Partner) shall be deemed to be an agency, department, or instrumentality of the United States.

### § 1805.104 Definitions.

For the purpose of this part:

(a) *Act* means the Community Development Banking and Financial Institutions Act of 1994, as amended (12 U.S.C. 4701 et seq.);

(b) *Affiliate* means any company or entity that controls, is controlled by, or is under common control with another company;

(c) *Applicant* means any entity submitting an application for assistance under this part;

(d) *Appropriate Federal Banking Agency* has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), and also includes the National Credit Union Administration with respect to Insured Credit Unions;

(e) *Assistance Agreement* means a formal agreement between the Fund and an Awardee which specifies the terms and conditions of assistance under this part;

(f) *Awardee* means an Applicant selected by the Fund to receive assistance pursuant to this part;

(g) *Community Development Financial Institution* (or *CDFI*) means an entity currently meeting the eligibility requirements described in § 1805.200;

(h) *Community Development Financial Institution Intermediary* (or *CDFI Intermediary*) means an entity that meets the CDFI Program eligibility requirements described in § 1805.200 and whose primary business activity is the provision of Financial Products to CDFIs and/or emerging CDFIs;

(i) *Community Development Financial Institutions Program* (or *CDFI Program*) means the program authorized by sections 105–108 of the Act (12 U.S.C. 4704–4707) and implemented under this part;

(j) *Community Facility* means a facility where health care, childcare, educational, cultural, or social services are provided;

(k) *Community-Governed* means an entity in which the residents of an Investment Area(s) or members of a Targeted Population(s) represent greater than 50 percent of the governing body;

(l) *Community-Owned* means an entity in which the residents of an Investment Area(s) or members of a Targeted Population(s) have an ownership interest of greater than 50 percent;

(m) *Community Partner* means a person (other than an individual) that provides loans, Equity Investments, or Development Services and enters into a Community Partnership with an Applicant. A Community Partner may include a Depository Institution Holding Company, an Insured Depository Institution, an Insured Credit Union, a not-for-profit or for-profit organization, a State or local government entity, a quasi-government entity, or an investment company authorized pursuant to the Small Business Investment Act of 1958 (15 U.S.C. 661 *et seq.*);

(n) *Community Partnership* means an agreement between an Applicant and a Community Partner to collaboratively provide loans, Equity Investments, or Development Services to an Investment Area(s) or a Targeted Population(s);

(o) *Comprehensive Business Plan* means a document covering not less than the next five years which meets the requirements described under § 1805.601(d);

(p) *Depository Institution Holding Company* means a bank holding company or a savings and loan holding company as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1));

(q) *Development Services* means activities that promote community development and are integral to the Applicant's provision of Financial Products. Such services shall prepare or assist current or potential borrowers or investees to utilize the Financial Products of the Applicant. Such services include, for example: financial or credit

counseling to individuals for the purpose of facilitating home ownership, promoting self-employment, or enhancing consumer financial management skills; or technical assistance to borrowers or investees for the purpose of enhancing business planning, marketing, management, and financial management skills;

(r) *Equity Investment* means an investment made by an Applicant which, in the judgment of the Fund, directly supports or enhances activities that serve an Investment Area(s) or a Targeted Population(s). Such investments must be made through an arms-length transaction with a third party that does not have a relationship with the Applicant as an Affiliate. Equity Investments comprise a stock purchase, a purchase of a partnership interest, a purchase of a limited liability company membership interest, a loan made on such terms that it has sufficient characteristics of equity (and is considered as such by the Fund), or any other investment deemed to be an Equity Investment by the Fund;

(s) *Financial Products* means loans, Equity Investments and, in the case of CDFI Intermediaries, grants to CDFIs and/or emerging CDFIs and deposits in insured credit union CDFIs and/or emerging insured credit union CDFIs;

(t) *Financial Services* means checking, savings accounts, check cashing, money orders, certified checks, automated teller machines, deposit taking, and safe deposit box services;

(u) *Fund* means the Community Development Financial Institutions Fund established under section 104(a) (12 U.S.C. 4703(a)) of the Act;

(v) *Indian Reservation* means any geographic area that meets the requirements of section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)), and shall include land held by incorporated Native groups, regional corporations, and village corporations, as defined in and pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1602), public domain Indian allotments, and former Indian reservations in the State of Oklahoma;

(w) *Indian Tribe* means any Indian Tribe, band, pueblo, nation, or other organized group or community, including any Alaska Native village or regional or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*,) which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians;

(x) *Insider* means any director, officer, employee, principal shareholder (owning, individually or in combination with family members, five percent or more of any class of stock), or agent (or any family member or business partner of any of the above) of any Applicant, Affiliate or Community Partner;

(y) *Insured CDFI* means a CDFI that is an Insured Depository Institution or an Insured Credit Union;

(z) *Insured Credit Union* means any credit union, the member accounts of which are insured by the National Credit Union Share Insurance Fund;

(aa) *Insured Depository Institution* means any bank or thrift, the deposits of which are insured by the Federal Deposit Insurance Corporation;

(bb) *Investment Area* means a geographic area meeting the requirements of § 1805.201(b)(3);

(cc) *Low-Income* means an income, adjusted for family size, of not more than:

(1) For Metropolitan Areas, 80 percent of the area median family income; and

(2) For non-Metropolitan Areas, the greater of:

(i) 80 percent of the area median family income; or

(ii) 80 percent of the statewide non-Metropolitan Area median family income;

(dd) *Metropolitan Area* means an area designated as such by the Office of Management and Budget pursuant to 44 U.S.C. 3504(e) and 31 U.S.C. 1104(d) and Executive Order 10253 (3 CFR, 1949–1953 Comp., p. 758), as amended;

(ee) *Non-Regulated CDFI* means any entity meeting the eligibility requirements described in § 1805.200 which is not a Depository Institution Holding Company, Insured Depository Institution, or Insured Credit Union;

(ff) *State* means any State of the United States, the District of Columbia or any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territories of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands;

(gg) *Subsidiary* means any company which is owned or controlled directly or indirectly by another company and includes any service corporation owned in whole or part by an Insured Depository Institution or any Subsidiary of such a service corporation, except as provided in § 1805.200(b)(4);

(hh) *Targeted Population* means individuals or an identifiable group meeting the requirements of § 1805.201(b)(3); and

(ii) *Target Market* means an Investment Area(s) and/or a Targeted Population(s).

### § 1805.105 Waiver authority.

The Fund may waive any requirement of this part that is not required by law upon a determination of good cause. Each such waiver shall be in writing and supported by a statement of the facts and the grounds forming the basis of the waiver. For a waiver in an individual case, the Fund must determine that application of the requirement to be waived would adversely affect the achievement of the purposes of the Act. For waivers of general applicability, the Fund will publish notification of granted waivers in the **Federal Register**.

### § 1805.106 OMB control number.

The collection of information requirements in this part have been approved by the Office of Management and Budget and assigned OMB control number 1505–0154.

## Subpart B—Eligibility

### § 1805.200 Applicant eligibility.

(a) *General requirements.* (1) An entity that meets the requirements described in § 1805.201(b) and paragraph (b) of this section will be considered a CDFI and, subject to paragraph (a)(3) of this section, will be eligible to apply for assistance under this part.

(2) An entity that proposes to become a CDFI is eligible to apply for assistance under this part if the Fund determines that such entity's application materials provide a realistic course of action to ensure that it will meet the requirements described in § 1805.201(b) and paragraph (b) of this section within 24 months from September 30 of the calendar year in which the applicable application deadline falls or such other period as may be set forth in an applicable NOFA. The Fund will not, however, disburse any financial assistance to such an entity before it meets the requirements described in this section.

(3) The Fund shall require an entity to meet any additional eligibility requirements that the Fund deems appropriate.

(4) The Fund, in its sole discretion, shall determine whether an Applicant fulfills the requirements set forth in this section and § 1805.201(b).

(b) *Provisions applicable to Depository Institution Holding Companies and Insured Depository Institutions.* (1) A Depository Institution Holding Company may qualify as a CDFI only if it and its Affiliates collectively satisfy the requirements described in this section.

(2) No Affiliate of a Depository Institution Holding Company may qualify as a CDFI unless the holding company and all of its Affiliates

collectively meet the requirements described in this section.

(3) No Subsidiary of an Insured Depository Institution may qualify as a CDFI if the Insured Depository Institution and its Subsidiaries do not collectively meet the requirements described in this section.

(4) For the purposes of paragraphs (b)(1), (2) and (3) of this section, an Applicant will be considered to be a Subsidiary of any Insured Depository Institution or Depository Institution Holding Company that controls 25 percent or more of any class of the Applicant's voting shares, or otherwise controls, in any manner, the election of a majority of directors of the Applicant.

**§ 1805.201 Certification as a Community Development Financial Institution.**

(a) *General.* An entity may apply to the Fund for certification that it meets the CDFI eligibility requirements regardless of whether it is seeking financial or technical assistance from the Fund. Entities seeking such certification shall provide the information set forth in paragraph (b) of this section. Certification by the Fund will verify that the entity meets the CDFI eligibility requirements. However, such certification shall not constitute an opinion by the Fund as to the financial viability of the CDFI or that the CDFI will be selected to receive an award from the Fund. The Fund, in its sole discretion, shall have the right to decertify a certified entity after a determination that the eligibility requirements of paragraph (b) of this section, § 1805.200(b) or (a)(3) (if applicable) are no longer met.

(b) *Eligibility verification.* An Applicant shall provide information necessary to establish that it is, or will be, a CDFI. An Applicant shall demonstrate whether it meets the eligibility requirements described in this paragraph (b) and § 1805.200 by providing the information requested in paragraphs (b)(1) through (b)(7) of this section. The Fund, in its sole discretion, shall determine whether an Applicant has satisfied the requirements of this paragraph (b) and § 1805.200.

(1) *Primary mission.* A CDFI shall have a primary mission of promoting community development. In determining whether an Applicant has such a primary mission, the Fund will consider whether the activities of the Applicant individually and the Applicant and its Affiliates, when viewed collectively (as a whole), are purposefully directed toward improving the social and/or economic conditions of underserved people (which may include Low-Income persons and persons who lack adequate access to capital and/or Financial Services) and/or residents of distressed communities (which may include Investment Areas).

(2) *Financing entity.* (i) A CDFI shall be an entity whose predominant business activity is the provision, in arms-length transactions, of Financial Products, Development Services, and/or other similar financing. An Applicant may demonstrate that it is such an entity if it is a(n):

(A) Depository Institution Holding Company;

(B) Insured Depository Institution or Insured Credit Union; or

(C) Organization that is deemed by the Fund to have such a predominant business activity as a result of analysis of its financial statements, organizing documents, and any other information required to be submitted as part of its application. In conducting such analysis, the Fund may take into consideration an Applicant's total assets and its use of personnel.

(ii) An Applicant described under:

(A) Paragraph (b)(2)(i)(A) of this section shall submit a copy of its organizing documents that indicate that it is a Depository Institution Holding Company;

(B) Paragraph (b)(2)(i)(B) of this section shall submit a copy of its current certificate of insurance issued by the Federal Deposit Insurance Corporation or the National Credit Union Administration; and

(C) Paragraph (b)(2)(i)(C) of this section shall submit a copy of its most recent year-end financial statements (and any notes or other supplemental information to its financial statements) documenting its assets dedicated to Financial Products, Development Services and/or other similar financing, and an explanation of how such assets support these activities. An Applicant also shall provide qualitative and quantitative information on the percentage of Applicant staff time dedicated to the provision of Financial Products, Development Services, and/or other similar financing.

(3) *Target Market*—(i) *General.* An Applicant shall provide a description of one or more Investment Areas and/or Targeted Populations that it serves, and shall demonstrate that its total activities are principally directed to serving the Investment Areas, Targeted Populations, or both. An Investment Area shall meet specific geographic and other criteria described in paragraph (b)(3)(ii) of this section, and a Targeted Population shall meet the criteria described in paragraph (b)(3)(iii) in this section.

(ii) *Investment Area.* (A) *General.* A geographic area will be considered eligible for designation as an Investment Area if it:

(*1*) Is entirely located within the geographic boundaries of the United States (which shall encompass any State of the United States, the District of Columbia or any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territories of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands); and either

(*2*) Meets at least one of the objective criteria of economic distress as set forth in paragraph (b)(3)(ii)(D) of this section and has significant unmet needs for loans, Equity Investments, or Financial Services as described in paragraph (b)(3)(ii)(E) of this section; or

(*3*) Encompasses or is located in an Empowerment Zone or Enterprise Community designated under section 1391 of the Internal Revenue Code of 1986 (26 U.S.C. 1391).

(B) *Geographic units.* Subject to the remainder of this paragraph (b)(3)(ii)(B), an Investment Area shall consist of a geographic unit(s) that is a county (or equivalent area), minor civil division that is a unit of local government, incorporated place, census tract, block numbering area, block group, or American Indian or Alaska Native area (as such units are defined or reported by the U.S. Bureau of the Census). However, geographic units in Metropolitan Areas that are used to comprise an Investment Area shall be limited to census tracts, block groups and American Indian or Alaskan Native areas. An Applicant may designate one or more Investment Areas as part of a single application.

(C) *Designation.* An Applicant may designate an Investment Area by selecting:

(*1*) A geographic unit(s) which individually meets one of the criteria in paragraph (b)(3)(ii)(D) of this section; or

(*2*) A group of contiguous geographic units which together meet one of the criteria in paragraph (b)(3)(ii)(D) of this section, provided that the combined population residing within individual geographic units not meeting any such criteria does not exceed 15 percent of the total population of the entire Investment Area.

(D) *Distress criteria.* An Investment Area (or the units that comprise an area) must meet at least one of the following objective criteria of economic distress (as reported in the most recently completed decennial census published by the U.S. Bureau of the Census):

(*1*) The percentage of the population living in poverty is at least 20 percent;

(*2*) In the case of an Investment Area located:

(*i*) Within a Metropolitan Area, the median family income shall be at or below 80 percent of the Metropolitan Area median family income or the national Metropolitan Area median family income, whichever is greater; or

(*ii*) Outside of a Metropolitan Area, the median family income shall be at or below 80 percent of the statewide non-Metropolitan Area median family income or the national non-Metropolitan Area median family income, whichever is greater;

(*3*) The unemployment rate is at least 1.5 times the national average;

(*4*) The percentage of occupied distressed housing (as indicated by lack of complete plumbing and occupancy of more than one person per room) is at least 20 percent; or

(*5*) In areas located outside of a Metropolitan Area:

(*i*) The county population loss in the period between the most recent decennial census and the previous decennial census is at least 10 percent; or

(*ii*) The county net migration loss (outmigration minus immigration) over the five year period preceding the most recent decennial census is at least 5 percent.

(E) *Unmet needs.* An Investment Area will be deemed to have significant unmet needs for loans or Equity Investments if studies or other analyses provided by the Applicant adequately demonstrate a pattern of unmet needs for loans, Equity Investments, or Financial Services within such area(s).

(F) *Serving Investment Areas.* An Applicant may serve an Investment Area directly or through borrowers or investees that serve the Investment Area or provide significant benefits to its residents. To demonstrate that it is serving an Investment Area, an Applicant shall submit:

(*1*) A completed Investment Area Designation worksheet referenced in the application packet;

(*2*) A map of the designated area(s); and

(*3*) Studies or other analyses as described in paragraph (b)(3)(ii)(E) of this section.

(*iii*) *Targeted Population*—(A) *General.* Targeted Population shall mean individuals, or an identifiable group of individuals, who are Low-Income persons or lack adequate access to loans, Equity Investments, or Financial Services in the Applicant's service area. The members of a Targeted Population shall reside within the boundaries of the United States (which shall encompass any State of the United States, the District of Columbia or any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territories of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands).

(B) *Serving A Targeted Population.* An Applicant may serve the members of a Targeted Population directly or indirectly or through borrowers or investees that directly serve or provide significant benefits to such members. To demonstrate that it is serving a Targeted Population, an Applicant shall submit:

(*1*) In the case of a Low-Income Targeted Population, a description of the service area from which the Low-Income Targeted Population is drawn (which could be, for example, a local, regional or national service area); or

(*2*) In the case of a Targeted Population defined other than on the basis of Low-Income—

(*i*) A description of the service area from which the Targeted Population is drawn; and

(*ii*) A brief analytical narrative with information demonstrating that the identifiable group of individuals in the Applicant's service area, lacks adequate access to loans, Equity Investments, or Financial Services.

(4) *Development Services.* A CDFI directly, through an Affiliate, or through a contract with another provider, shall provide Development Services in conjunction with its Financial Products. An Applicant shall submit a description of the Development Services to be offered, the expected provider of such services, and information on the persons expected to use such services.

(5) *Accountability.* A CDFI must maintain accountability to residents of its Investment Area(s) or Targeted Population(s) through representation on its governing board or otherwise. An Applicant shall describe how it has and will maintain accountability to the residents of the Investment Area(s) or Targeted Population(s) it serves.

(6) *Non-government.* A CDFI shall not be an agency or instrumentality of the United States, or any State or political subdivision thereof. An entity that is created by, or that receives substantial assistance from, one or more government entities may be a CDFI provided it is not controlled by such entities and maintains independent decision-making power over its activities. An Applicant shall submit copies of its articles of incorporation (or comparable organizing documents), charter, bylaws, or other legal documentation or opinions sufficient to verify that it is not a government entity.

(7) *Ownership.* An Applicant shall submit information indicating the portion of shares of all classes of voting stock that are held by each Insured Depository Institution or Depository Institution Holding Company investor (if any).

## Subpart C—Use of Funds/Eligible Activities

### § 1805.300 Purposes of financial assistance.

The Fund may provide financial assistance through investment instruments described under subpart D of this part. Such financial assistance is intended to strengthen the capital position and enhance the ability of an Awardee to provide Financial Products and Financial Services.

### § 1805.301 Eligible activities.

Financial assistance provided under this part may be used by an Awardee to serve Investment Area(s) or Targeted Population(s) by developing or supporting:

(a) Commercial facilities that promote revitalization, community stability or job creation or retention;

(b) Businesses that:

(1) Provide jobs for Low-Income persons;

(2) Are owned by Low-Income persons; or

(3) Enhance the availability of products and services to Low-Income persons;

(c) Community Facilities;

(d) The provision of Financial Services;

(e) Housing that is principally affordable to Low-Income persons, except that assistance used to facilitate home ownership shall only be used for services and lending products that serve Low-Income persons and that:

(1) Are not provided by other lenders in the area; or

(2) Complement the services and lending products provided by other lenders that serve the Investment Area(s) or Targeted Population(s);

(f) The provision of Consumer Loans (a loan to one or more individuals for household, family, or other personal expenditures); or

(g) Other businesses or activities as requested by the Applicant and deemed appropriate by the Fund.

### § 1805.302 Restrictions on use of assistance.

(a) An Awardee shall use assistance provided by the Fund and its corresponding matching funds only for the eligible activities approved by the Fund and described in the Assistance Agreement.

(b) An Awardee may not distribute assistance to an Affiliate without the Fund's consent.

(c) Assistance provided upon approval of an application involving a

Community Partnership shall only be distributed to the Awardee and shall not be used to fund any activities carried out by a Community Partner or an Affiliate of a Community Partner.

**§ 1805.303 Technical assistance.**

(a) *General.* The Fund may provide technical assistance to build the capacity of a CDFI or an entity that proposes to become a CDFI. Such technical assistance may include training for management and other personnel; development of programs, products and services; improving financial management and internal operations; enhancing a CDFI's community impact; or other activities deemed appropriate by the Fund. The Fund, in its sole discretion, may provide technical assistance in amounts, or under terms and conditions that are different from those requested by an Applicant. The Fund may not provide any technical assistance to an Applicant for the purpose of assisting in the preparation of an application. The Fund may provide technical assistance to a CDFI directly, through grants, or by contracting with organizations that possess the appropriate expertise.

(b) The Fund may provide technical assistance regardless of whether the recipient also receives financial assistance under this part. Technical assistance provided pursuant to this part is subject to the assistance limits described in § 1805.402.

(c) An Applicant seeking technical assistance must meet the eligibility requirements described in § 1805.200 and submit an application as described in § 1805.601.

(d) Applicants for technical assistance pursuant to this part will be evaluated pursuant to the competitive review criteria in subpart G of this part, except as otherwise may be provided in the applicable NOFA. In addition, the requirements for matching funds are not applicable to technical assistance requests.

## Subpart D—Investment Instruments

**§ 1805.400 Investment instruments—general.**

The Fund's primary objective in awarding financial assistance is to enhance the stability, performance and capacity of an Awardee. The Fund will provide financial assistance to an Awardee through one or more of the investment instruments described in § 1805.401, and under such terms and conditions as described in this subpart D. The Fund, in its sole discretion, may provide financial assistance in amounts, through investment instruments, or under rates, terms and conditions that are different from those requested by an Applicant.

**§ 1805.401 Forms of investment instruments.**

(a) *Equity.* The Fund may make nonvoting equity investments in an Awardee, including, without limitation, the purchase of nonvoting stock. Such stock shall be transferable and, in the discretion of the Fund, may provide for convertibility to voting stock upon transfer. The Fund shall not own more than 50 percent of the equity of an Awardee and shall not control its operations.

(b) *Capital grants.* The Fund may award grants.

(c) *Loans.* The Fund may make loans, if permitted by applicable law.

(d) *Deposits and credit union shares.* The Fund may make deposits (which shall include credit union shares) in Insured CDFIs. Deposits in an Insured CDFI shall not be subject to any requirement for collateral or security.

**§ 1805.402 Assistance limits.**

(a) *General.* Except as provided in paragraph (b) of this section, the Fund may not provide, pursuant to this part, more than $5 million, in the aggregate, in financial and technical assistance to an Awardee and its Affiliates during any three-year period.

(b) *Additional amounts.* If an Awardee proposes to establish a new Affiliate to serve an Investment Area(s) or Targeted Population(s) outside of any State, and outside of any Metropolitan Area, currently served by the Awardee or its Affiliates, the Awardee may receive additional assistance pursuant to this part up to a maximum of $3.75 million during the same three-year period. Such additional assistance:

(1) Shall be used only to finance activities in the new or expanded Investment Area(s) or Targeted Population(s); and

(2) Must be distributed to a new Affiliate that meets the eligibility requirements described in § 1805.200 and is selected for assistance pursuant to subpart G of this part.

(c) An Awardee may receive the assistance described in paragraph (b) of this section only if no other application to serve substantially the same Investment Area(s) or Targeted Population(s) that meets the requirements of § 1805.701(a) was submitted to the Fund prior to the receipt of the application of said Awardee and within the current funding round.

**§ 1805.403 Authority to sell.**

The Fund may, at any time, sell its equity investments and loans, provided the Fund shall retain the authority to enforce the provisions of the Assistance Agreement until the performance goals specified therein have been met.

## Subpart E—Matching Funds Requirements

**§ 1805.500 Matching funds—general.**

All financial assistance awarded under this part shall be matched with funds from sources other than the Federal government. Except as provided in § 1805.502, such matching funds shall be provided on the basis of not less than one dollar for each dollar provided by the Fund. Funds that have been used to satisfy a legal requirement for obtaining funds under either the CDFI Program or another Federal grant or award program may not be used to satisfy the matching requirements described in this section. Community Development Block Grant Program and other funds provided pursuant to the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 *et seq.*), shall be considered Federal government funds and shall not be used to meet the matching requirements. Matching funds shall be used as provided in the Assistance Agreement. Funds that are used prior to the execution of the Assistance Agreement may nevertheless qualify as matching funds provided the Fund determines in its reasonable discretion that such use promoted the purpose of the Comprehensive Business Plan that the Fund is supporting through its assistance.

**§ 1805.501 Comparability of form and value.**

(a) Matching funds shall be at least comparable in form (e.g., equity investments, deposits, credit union shares, loans and grants) and value to financial assistance provided by the Fund (except as provided in § 1805.502). The Fund shall have the discretion to determine whether matching funds pledged are comparable in form and value to the financial assistance requested.

(b) In the case of an Awardee that raises matching funds from more than one source, through different investment instruments, or under varying terms and conditions, the Fund may provide financial assistance in a manner that represents the combined characteristics of such instruments.

(c) An Awardee may meet all or part of its matching requirements by

committing available earnings retained from its operations.

**§ 1805.502 Severe constraints waiver.**

(a) In the case of an Applicant with severe constraints on available sources of matching funds, the Fund, in its sole discretion, may permit such Applicant to comply with the matching requirements by:

(1) Reducing such requirements by up to 50 percent; or

(2) Permitting an Applicant to provide matching funds in a form to be determined at the discretion of the Fund, if such an Applicant:

(i) Has total assets of less than $100,000;

(ii) Serves an area that is not a Metropolitan Area; and

(iii) Is not requesting more than $25,000 in assistance.

(b) Not more than 25 percent of the total funds available for obligation under this part in any fiscal year may be matched as described in paragraph (a) of this section. Additionally, not more than 25 percent of the total funds disbursed under this part in any fiscal year may be matched as described in paragraph (a) of this section.

(c) An Applicant may request a "severe constraints waiver" as part of its application for assistance. An Applicant shall provide a narrative justification for its request, indicating:

(1) The cause and extent of the constraints on raising matching funds;

(2) Efforts to date, results, and projections for raising matching funds;

(3) A description of the matching funds expected to be raised; and

(4) Any additional information requested by the Fund.

(d) The Fund will grant a "severe constraints waiver" only in exceptional circumstances when it has been demonstrated, to the satisfaction of the Fund, that an Investment Area(s) or Targeted Population(s) would not be adequately served without the waiver.

**§ 1805.503 Time frame for raising match.**

Applicants shall satisfy matching funds requirements within the period set forth in the applicable NOFA.

**§ 1805.504 Retained earnings.**

(a) An Applicant that proposes to meet all or a portion of its matching funds requirements as set forth in this part by committing available earnings retained from its operations pursuant to § 1805.501(c) shall be subject to the restrictions described in this section.

(b)(1) In the case of a for-profit Applicant, retained earnings that may be used for matching funds purposes shall consist of:

(i) The increase in retained earnings (excluding the after-tax value to an Applicant of any grants and other donated assets) that has occurred over the Applicant's most recent fiscal year (*e.g.*, retained earnings at the end of fiscal year 1999 less retained earnings at the end of fiscal year 1998); or

(ii) The annual average of such increases that have occurred over the Applicant's three most recent fiscal years.

(2) Such retained earnings may be used to match a request for an equity investment. The terms and conditions of financial assistance will be determined by the Fund.

(c)(1) In the case of a non-profit Applicant (other than a Credit Union), retained earnings that may be used for matching funds purposes shall consist of:

(i) The increase in an Applicant's net assets (excluding the amount of any grants and value of other donated assets) that has occurred over the Applicant's most recent fiscal year; or

(ii) The annual average of such increases that has occurred over the Applicant's three most recent fiscal years.

(2) Such retained earnings may be used to match a request for a capital grant. The terms and conditions of financial assistance will be determined by the Fund.

(d)(1) In the case of an insured credit union Applicant, retained earnings that may be used for matching funds purposes shall consist of:

(i) The increase in retained earnings that have occurred over the Applicant's most recent fiscal year;

(ii) The annual average of such increases that has occurred over the Applicant's three most recent fiscal years; or

(iii) The entire retained earnings that have been accumulated since the inception of the Applicant provided that the conditions described in paragraph (d)(4) of this section are satisfied.

(2) For the purpose of paragraph (d)(4) of this section, retained earnings shall be comprised of "Regular Reserves", "Other Reserves" (excluding reserves specifically dedicated for losses), and "Undivided Earnings" as such terms are used in the National Credit Union Administration's accounting manual.

(3) Such retained earnings may be used to match a request for a capital grant. The terms and conditions of financial assistance will be determined by the Fund.

(4) If the option described in paragraph (d)(1)(iii) of this section is used:

(i) The Assistance Agreement shall require that:

(A) An Awardee increase its member and/or non-member shares by an amount that is at least equal to four times the amount of retained earnings that is committed as matching funds; and

(B) Such increase be achieved within 24 months from September 30 of the calendar year in which the applicable application deadline falls;

(ii) The Applicant's Comprehensive Business Plan shall discuss its strategy for raising the required shares and the activities associated with such increased shares;

(iii) The level from which the increases in shares described in paragraph (d)(4)(i) of this section will be measured will be as of September 30 of the calendar year in which the applicable application deadline falls; and

(iv) Financial assistance shall be disbursed by the Fund only as the amount of increased shares described in paragraph (d)(4)(i)(A) of this section is achieved.

(5) The Fund will allow an Applicant to utilize the option described in paragraph (d)(1)(iii) of this section for matching funds only if it determines, in its sole discretion, that the Applicant will have a high probability of success in increasing its shares to the specified amounts.

(e) Retained earnings accumulated after the end of the Applicant's most recent fiscal year ending prior to the appropriate application deadline may not be used as matching funds.

## Subpart F—Applications for Assistance

**§ 1805.600 Notice of Funds Availability.**

Each Applicant shall submit an application for financial or technical assistance under this part in accordance with the regulations in this subpart and the applicable NOFA published in the **Federal Register**. The NOFA will advise potential Applicants on how to obtain an application packet and will establish deadlines and other requirements. The NOFA may specify any limitations, special rules, procedures, and restrictions for a particular funding round. After receipt of an application, the Fund may request clarifying or technical information on the materials submitted as part of such application.

**§ 1805.601 Application contents.**

An Applicant shall provide information necessary to establish that it is, or will be, a CDFI. Unless otherwise specified in an applicable NOFA, each

application must contain the information specified in the application packet including the items specified in this section.

(a) *Award request.* An Applicant shall indicate:

(1) The dollar amount, form, rates, terms and conditions of financial assistance requested; and

(2) Any technical assistance needs for which it is requesting assistance.

(b) *Previous Awardees.* In the case of an Applicant that has previously received assistance under this part, the Applicant shall demonstrate that it:

(1) Has substantially met its performance goals and other requirements described in its previous Assistance Agreement(s); and

(2) Will expand its operations into a new Investment Area(s), serve a new Targeted Population(s), offer more products or services, or increase the volume of its activities.

(c) *Time of operation.* At the time of submission of an application, an Applicant that has been in operation for:

(1) Three years or more shall submit information on its activities (as described in § 1805.201 (b)(1) and (2) and paragraphs (d)(2) and (d)(9)(v) of this section) and financial statements (as described in paragraph (d)(4) of this section) for the three most recent fiscal years;

(2) For more than one year, but less than three years, shall submit information on its activities (as described in § 1805.201 (b)(1) and (2) and paragraphs (d)(2) and (d)(9)(vi) of this section) and financial statements (as described in paragraph (d)(4) of this section) for each full fiscal year since its inception; or

(3) For less than one year, shall submit information on its activities and financial statements as described in paragraph (d) of this section.

(d) *Comprehensive Business Plan.* An Applicant shall submit a five-year Comprehensive Business Plan that addresses the items described in this paragraph (d). The Comprehensive Business Plan shall demonstrate that the Applicant shall have the capacity to operate as a CDFI upon receiving financial assistance from the Fund pursuant to this part.

(1) *Executive summary.* The executive summary shall include a description of the institution, products and services, markets served or to be served, accomplishments to date and key points of the Applicant's five year strategy, and other pertinent information.

(2) *Community development track record.* The Applicant shall describe its community development impact over the past three years, or for its period of operation if less than three years. In addition, an Applicant with a prior history of serving Investment Area(s) or Targeted Population(s) shall describe its activities, operations and community benefits created for residents of the Investment Area(s) or Targeted Population(s) for such periods as described in paragraph (c) of this section.

(3) *Operational capacity and risk mitigation strategies.* An Applicant shall submit information on its policies and procedures for underwriting and approving loans and investments, monitoring its portfolio and internal controls and operations. An Applicant shall also submit a copy of its conflict of interest policies that are consistent with the requirements of § 1805.806.

(4) *Financial track record and strength.* An Applicant shall submit historic financial statements for such periods as specified in paragraph (c) of this section. An Applicant shall submit:

(i) Audited financial statements;

(ii) Financial statements that have been reviewed by a certified public accountant; or

(iii) Financial statements that have been reviewed by the Applicant's Appropriate Federal Banking Agency. Such statements should include balance sheets or statements of financial position, income and expense statements or statements of activities, and cash flow statements. The Applicant shall also provide information necessary to assess trends in financial and operating performance.

(5) *Capacity, skills and experience of the management team.* An Applicant shall provide information on the background and capacity of its management team, including key personnel and governing board members. The Applicant shall also provide information on any training or technical assistance needed to enhance the capacity of the organization to successfully carry out its Comprehensive Business Plan.

(6) *Market analysis.* An Applicant shall provide an analysis of its Target Market, including a description of the Target Market, and the extent of economic distress, an analysis of the needs of the Target Market for Financial Products, Financial Services and Development Services, and an analysis of the extent of demand within such Target Market for the Applicant's products and services. The Applicant also shall provide an assessment of any factors or trends that may affect the Applicant's ability to deliver its products and services within its Target Market.

(7) *Program design and implementation plan.* An Applicant shall:

(i) Describe the products and services it proposes to provide and analyze the competitiveness of such products and services in the Target Market;

(ii) Describe its strategy for delivering its products and services to its Target Market;

(iii) Describe how its proposed activities are consistent with existing economic, community and housing development plans adopted for an Investment Area(s) or Targeted Population(s);

(iv) Describe its plan to coordinate use of assistance from the Fund with existing government assistance programs and private sector resources;

(v) Describe how it will coordinate with community organizations, financial institutions, and Community Partners (if applicable) which will provide Equity Investments, loans, secondary markets, or other services in the Target Market; and

(vi) Discuss the extent of community support (if any) within the Target Market for its activities.

(8) *Financial projections and resources.* An Applicant shall provide:

(i) *Financial projections.* (A) Projections for each of the next five years which include pro forma balance sheets or statements of financial position, income and expense statements or statements of activities, and a description of any assumptions that underlie its projections; and

(B) Information to demonstrate that it has a plan for achieving or maintaining sustainability within the five-year period;

(ii) *Matching funds.* (A) A detailed description of its plans for raising matching funds, including funds previously obtained or legally committed to match the amount of financial assistance requested from the Fund; and

(B) An indication of the extent to which such matching funds will be derived from private, nongovernment sources. Such description shall include the name of the source, total amount of such match, the date the matching funds were obtained or legally committed, if applicable, the extent to which, and for what purpose, such matching funds have been used to date, and terms and restrictions on use for each matching source, including any restriction that might reasonably be construed as a limitation on the ability of the Applicant to use the funds for matching purposes; and

(iii) *Severe constraints waiver.* If the Applicant is requesting a "severe

constraints waiver" of any matching requirements, it shall submit the information requested in § 1805.502.

(9) *Projected community impact.* An Applicant shall provide:

(i) Estimates of the volume of new activity to be achieved within its Target Market assuming that assistance is provided by the Fund;

(ii) A description of the anticipated incremental increases in activity to be achieved with assistance provided by the Fund and matching funds within the Target Market;

(iii) An estimate of the benefits expected to be created within its Target Market over the next five years;

(iv) The extent to which the Applicant will concentrate its activities within its Target Market;

(v) A description of how the Applicant will measure the benefits created as a result of its activities within its Target Market; and

(vi) In the case of an Applicant with a prior history of serving a Target Market, an explanation of how the Applicant will expand its operations into a new Investment Area(s), serve a new Targeted Population(s), offer more products or services, or increase the volume of its activities.

(10) *Risks and assumptions.* An Applicant shall identify and discuss critical risks (including strategies to mitigate risk) and assumptions contained in its Comprehensive Business Plan, and any significant impediments to the Plan's implementation.

(11) *Schedule.* An Applicant shall provide a schedule indicating the timing of major events necessary to realize the objectives of its Comprehensive Business Plan.

(12) *Community Partnership.* In the case of an Applicant submitting an application with a Community Partner, the Applicant shall:

(i) Describe how the Applicant and the Community Partner will participate in carrying out the Community Partnership and how the partnership will enhance activities serving the Investment Area(s) or Targeted Population(s);

(ii) Demonstrate that the Community Partnership activities are consistent with the Comprehensive Business Plan;

(iii) Provide information necessary to evaluate such an application as described under § 1805.701(b)(6);

(iv) Include a copy of any written agreement between the Applicant and the Community Partner related to the Community Partnership; and

(v) Provide information to demonstrate that the Applicant meets the eligibility requirements described in § 1805.200 and satisfies the selection criteria described in subpart G of this part. (A Community Partner shall not be required to meet the eligibility requirements described in § 1805.200.)

(13) *Effective use of Fund resources.* An Applicant shall describe the extent of need for the Fund's assistance, as demonstrated by the extent of economic distress in the Applicant's Target Market and the extent to which the Applicant needs the Fund's assistance to carry out its Comprehensive Business Plan.

(e) *Community ownership and governance.* An Applicant shall provide information to demonstrate the extent to which the Applicant is, or will be, Community-Owned or Community-Governed.

(f) *Environmental information.* The Applicant shall provide sufficient information regarding the potential environmental impact of its proposed activities in order for the Fund to complete its environmental review requirements pursuant to part 1815 of this chapter.

(g) *Applicant certification.* The Applicant and Community Partner (if applicable) shall certify that:

(1) It possesses the legal authority to apply for assistance from the Fund;

(2) The application has been duly authorized by its governing body and duly executed;

(3) It will not use any Fund resources for lobbying activities as set forth in § 1805.807; and

(4) It will comply with all relevant provisions of this chapter and all applicable Federal, State, and local laws, ordinances, regulations, policies, guidelines, and requirements.

## Subpart G—Evaluation and Selection of Applications

### § 1805.700 Evaluation and selection—general.

Applicants will be evaluated and selected, at the sole discretion of the Fund, to receive assistance based on a review process, that could include an interview(s) and/or site visit(s), that is intended to:

(a) Ensure that Applicants are evaluated on a competitive basis in a fair and consistent manner;

(b) Take into consideration the unique characteristics of Applicants that vary by institution type, total asset size, stage of organizational development, markets served, products and services provided, and location;

(c) Ensure that each Awardee can successfully meet the goals of its Comprehensive Business Plan and achieve community development impact; and

(d) Ensure that Awardees represent a geographically diverse group of Applicants serving Metropolitan Areas, non-Metropolitan Areas, and Indian Reservations from different regions of the United States.

### § 1805.701 Evaluation of applications.

(a) *Eligibility and completeness.* An Applicant will not be eligible to receive assistance pursuant to this part if it fails to meet the eligibility requirements described in § 1805.200 or if it has not submitted complete application materials. For the purposes of this paragraph (a), the Fund reserves the right to request additional information from the Applicant, if the Fund deems it appropriate.

(b) *Substantive review.* In evaluating and selecting applications to receive assistance, the Fund will evaluate the Applicant's likelihood of success in meeting the goals of the Comprehensive Business Plan and achieving community development impact, by considering factors such as:

(1) Community development track record (*e.g.*, in the case of an Applicant with a prior history of serving a Target Market, the extent of success in serving such Target Market);

(2) Operational capacity and risk mitigation strategies;

(3) Financial track record and strength;

(4) Capacity, skills and experience of the management team;

(5) Solid understanding of its market context, including its analysis of current and prospective customers, the extent of economic distress within the designated Investment Area(s) or the extent of need within the designated Targeted Population(s), as those factors are measured by objective criteria, the extent of need for Equity Investments, loans, Development Services, and Financial Services within the designated Target Market, and the extent of demand within the Target Market for the Applicant's products and services;

(6) Quality program design and implementation plan, including an assessment of its products and services, marketing and outreach efforts, delivery strategy, and coordination with other institutions and/or a Community Partner, or participation in a secondary market for purposes of increasing the Applicant's resources. In the case of an applicant submitting an application with a Community Partner, the Fund will evaluate the extent to which the Community Partner will participate in carrying out the activities of the Community Partnership; the extent to which the Community Partner will

enhance the likelihood of success of the Comprehensive Business Plan; and the extent to which service to the designated Target Market will be better performed by a Community Partnership than by the Applicant alone;

(7) Projections for financial performance, capitalization and raising needed external resources, including the amount of firm commitments and matching funds in hand to meet or exceed the matching funds requirements and, if applicable, the likely success of the plan for raising the balance of the matching funds in a timely manner, the extent to which the matching funds are, or will be, derived from private sources, and whether an Applicant is, or will become, an Insured CDFI;

(8) Projections for community development impact, including the extent to which an Applicant will concentrate its activities on serving its Target Market(s), the extent of support from the designated Target Market, the extent to which an Applicant is, or will be, Community-Owned or Community-Governed, and the extent to which the activities proposed in the Comprehensive Business Plan will expand economic opportunities or promote community development within the designated Target Market;

(9) The extent of need for the Fund's assistance, as demonstrated by the extent of economic distress in the Applicant's Target Market and the extent to which the Applicant needs the Fund's assistance to carry out its Comprehensive Business Plan. In the case of an Applicant that has previously received assistance under the CDFI Program, the Fund also will consider the Applicant's level of success in meeting its performance goals, financial soundness covenants (if applicable), and other requirements contained in the previously negotiated and executed Assistance Agreement(s) with the Fund, and whether the Applicant will, with additional assistance from the Fund, expand its operations into a new Target Market, offer more products or services, and/or increase the volume of its activities;

(10) The Fund may consider any other factors, as it deems appropriate, in reviewing an application.

(c) *Consultation with Appropriate Federal Banking Agencies.* The Fund will consult with, and consider the views of, the Appropriate Federal Banking Agency prior to providing assistance to:

(1) An Insured CDFI;

(2) A CDFI that is examined by or subject to the reporting requirements of an Appropriate Federal Banking Agency; or

(3) A CDFI that has as its Community Partner an institution that is examined by, or subject to, the reporting requirements of an Appropriate Federal Banking Agency.

(d) *Awardee selection.* The Fund will select Awardees based on the criteria described in paragraph (b) of this section and any other criteria set forth in this part or the applicable NOFA.

## Subpart H—Terms and Conditions of Assistance

### § 1805.800 Safety and soundness.

(a) *Regulated institutions.* Nothing in this part, or in an Assistance Agreement, shall affect any authority of an Appropriate Federal Banking Agency to supervise and regulate any institution or company.

(b) *Non-Regulated CDFIs.* The Fund will, to the maximum extent practicable, ensure that Awardees that are Non-Regulated CDFIs are financially and managerially sound and maintain appropriate internal controls.

### § 1805.801 Assistance Agreement; sanctions.

(a) Prior to providing any assistance, the Fund and an Awardee shall execute an Assistance Agreement that requires an Awardee to comply with performance goals and abide by other terms and conditions of assistance. Such performance goals may be modified at any time by mutual consent of the Fund and an Awardee or as provided in paragraph (c) of this section. If a Community Partner is part of an application that is selected for assistance, such partner must be a party to the Assistance Agreement if deemed appropriate by the Fund.

(b) An Awardee shall comply with performance goals that have been negotiated with the Fund and which are based upon the Comprehensive Business Plan submitted as part of the Awardees application. Performance goals for Insured CDFIs shall be determined in consultation with the Appropriate Federal Banking Agency. Such goals shall be incorporated in, and enforced under, the Awardee's Assistance Agreement.

(c) The Assistance Agreement shall provide that, in the event of fraud, mismanagement, noncompliance with the Fund's regulations or noncompliance with the terms and conditions of the Assistance Agreement on the part of the Awardee (or the Community Partner, if applicable), the Fund, in its discretion, may:

(1) Require changes in the performance goals set forth in the Assistance Agreement;

(2) Require changes in the Awardee's Comprehensive Business Plan;

(3) Revoke approval of the Awardee's application;

(4) Reduce or terminate the Awardee's assistance;

(5) Require repayment of any assistance that has been distributed to the Awardee;

(6) Bar the Awardee (and the Community Partner, if applicable) from reapplying for any assistance from the Fund; or

(7) Take any other action as permitted by the terms of the Assistance Agreement.

(d) In the case of an Insured Depository Institution, the Assistance Agreement shall provide that the provisions of the Act, this part, and the Assistance Agreement shall be enforceable under 12 U.S.C. 1818 of the Federal Deposit Insurance Act by the Appropriate Federal Banking Agency and that any violation of such provisions shall be treated as a violation of the Federal Deposit Insurance Act. Nothing in this paragraph (d) precludes the Fund from directly enforcing the Assistance Agreement as provided for under the terms of the Act.

(e) The Fund shall notify the Appropriate Federal Banking Agency before imposing any sanctions on an Insured CDFI or other institution that is examined by or subject to the reporting requirements of that agency. The Fund shall not impose a sanction described in paragraph (c) of this section if the Appropriate Federal Banking Agency, in writing, not later than 30 calendar days after receiving notice from the Fund:

(1) Objects to the proposed sanction;

(2) Determines that the sanction would:

(i) Have a material adverse effect on the safety and soundness of the institution; or

(ii) Impede or interfere with an enforcement action against that institution by that agency;

(3) Proposes a comparable alternative action; and

(4) Specifically explains:

(i) The basis for the determination under paragraph (e)(2) of this section and, if appropriate, provides documentation to support the determination; and

(ii) How the alternative action suggested pursuant to paragraph (e)(3) of this section would be as effective as the sanction proposed by the Fund in securing compliance and deterring future noncompliance.

(f) In reviewing the performance of an Awardee in which its Investment Area(s) includes an Indian Reservation or Targeted Population(s) includes an

Indian Tribe, the Fund shall consult with, and seek input from, the appropriate tribal government.

(g) Prior to imposing any sanctions pursuant to this section or an Assistance Agreement, the Fund shall, to the maximum extent practicable, provide the Awardee (or the Community Partner, if applicable) with written notice of the proposed sanction and an opportunity to comment. Nothing in this section, however, shall provide an Awardee or Community Partner with the right to any formal or informal hearing or comparable proceeding not otherwise required by law.

**§ 1805.802 Disbursement of funds.**

Assistance provided pursuant to this part may be provided in a lump sum or over a period of time, as determined appropriate by the Fund. The Fund shall not provide any assistance (other than technical assistance) under this part until an Awardee has satisfied any conditions set forth in its Assistance Agreement and has secured firm commitments for the matching funds required for such assistance. At a minimum, a firm commitment must consist of a binding written agreement between an Awardee and the source of the matching funds that is conditioned only upon the availability of the Fund's assistance and such other conditions as the Fund, in its sole discretion, may deem appropriate. Such agreement must provide for disbursal of the matching funds to an Awardee prior to, or simultaneously with, receipt by an Awardee of the Federal funds.

**§ 1805.803 Data collection and reporting.**

(a) *Data—general.* An Awardee (and a Community Partner, if appropriate) shall maintain such records as may be prescribed by the Fund which are necessary to:

(1) Disclose the manner in which Fund assistance is used;

(2) Demonstrate compliance with the requirements of this part and an Assistance Agreement; and

(3) Evaluate the impact of the CDFI Program.

(b) *Customer profiles.* An Awardee (and a Community Partner, if appropriate) shall compile such data on the gender, race, ethnicity, national origin, or other information on individuals that utilize its products and services as the Fund shall prescribe in an Assistance Agreement. Such data will be used to determine whether residents of Investment Area(s) or members of Targeted Population(s) are adequately served and to evaluate the impact of the CDFI Program.

(c) *Access to records.* An Awardee (and a Community Partner, if appropriate) must submit such financial and activity reports, records, statements, and documents at such times, in such forms, and accompanied by such reporting data, as required by the Fund or the U.S. Department of Treasury to ensure compliance with the requirements of this part and to evaluate the impact of the CDFI Program. The United States Government, including the U.S. Department of Treasury, the Comptroller General, and their duly authorized representatives, shall have full and free access to the Awardee's offices and facilities and all books, documents, records, and financial statements relating to use of Federal funds and may copy such documents as they deem appropriate. The Fund, if it deems appropriate, may prescribe access to record requirements for entities that are borrowers of, or that receive investments from, an Awardee.

(d) *Retention of records.* An Awardee shall comply with all record retention requirements as set forth in OMB Circular A–110 (as applicable).

(e) *Review.* (1) At least annually, the Fund will review the progress of an Awardee (and a Community Partner, if appropriate) in implementing its Comprehensive Business Plan and satisfying the terms and conditions of its Assistance Agreement.

(2) An Awardee shall submit within 60 days after the end of each semi-annual period, or within some other period as may be agreed to in the Assistance Agreement, internal financial statements covering the semi-annual reporting period (*i.e.*, two periods per year) and information on its compliance with its financial soundness covenants.

(3) An Awardee shall submit a report within 60 days after the end of its fiscal year, or by such alternative deadline as may be agreed to in the Assistance Agreement containing, unless otherwise determined by mutual agreement between the Awardee and the Fund, the following:

(i) A narrative description of an Awardee's activities in support of its Comprehensive Business Plan;

(ii) Qualitative and quantitative information on an Awardee's compliance with its performance goals and (if appropriate) an analysis of factors contributing to any failure to meet such goals;

(iii) Information describing the manner in which Fund assistance and any corresponding matching funds were used. The Fund will use such information to verify that assistance was used in a manner consistent with the Assistance Agreement; and certification that an Awardee continues to meet the eligibility requirements described in § 1805.200.

(4) An Awardee shall submit within 120 days after the end of its fiscal year, or within some other period as may be agreed to in the Assistance Agreement, fiscal year end statements of financial condition audited by an independent certified public accountant. The audit shall be conducted in accordance with generally accepted Government Auditing Standards set forth in the General Accounting Offices Government Auditing Standards (1994 Revision) issued by the Comptroller General and OMB Circular A–133 (Audits of States, Local Governments, and Non-Profit Organizations), as applicable.

(5) An Awardee shall submit a report within 120 days after the end of its fiscal year, or by such alternative deadline as may be agreed to in the Assistance Agreement containing, unless otherwise determined by mutual agreement between the Awardee and the Fund, the following information:

(i) The Awardee's customer profile;

(ii) Awardee activities including Financial Products and Development Services;

(iii) Awardee portfolio quality;

(iv) The Awardee's financial condition; and

(v) The Awardee's community development impact.

(6) The Fund shall make reports described in paragraph (e)(2) and (e)(3) of this section available for public inspection after deleting any materials necessary to protect privacy or proprietary interests.

(f) *Exchange of information with Appropriate Federal Banking Agencies.* (1) Except as provided in paragraph (f)(4) of this section, prior to directly requesting information from or imposing reporting or record keeping requirements on an Insured CDFI or other institution that is examined by or subject to the reporting requirements of an Appropriate Federal Banking Agency, the Fund shall consult with the Appropriate Federal Banking Agency to determine if the information requested is available from or may be obtained by such agency in the form, format, and detail required by the Fund.

(2) If the information, reports, or records requested by the Fund pursuant to paragraph (f)(1) of this section are not provided by the Appropriate Federal Banking Agency within 15 calendar days after the date on which the material is requested, the Fund may request the information from or impose the record keeping or reporting requirements directly on such

institutions with notice to the Appropriate Federal Banking Agency.

(3) The Fund shall use any information provided by the Appropriate Federal Banking Agency under this section to the extent practicable to eliminate duplicative requests for information and reports from, and record keeping by, an Insured CDFI or other institution that is examined by or subject to the reporting requirements of an Appropriate Federal Banking Agency.

(4) Notwithstanding paragraphs (f)(1) and (2) of this section, the Fund may require an Insured CDFI or other institution that is examined by or subject to the reporting requirements of an Appropriate Federal Banking Agency to provide information with respect to the institutions implementation of its Comprehensive Business Plan or compliance with the terms of its Assistance Agreement, after providing notice to the Appropriate Federal Banking Agency.

(5) Nothing in this part shall be construed to permit the Fund to require an Insured CDFI or other institution that is examined by or subject to the reporting requirements of an Appropriate Federal Banking Agency to obtain, maintain, or furnish an examination report of any Appropriate Federal Banking Agency or records contained in or related to such report.

(6) The Fund and the Appropriate Federal Banking Agency shall promptly notify each other of material concerns about an Awardee that is an Insured CDFI or that is examined by or subject to the reporting requirements of an Appropriate Federal Banking Agency, and share appropriate information relating to such concerns.

(7) Neither the Fund nor the Appropriate Federal Banking Agency shall disclose confidential information obtained pursuant to this section from any party without the written consent of that party.

(8) The Fund, the Appropriate Federal Banking Agency, and any other party providing information under this paragraph (f) shall not be deemed to have waived any privilege applicable to the any information or data, or any portion thereof, by providing such information or data to the other party or by permitting such data or information, or any copies or portions thereof, to be used by the other party.

(g) *Availability of referenced publications.* The publications referenced in this section are available as follows:

(1) OMB Circulars may be obtained from the Office of Administration, Publications Office, 725 17th Street, NW., Room 2200, New Executive Office Building, Washington, DC 20503 or on the Internet (http://www.whitehouse.gov/OMB/grants/index.html); and

(2) General Accounting Office materials may be obtained from GAO Distribution, 700 4th Street, NW., Suite 1100, Washington, DC 20548.

### § 1805.804 Information.

The Fund and each Appropriate Federal Banking Agency shall cooperate and respond to requests from each other and from other Appropriate Federal Banking Agencies in a manner that ensures the safety and soundness of the Insured CDFIs or other institution that is examined by or subject to the reporting requirements of an Appropriate Federal Banking Agency.

### § 1805.805 Compliance with government requirements.

In carrying out its responsibilities pursuant to an Assistance Agreement, the Awardee shall comply with all applicable Federal, State, and local laws, regulations, and ordinances, OMB Circulars, and Executive Orders.

### § 1805.806 Conflict of interest requirements.

(a) *Provision of credit to Insiders.* (1) An Awardee that is a Non-Regulated CDFI may not use any monies provided to it by the Fund to make any credit (including loans and Equity Investments) available to an Insider unless it meets the following restrictions:

(i) The credit must be provided pursuant to standard underwriting procedures, terms and conditions;

(ii) The Insider receiving the credit, and any family member or business partner thereof, shall not participate in any way in the decision making regarding such credit;

(iii) The Board of Directors or other governing body of the Awardee shall approve the extension of the credit; and

(iv) The credit must be provided in accordance with a policy regarding credit to Insiders that has been approved in advance by the Fund.

(2) An Awardee that is an Insured CDFI or a Depository Institution Holding Company shall comply with the restrictions on Insider activities and any comparable restrictions established by its Appropriate Federal Banking Agency.

(b) *Awardee standards of conduct.* An Awardee that is a Non-Regulated CDFI shall maintain a code or standards of conduct acceptable to the Fund that shall govern the performance of its Insiders engaged in the awarding and administration of any credit (including loans and Equity Investments) and contracts using monies from the Fund. No Insider of an Awardee shall solicit or accept gratuities, favors or anything of monetary value from any actual or potential borrowers, owners or contractors for such credit or contracts. Such policies shall provide for disciplinary actions to be applied for violation of the standards by the Awardee's Insiders.

### § 1805.807 Lobbying restrictions.

No assistance made available under this part may be expended by an Awardee to pay any person to influence or attempt to influence any agency, elected official, officer or employee of a State or local government in connection with the making, award, extension, continuation, renewal, amendment, or modification of any State or local government contract, grant, loan or cooperative agreement as such terms are defined in 31 U.S.C. 1352.

### § 1805.808 Criminal provisions.

The criminal provisions of 18 U.S.C. 657 regarding embezzlement or misappropriation of funds is applicable to all Awardees and Insiders.

### § 1805.809 Fund deemed not to control.

The Fund shall not be deemed to control an Awardee by reason of any assistance provided under the Act for the purpose of any applicable law.

### § 1805.810 Limitation on liability.

The liability of the Fund and the United States Government arising out of any assistance to a CDFI in accordance with this part shall be limited to the amount of the investment in the CDFI. The Fund shall be exempt from any assessments and other liabilities that may be imposed on controlling or principal shareholders by any Federal law or the law of any State. Nothing in this section shall affect the application of any Federal tax law.

### § 1805.811 Fraud, waste and abuse.

Any person who becomes aware of the existence or apparent existence of fraud, waste or abuse of assistance provided under this part should report such incidences to the Office of Inspector General of the U.S. Department of the Treasury.

Dated: August 7, 2000.

**Maurice A. Jones,**

*Deputy Director for Policy and Programs, Community Development Financial Institutions Fund.*

[FR Doc. 00–20267 Filed 8–11–00; 8:45 am]

BILLING CODE 4810–70–P

## DEPARTMENT OF THE TREASURY

### Community Development Financial Institutions Fund

### Notice of Funds Availability (NOFA) Inviting Applications for the Community Development Financial Institutions Program—Core Component

**AGENCY:** Community Development Financial Institutions Fund, Department of the Treasury.

**ACTION:** Notice of Funds Availability (NOFA) inviting applications.

**SUMMARY:** The Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 *et seq.*) (the "Act") authorizes the Community Development Financial Institutions Fund (the "Fund") of the U.S. Department of the Treasury to select and provide financial and technical assistance to eligible applicants under the Community Development Financial Institutions ("CDFI") Program. The interim rule (12 CFR part 1805), most recently published in the **Federal Register** on November 1, 1999 (64 FR 59076), and now revised and published elsewhere in this issue of the **Federal Register**, provides guidance on the contents of the necessary application materials, evaluation criteria and other program requirements. More detailed application content requirements are found in the application packet. While the Fund encourages applicants to review the interim rule, all of the application content requirements and the evaluation criteria contained in the interim rule are also contained in the application packet. Subject to funding availability, the Fund intends to award up to $50 million in appropriated funds under this NOFA and expects to issue approximately 45 to 65 awards. The Fund reserves the right to award in excess of $50 million in appropriated funds under this NOFA provided that the funds are available and the Fund deems it appropriate. The Fund reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this NOFA.

This NOFA is issued in connection with the Core Component of the CDFI Program. The Core Component provides direct assistance to CDFIs that serve their target markets through loans, investments and other activities. (These activities generally do not include the financing of other CDFIs. Elsewhere in this issue of the **Federal Register**, the Fund is publishing a separate NOFA for the fifth round of the Intermediary Component of the CDFI Program. The Intermediary Component provides financial assistance and technical assistance to CDFIs that provide financing primarily to other CDFIs and/or to support the formation of CDFIs.)

**DATES:** Applications may be submitted at any time, commencing August 14, 2000. The deadline for receipt of an application is 6:00 p.m. EST on December 21, 2000. Applications received in the offices of the Fund after that date and time will be rejected and returned to the sender.

**ADDRESSES:** Applications shall be sent to: Awards Manager, Community Development Financial Institutions Fund, U.S. Department of the Treasury, 601 13th Street, NW, Suite 200 South, Washington, DC 20005. Applications sent electronically or by facsimile will not be accepted.

**FOR FURTHER INFORMATION CONTACT:** If you have any questions about the programmatic requirements for this program, contact the CDFI Program Manager. Should you wish to request an application package or have questions regarding application procedures, contact the Awards Manager. The CDFI Program Manager and the Awards Manager may be reached by e-mail at cdfihelp@cdfi.treas.gov, by telephone at (202) 622–8662, by facsimile at (202) 622–7754, or by mail at CDFI Fund, 601 13th Street, NW, Suite 200 South, Washington, DC 20005. These are not toll free numbers. Allow at least one to two weeks from the date the Fund receives a request for receipt of the application package. Applications and other information regarding the Fund and its programs may be downloaded from the Fund's web site at http://www.treas.gov/cdfi.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

Credit and investment capital are essential ingredients for creating and retaining jobs, developing affordable housing, starting or expanding businesses, revitalizing neighborhoods, and empowering people. Access to financial services is critical to helping bring more Americans into the economic mainstream. As a key urban and rural policy initiative, the CDFI Program funds and supports a national network of financial institutions that is specifically dedicated to funding and supporting community development. This strategy builds strong institutions that make loans and investments and provide services to economically distressed investment areas and disadvantaged targeted populations. The Act authorizes the Fund to select entities to receive financial and technical assistance. This NOFA invites applications from eligible organizations for financial assistance, technical assistance, or both, for the purpose of promoting community development activities.

The program connected with this NOFA constitutes the Core Component of the CDFI Program, involving direct financial assistance and technical assistance (TA) to CDFIs that serve their target markets through loans, investments and other activities. Under this Core Component NOFA, the Fund anticipates a maximum award amount of $2.5 million per applicant. However, the Fund, in its sole discretion, reserves the right to award amounts in excess of the anticipated maximum award amount if the Fund deems it appropriate.

Previous awardees under the CDFI Program are eligible to apply under this NOFA, but such applicants must be aware that success in a previous round should not be considered indicative of success under this NOFA. In addition, organizations will not be penalized for having received awards in previous funding rounds, except to the extent that:

(1) The Fund is generally prohibited from obligating more than $5 million in assistance, in the aggregate, to any one organization and its subsidiaries and affiliates during any three-year period. Thus, for purposes of ascertaining whether an awardee under this NOFA is at or near the $5 million limit, the Fund will consider the amount of money obligated on behalf of said awardee pursuant to this NOFA and any other CDFI Program NOFAs published in 1998, 1999 and 2000; and

(2) An applicant that is a previous awardee that has failed to meet its performance goals, financial soundness covenants (if applicable) and/or other requirements contained in the previously executed assistance agreement(s).

This NOFA is not intended to support Intermediary CDFIs (those CDFIs that primarily fund other CDFIs). Elsewhere in this issue of the **Federal Register**, the Fund is publishing a separate NOFA for the fifth round of the Intermediary Component of the CDFI Program. The Intermediary Component NOFA is issued in recognition of the fact that Intermediary CDFIs may reach specialized niches in their financing of CDFIs that the Fund, by itself, may not be able to reach as effectively under the Core Component.

In addition, the Fund anticipates promulgating a NOFA in 2001 implementing a new Small and Emerging CDFI Assistance (SECA)

Component of the CDFI Program, designed to provide limited amounts of technical assistance and financial assistance to small and emerging CDFIs. The Fund encourages small and emerging CDFIs to consider applying through this upcoming program.

This NOFA invites applications from eligible organizations for financial assistance, technical assistance, or both, for the purpose of promoting community development activities, including relatively new approaches to meeting the needs of underserved populations. These efforts may include designing and implementing innovative financial services for low- and moderate-income people who do not currently have a deposit account. Additional guidance from the Treasury Department's Office of Community Development Policy on the design of such accounts can be found on the Fund's website at http://www.treas.gov/cdfi.

**II. Eligibility**

The Act and the interim rule, as revised, specify the eligibility requirements that each applicant must meet in order to be eligible to apply for assistance under this Core Component NOFA. At the time an entity submits its application, the entity must be a duly organized and validly existing legal entity under the laws of the jurisdiction in which it is incorporated or otherwise established. An entity must meet, or propose to meet, CDFI eligibility requirements. In general, an applicant, individually and collectively with its affiliates, must have a primary mission of promoting community development. In addition, the applicant must: be an insured depository institution, a depository institution holding company or an insured credit union; or provide lending or equity investments; serve an investment area or a targeted population; provide development services; maintain community accountability; and be a non-government entity. If an applicant is a depository institution holding company or an affiliate of a depository institution holding company, the applicant individually and collectively with its affiliates must meet all of the aforementioned requirements.

CDFI intermediaries are not eligible to apply for assistance under this Core Component NOFA. Instead, such institutions should refer to the Intermediary Component NOFA published elsewhere in this issue of the **Federal Register**.

The application accompanying this NOFA specifies that, with some exceptions, applicants seeking to designate an Other Targeted Population must provide a brief analytical narrative with information demonstrating that the designated group of individuals in the applicant's service area lacks adequate access to loans, Equity Investments or Financial Services. For purposes of this NOFA, the Fund has determined that credible evidence exists on a national level demonstrating that Blacks or African Americans, Native Americans or American Indians, and Hispanics or Latinos lack adequate access to loans, Equity Investments or Financial Services. To the extent that an applicant's service area is national and it is serving such population(s), it is not required to provide the above-referenced analytical narrative describing its population's unmet loan, Equity Investment or Financial Service needs. However, the Fund believes it is important to ensure that organizations serving these Other Targeted Population(s) in regional or local service areas provide information from those service areas that is consistent with the national data. In addition, for the purpose of this NOFA, the Fund has determined that credible evidence exists that Alaska Natives residing in Alaska and Native Hawaiians or Other Pacific Islanders residing in Hawaii or other Pacific Islands lack adequate access to loans, Equity Investments or Financial Services. To the extent that an applicant is serving such population(s), it is not required to provide the analytical narrative describing these populations' unmet loan, Equity Investment or Financial Services needs.

For purposes of this NOFA, the Fund will use the following definitions, set forth in the Office of Management and Budget (OMB) Notice, Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity (October 30, 1997):

(a) American Indian, Native American or Alaska Native: a person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment;

(b) Black or African American: a person having origins in any of the black racial groups of Africa (terms such as "Haitian" or "Negro" can be used in addition to "Black or African American");

(c) Hispanic or Latino: a person of Cuban, Mexican, Puerto Rican, South or Central American or other Spanish culture or origin, regardless of race (the term "Spanish origin" can be used in addition to "Hispanic or Latino"); and

(d) Native Hawaiian or Other Pacific Islander: a person having origins in any of the original peoples of Hawaii, Guam, Samoa or other Pacific Islands.

If the applicant does not meet the CDFI eligibility requirements, the application shall include a realistic plan for the applicant to meet the criteria by December 31, 2002 (which period may be extended at the sole discretion of the Fund). In no event will the Fund disburse financial assistance to the applicant until the applicant is certified as a CDFI. Further details regarding eligibility and other program requirements are found in the application packet.

**III. Types of Assistance**

An applicant may submit an application for financial assistance, TA, or both, under this Core Component NOFA. Financial assistance may be provided through an equity investment (including, in the case of certain insured credit unions, secondary capital accounts), a grant, loan, deposit, credit union shares, or any combination thereof. Applicants for financial assistance shall indicate the dollar amount, form, and terms and conditions of the assistance requested. Applicants for TA under this NOFA shall describe the type(s) of TA requested, when the TA will be acquired, the provider(s) of the TA, the cost of the TA, and a narrative explanation of how the TA will enhance their community development impact.

**IV. Application Packet**

An applicant under this NOFA, whether applying for financial assistance, TA, or both, must submit the materials described in the application packet.

**V. Matching Funds**

Applicants responding to this NOFA must obtain matching funds from sources other than the Federal government on the basis of not less than one dollar for each dollar of financial assistance provided by the Fund (matching funds are not required for TA). Matching funds must be at least comparable in form and value to the financial assistance provided by the Fund. Non-Federal funds obtained or legally committed on or after January 1, 1999, and before August 31, 2002, may be considered when determining matching funds availability. The Fund reserves the right to recapture and reprogram funds if an applicant fails to raise the required matching funds by August 31, 2002, or to grant an extension of such matching funds deadline for specific applicants selected for assistance, if the Fund deems it appropriate. Funds used by an applicant

as matching funds for a previous award under the CDFI Program or under another Federal grant or award program cannot be used to satisfy the matching funds requirement.

**VI. Evaluation**

All applications will be reviewed for eligibility and completeness. If determined to be eligible and complete, applications will be evaluated by the Fund on a competitive basis in accordance with the criteria described in this NOFA. In conducting its substantive review, the Fund will evaluate the following criteria:

(1) The applicant's ability to carry out its Comprehensive Business Plan and create community development impact (the Ability criterion);

(2) The quality of the applicant's strategy for carrying out its Comprehensive Business Plan and for creating community development impact (the Strategy criterion); and

(3) The extent to which an award to the applicant will maximize the effective use of the Fund's resources (the Effective Use criterion).

In addition, the Fund will consider the institutional and geographic diversity of applicants in making its funding determinations.

**Phase One**

In Phase One of the substantive review, each Fund reader(s) will evaluate applications using a 100-point scale, as follows:

(a) Ability to Carry Out the Comprehensive Business Plan and Create Community Development Impact: 50-point maximum, with a minimum score of 25 points required to be passed on for Phase Two review. The score of the Ability criterion is based on a composite assessment of an applicant's organizational strengths and weaknesses under the four sub-criteria listed below. Such scoring reflects different weighting of the sub-criteria depending on whether an applicant is a start-up organization or an established organization. The Fund defines a start-up organization as an entity that has been in operation two years or less, as of the date of this NOFA (meaning, for purposes of this NOFA, having incurred initial operating expenses on or after August 14, 1998). For purposes of this NOFA, start-up organizations will not be evaluated under the Ability criterion on their previous community development and financial track records. Instead, start-up organizations will be scored entirely on operational and management capacity.

Under the Ability section of the application, the Fund will evaluate the following four sub-criteria:

(1) Community development track record: 12-point maximum (established organizations only);

(2) Operational capacity and risk mitigation strategies: 12-point maximum (established organizations), 20-point maximum (start-ups);

(3) Financial track record and strength: 12-point maximum (established organizations only); and

(4) Capacity, skills and experience of the management team: 14-point maximum (established organizations), 30-point maximum (start-ups).

(b) Quality of the Strategy for Carrying out the Comprehensive Business Plan and for Creating Community Development Impact: 40-point maximum with a minimum of 20 points required to be passed on for Phase Two review. Under the Strategy section of the application, the Fund will evaluate the following four sub-criteria:

(1) The applicant's understanding of its market: 10-point maximum;

(2) Program design and implementation plan: 10-point maximum;

(3) Projections for financial performance and raising needed resources: 10-point maximum; and

(4) Projections for generating, measuring and evaluating community development impact: 10-point maximum.

In the case of an applicant that has previously received assistance from the Fund under the CDFI Program, the Fund will consider whether the applicant will expand its operations into a new target market, offer more products or services, and/or increase the volume of its activities.

(c) Maximizing Effective Use of Fund Resources: 10-point maximum, with no minimum score required to be passed on for Phase Two review. The Fund will consider:

(1) The extent to which the applicant needs the Fund's assistance to carry out its Comprehensive Business Plan; and

(2) The extent of economic distress in the applicant's target market.

In addition, in the case of an applicant that has previously received assistance from the Fund under the CDFI Program, the Fund will consider the applicant's level of success in meeting its performance goals, financial soundness covenants (if applicable) and other requirements contained in the assistance agreement(s) with the Fund, and the benefits that will be created with new Fund assistance over and above benefits created by previous Fund assistance.

**Phase Two**

Once the initial evaluation is completed, the Fund will determine which applications will receive further consideration for funding based on application scores (standardized if deemed appropriate), recommendations of individuals performing initial reviews and the amount of funds available. Applicants that advance to Phase Two may receive a site visit and/or telephone interview(s) conducted by a Fund reviewer for the purpose of obtaining clarifying or confirming information. At this point in the process, applicants will be required to submit additional information, as set forth in detail in the application packet. After conducting such site visits/telephone interview(s), the Fund reviewers will evaluate all applications in accordance with all of the evaluation criteria outlined above and prepare recommendation memoranda containing recommendations on the type and amount of assistance, if any, that should be provided to each applicant.

A final review panel comprised of Fund staff will consider the Fund reviewers' recommendation memoranda and make final recommendations to the Fund's selecting official. In making its recommendations, the final review panel also may consider the institutional diversity and geographic diversity of applicants (*e.g.*, recommending a CDFI from a State in which the Fund has not previously made an award over a CDFI in a State in which the Fund has already made numerous awards).

The Fund's selecting official will make a final funding determination based on the applicant's file, including, without limitation, reader(s) and reviewer(s) recommendations and the panel's recommendation, and the amount of funds available. In the case of regulated CDFIs, the selecting official will also take into consideration the views of the appropriate Federal banking agencies.

The Fund reserves the right to change these evaluation procedures if the Fund deems it appropriate.

**VII. Information Sessions**

In connection with this NOFA, the Fund is conducting Information Sessions to disseminate information to organizations contemplating applying to, and other organizations interested in learning about, the Core and Intermediary Components of the CDFI Program. Registration is required, as the Information Sessions will be held in secured federal facilities. The Fund will conduct 12 in-person Information

Sessions, beginning September 20, 2000, as follows:

Los Angeles, CA, September 20, 2000;
San Francisco, CA, September 22, 2000;
Chicago, IL, September 25, 2000;
Miami, FL, September 26, 2000;
Salt Lake City, UT, September 29, 2000;
Kansas City, MO, October 2, 2000;
Memphis, TN, October 3, 2000;
Charlotte, NC, October 4, 2000;
Minneapolis, MN, October 4, 2000;
Boston, MA, October 5, 2000;
San Antonio, TX, October 5, 2000; and
New York, NY, October 6, 2000.

In addition to the in-person sessions listed above, the Fund will broadcast an Information Session using interactive video-teleconferencing technology on October 12, 2000, 1:00 p.m. to 4:00 p.m. EST. Registration is required, as these sessions will be held in secured federal facilities. This Information Session will be produced in Washington, DC, and will be downlinked via satellite to the local Department of Housing and Urban Development (HUD) offices located in the following 81 cities: Albany, NY: Albuquerque, NM; Anchorage, AK; Atlanta, GA; Baltimore, MD; Bangor, ME; Birmingham, AL; Boise, ID; Boston, MA; Buffalo, NY; Burlington, VT; Camden, NJ; Casper, WY; Charleston, WV; Chicago, IL; Cincinnati, OH; Cleveland, OH; Columbia, SC; Columbus, OH; Dallas, TX; Denver, CO; Des Moines, IA; Detroit, MI; Fargo, ND; Flint, MI; Fort Worth, TX; Fresno, CA; Grand Rapids, MI; Greensboro, NC; Hartford, CT; Helena, MT; Honolulu, HI; Houston, TX; Indianapolis, IN; Jackson, MS; Jacksonville, FL; Kansas City, KS; Knoxville, TN; Las Vegas, NV; Little Rock, AR; Los Angeles, CA; Louisville, KY; Lubbock, TX; Manchester, NH; Memphis, TN; Miami, FL; Milwaukee, WI; Minneapolis, MN; Nashville, TN; New Orleans, LA; New York, NY; Newark, NJ; Oklahoma City, OK; Omaha, NE; Orlando, FL; Philadelphia, PA; Phoenix, AZ; Pittsburgh, PA; Portland, OR; Providence, RI; Reno, NV; Richmond, VA; Sacramento, CA; St. Louis, MO; Salt Lake City, UT; San Antonio, TX; San Diego, CA; San Francisco, CA; San Juan, PR; Santa Ana, CA; Seattle, WA; Shreveport, LA; Sioux Falls, SD; Spokane, WA; Springfield, IL; Syracuse, NY; Tampa, FL; Tucson, AZ; Tulsa, OK; Washington, DC; and Wilmington, DE.

To register online for an Information Session, please visit the Fund's website at www.treas.gov/cdfi. If you do not have Internet access, you may register by calling the Fund at (202) 622–8662.

**Authority:** 12 U.S.C. 4703, 4703 note, 4704, 4706, 4707, and 4717; 12 CFR part 1805.

Dated: August 7, 2000.

**Maurice A. Jones,**

*Deputy Director for Policy and Programs, Community Development Financial Institutions Fund.*

[FR Doc. 00–20268 Filed 8–11–00; 8:45 am]

BILLING CODE 4810–70–P

## DEPARTMENT OF THE TREASURY

### Community Development Financial Institutions Fund

### Notice of Funds Availability (NOFA) Inviting Applications for the Community Development Financial Institutions (CDFI) Program—Intermediary Component

**AGENCY:** Community Development Financial Institutions Fund, Department of the Treasury.

**ACTION:** Notice of Funds Availability (NOFA) inviting applications.

**SUMMARY:** The Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 *et seq.*) (the "Act") authorizes the Community Development Financial Institutions Fund ("the Fund") to select and provide assistance to eligible applicants under the Community Development Financial Institutions ("CDFI") Program. The interim rule (12 CFR part 1805), most recently published in the **Federal Register** on November 1, 1999 (64 FR 59076), and now revised and published in the **Federal Register** concurrently with this NOFA, provides guidance on the contents of application materials, evaluation criteria and other program requirements. More detailed application content requirements are found in the application packet. While the Fund encourages applicants to review the interim rule, all of the application content requirements and the evaluation criteria contained in the interim rule are also contained in the application packet. Subject to the availability of funds, the Fund currently anticipates making awards of up to $5 million in appropriated funds under this NOFA and expects to make four to ten awards. The Fund reserves the right to award in excess of $5 million in appropriated funds under this NOFA provided that funds are available and the Fund deems it appropriate. The Fund reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this NOFA.

This NOFA is issued in connection with the Intermediary Component of the CDFI Program. The Intermediary Component provides financial assistance and technical assistance to CDFIs that provide financing primarily to other CDFIs and/or to support the formation of CDFIs. Elsewhere in this issue of the **Federal Register**, the Fund is publishing a separate NOFA for the sixth round of the Core Component of the CDFI Program, with respect to which the Fund intends to make available up to $50 million in appropriated funds. The Core Component provides assistance to CDFIs that directly serve their target markets through loans, investments and other activities, not including the financing of other CDFIs.

**DATES:** Applications may be submitted at any time, commencing August 14, 2000. The deadline for receipt of an application is 6 p.m. EST on December 19, 2000. Applications received in the offices of the Fund after that date and time will be rejected and returned to the sender.

**ADDRESSES:** Applications shall be sent to: Awards Manager, Community Development Financial Institutions Fund, U.S. Department of the Treasury, 601 13th Street NW, Suite 200 South, Washington, DC 20005. Applications sent to the Fund electronically or by facsimile will not be accepted.

**FOR FURTHER INFORMATION CONTACT:** If you have any questions about the programmatic requirements for this program, contact the CDFI Program Manager. Should you wish to request an application package or have any questions regarding application procedures, contact the Awards Manager. The CDFI Program Manager and the Awards Manager may be reached by e-mail at *cdfihelp@cdfi.treas.gov*, by phone at (202) 622–8662, by facsimile on (202) 622–7754 or by mail at CDFI Fund, 601 13th Street, NW, Suite 200 South, Washington, DC 20005. These are not toll free numbers. Allow at least one to two weeks from the date the Fund receives a request for receipt of the application package. Applications and other information regarding the Fund and its programs may be downloaded from the Fund's Website at *http://www.treas.gov/cdfi*.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

Credit and investment capital are essential ingredients for creating and retaining jobs, developing affordable housing, starting or expanding businesses, revitalizing neighborhoods, and empowering people. Access to financial services is critical to helping bring more Americans into the economic mainstream. As a key urban and rural policy initiative, the CDFI Program funds and supports a national

network of financial institutions that is specifically dedicated to community development. This strategy builds strong institutions that make loans and investments and provide services to economically distressed investment areas and disadvantaged targeted populations. The Act authorizes the Fund to select entities to receive financial and technical assistance. This NOFA invites applications from eligible organizations for financial assistance, technical assistance, or both, for the purpose of promoting community development activities.

The program connected with this NOFA constitutes the Intermediary Component of the CDFI Program, involving financial assistance to CDFIs that provide financing primarily to other CDFIs and/or to support the formation of CDFIs. Under this Intermediary Component NOFA, the Fund anticipates a maximum award amount of $1.5 million per applicant. However, the Fund, in its sole discretion, reserves the right to award amounts in excess of the anticipated maximum award amount if the Fund deems it appropriate.

Previous awardees under the CDFI Program are eligible to apply under this NOFA, but such applicants must be aware that success in a previous round should not be considered indicative of success under this NOFA. In addition, organizations will not be penalized for having received awards in previous funding rounds, except to the extent that:

(1) The Fund is generally prohibited from obligating more that $5 million in assistance, in the aggregate, to any one organization and its subsidiaries and affiliates during any three-year period. Thus, for purposes of ascertaining whether an awardee under this NOFA is at or near the $5 million limit, the Fund will consider the amount of money obligated on behalf of said awardee pursuant to this NOFA and any other CDFI Program NOFAs published in 1998, 1999 and 2000; and (2) an applicant that is a previous awardee has failed to meet its performance goals, financial soundness covenants (if applicable) and/or other requirements contained in the previously executed assistance agreement(s).

The Fund recognizes that there are in existence certain intermediary CDFIs, and that others may be created over time, that focus their financing activities primarily on financing other CDFIs. Such institutions may have knowledge and capacity to develop and implement a specialized niche or niches in their financing of CDFIs and/or emerging CDFIs. The Fund believes that providing financial assistance to such intermediaries can be an effective way to enhance its support of the CDFI industry by reaching CDFIs that the Fund itself cannot reach as effectively under the Core Component. In particular, the Fund wishes to support the activities of those intermediaries that provide financing, Development Services, and other support to small (*e.g.*, total assets of less than $5 million) and emerging CDFIs and CDFIs that have not received assistance from the CDFI Fund. An emerging CDFI is an organization that is not yet certified as a CDFI but one that the Intermediary Component applicant determines in good faith has a reasonable chance of being certified by the Fund within three years from the date the emerging CDFI receives assistance from the Intermediary Component applicant. An intermediary CDFI may, for example, have a specialized niche or niches focusing on financing a specific type or types of CDFIs, providing small amounts of capital per CDFI, financing CDFIs with specialized risk levels, or financing institutions seeking to become CDFIs. By providing financial assistance to specialized intermediaries, the Fund believes it can leverage the expertise of such intermediaries and strengthen the Fund's capacity to support the development and enhancement of the CDFI industry. This NOFA invites applications from CDFIs, and organizations seeking to become CDFIs, that are or plan to become a CDFI intermediary, and that focus on providing loans to, or investments in, other CDFIs and/or to support the formation of CDFIs. This NOFA is not intended and should not be construed to allow an applicant to file a joint application on behalf of a group of other CDFIs, but rather to provide financial and technical assistance to intermediaries that provide financing, in arms-length transactions, to other CDFIs and/or support the formation of CDFIs.

## II. Eligibility

The Act and the interim rule, as revised, specify the eligibility requirements that each applicant must meet in order to be eligible to apply for assistance under this Intermediary Component NOFA. At the time an entity submits its application, the entity must be a duly organized and validly existing legal entity under the laws of the jurisdiction in which it is incorporated or otherwise established. An entity must meet, or propose to meet, the CDFI eligibility requirements. In general, an applicant, individually and collectively with its affiliates, must have a primary mission of promoting community development. In addition, the applicant organization must: be an insured depository institution, a depository institution holding company or an insured credit union; or provide lending or equity investments; serve an investment area or a targeted population; provide development services; maintain community accountability; and be a non-governmental entity. If an applicant is a depository institution holding company or an affiliate of a depository institution holding company, the applicant individually and collectively with its affiliates must meet all of the aforementioned requirements.

The application accompanying this NOFA specifies that, with some exceptions, applicants seeking to designate an Other Targeted Population must provide a brief analytical narrative with information demonstrating that the designated group of individuals in the applicant's service area lacks adequate access to loans, Equity Investments or Financial Services. For purposes of this NOFA, the Fund has determined that credible evidence exists on a national level demonstrating that Blacks or African Americans, Native Americans or American Indians, and Hispanics or Latinos lack adequate access to loans, Equity Investments or Financial Services. To the extent that an applicant's service area is national and it is serving such population(s), it is not required to provide the above-referenced analytical narrative describing its service area's unmet loan, Equity Investment or Financial Service needs. However, the Fund believes it is important to ensure that organizations serving these Other Targeted Population(s) in regional or local service areas provide information from those service areas that is consistent with the national data. In addition, for the purpose of this NOFA, the Fund has determined that credible evidence exists that Alaska Natives residing in Alaska and Native Hawaiians or Other Pacific Islanders residing in Hawaii or other Pacific Islands lack adequate access to loans, Equity Investments or Financial Services. To the extent that an applicant is serving such Population(s), it is not required to provide the analytical narrative describing these Populations' unmet loan, Equity Investment or Financial Services needs.

For purposes of this NOFA, the Fund will use the following definitions, set forth in the Office of Management and Budget (OMB) Notice, Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity (October 30, 1997):

(a) American Indian, Native American or Alaska Native: a person having

origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment;

(b) Black or African American: a person having origins in any of the black racial groups of Africa (terms such as "Haitian" or "Negro" can be used in addition to "Black or African American");

(c) Hispanic or Latino: a person of Cuban, Mexican, Puerto Rican, South or Central American or other Spanish culture or origin, regardless of race (the term "Spanish origin" can be used in addition to "Hispanic or Latino"); and

(d) Native Hawaiian or Other Pacific Islander: a person having origins in any of the original peoples of Hawaii, Guam, Samoa or other Pacific Islands.

Since applicants under this NOFA do not directly serve Target Markets, but instead serve such markets through support of CDFIs and/or emerging CDFIs, applicants under this NOFA need not provide Target Market information for all of the Target Markets served by the CDFIs and/or emerging CDFIs that it serves. In the case of an applicant predominantly serving certified CDFIs, the Fund will assume that the applicant predominantly serves eligible Target Markets. Such an applicant need only specify the service area in which its certified CDFI clients are located (*e.g.*, name of cities, counties, states, or national). In the case of an applicant for whom the predominance of activities is not directed toward certified CDFIs, the applicant must provide information on how it determines that its activities are principally directed towards organizations principally serving eligible Target Markets, such as requiring a minimum level of activity within Target Markets, or other means.

This NOFA is limited to applicants that satisfy the following two requirements:

(1) The applicant must meet the CDFI eligibility requirements at the time of application; and

(2) The applicant's financial products (loans, equity investments, grants, and deposits in insured credit unions) and other activities must primarily focus on financing other CDFIs and/or supporting the formation of CDFIs.

If the applicant does not meet the CDFI eligibility requirements and/or if the applicant's financial products and other activities do not primarily focus on financing and/or supporting the formation of CDFIs at the time of application, the application shall include a realistic plan for the applicant to meet both criteria by December 31, 2001 (which period may be extended at the sole discretion of the Fund). In no event will the Fund disburse financial assistance to the applicant until the applicant is certified as a CDFI and demonstrates that its business activities primarily focus on other CDFIs and/or the formation of CDFIs. Further details regarding eligibility and other program requirements are found in the application packet.

### III. Types of Assistance

An applicant may submit an application for financial assistance and/or technical assistance (TA) under this NOFA. Financial assistance may be provided in the form of an equity investment, loan, or grant (or a combination of these financial assistance instruments). Applicants for financial assistance shall indicate the dollar amount, form, terms, and conditions of the assistance requested. Applicants for TA under this NOFA shall describe the type(s) of TA requested, when the TA will be acquired, the provider(s) of the TA, the cost of the TA, and a narrative explanation of how the TA will enhance their community development impact.

### IV. Application Packet

An applicant under this NOFA, whether applying for financial assistance, TA, or both, must submit the materials described in the application packet.

### V. Matching Funds

Applicants responding to this NOFA must obtain matching funds from sources other than the Federal government on the basis of not less than one dollar for each dollar of financial assistance provided by the Fund. Matching funds must be at least comparable in form and value to the assistance provided by the Fund. Non-Federal funds obtained or legally committed on or after January 1, 1999 and before August 31, 2002 may be considered when determining matching funds availability. The Fund reserves the right to recapture and reprogram funds if an applicant fails to raise the required matching funds by August 31, 2002 or to grant an extension of such matching funds deadline for specific applicants selected for assistance, if the Fund deems it appropriate. Funds used by an applicant as matching funds for a previous award under the CDFI Program or under another Federal grant or award program cannot be used to satisfy the matching funds requirement.

### VI. Evaluation

All applications will be reviewed for eligibility and completeness. If determined to be eligible and complete, applications will be evaluated by the Fund on a competitive basis in accordance with the criteria described in this NOFA. In conducting its substantive review, the Fund will evaluate the following criteria: (1) The applicant's ability to carry out its Comprehensive Business Plan and create community development impact (the Ability criterion); (2) the quality of the applicant's strategy for carrying out its Comprehensive Business Plan and for creating community development impact (the Strategy criterion); and (3) the extent to which an award to the applicant will maximize the effective use of the Fund's resources (the Effective Use criterion). In addition, the Fund will consider the institutional and geographic diversity of applicants in making its funding determinations.

*Phase One*

In Phase One of its substantive review, the Fund will evaluate applications using a 100 point scale, as follows:

(a) Ability to Carry Out the Comprehensive Business Plan and Create Community Development Impact: 50 point maximum, with a minimum score of 25 points required to be passed on for Phase Two review. The score of the Ability criterion is based on a composite assessment of an applicant's organizational strengths and weaknesses under the four sub-criteria listed below. Such scoring reflects different weighting of the sub-criteria depending on whether an applicant is a start-up organization or an established organization. The Fund defines a start-up organization as an entity that has been in operation for two years or less, as of the date of this NOFA (meaning, for purposes of this NOFA, having incurred initial operating expenses after August 14, 1998). For purposes of this NOFA, start-up organizations will not be evaluated, under the Ability criterion, on their previous community development and financial track records. Instead, start-up organizations will be scored entirely on operational and management capacity.

Under the Ability section of the application, the Fund will evaluate the following four sub-criteria:

(i) Community development track record, including activities and impacts relating to small and emerging CDFIs and CDFIs that have not received assistance from the Fund: 12 point

maximum (established organizations only);

(ii) Operational capacity and risk mitigation strategies: 12 point maximum (established organizations), 20 point maximum (start-ups);

(iii) Financial track record and strength: 12 point maximum (established organizations only); and

(iv) Capacity, skills and experience of the management team: 14 point maximum (established organizations), 30 point maximum (start-ups).

(a) Quality of the Strategy for Carrying Out the Comprehensive Business Plan and for Creating Community Development Impact: 40 point maximum with a minimum of 20 points required to be passed on for Phase Two review. Under the Strategy section of the application, the Fund will evaluate the following four sub-criteria:

(i) The applicant's understanding of its market: 10 point maximum;

(ii) Program design and implementation plan: 10 point maximum;

(iii) Projections for financial performance and raising needed resources: 10 point maximum; and

(iv) Projections for generating, measuring and evaluating community development impact: 10 point maximum. In the case of an applicant that has previously received assistance from the Fund under the CDFI Program, the Fund will consider whether the applicant will expand its operations into a new target market, offer more products or services, and/or increase the volume of its activities.

(a) Maximizing Effective Use of Fund Resources: 10 point maximum, with no minimum score required to be passed on for Phase Two review. The Fund will consider (i) the extent to which the applicant needs the Fund's assistance to carry out its Comprehensive Business Plan, (ii) the extent of economic distress in the applicant's target market, and (iii) the extent to which the applicant's assistance to CDFIs and CDFIs in formation provides additional benefits, especially to small and emerging CDFIs, that are not provided by the activities of the CDFI Fund. In addition, in the case of an applicant that has previously received assistance from the Fund under the CDFI Program, the Fund will consider the applicant's level of success in meeting its performance goals, financial soundness covenants (if applicable) and other requirements contained in the assistance agreement(s) with the Fund, and the benefits that will be created with new Fund assistance over and above benefits created by previous Fund assistance.

*Phase Two*

Once the initial evaluation is completed, the Fund will determine which applications will receive further consideration for funding based on application scores (standardized if deemed appropriate), recommendations of individuals performing initial reviews and the amount of funds available. Applicants that advance to Phase Two may receive a site visit and/or telephone interview(s) conducted by a Fund reviewer for the purpose of obtaining clarifying or confirming information. At this point in the process, applicants will be required to submit additional information, as set forth in detail in the application packet. After conducting such site visits/telephone interview(s), the Fund reviewers will evaluate all applications in accordance with all of the evaluation criteria outlined above and prepare recommendation memoranda containing recommendations on the type and amount of assistance, if any, that should be provided to each applicant.

A final review panel comprised of Fund staff will consider each Fund reviewer's recommendation memorandum and make a final recommendation to the Fund's selecting official. In making its recommendations, the final review panel also may consider the institutional diversity and geographic diversity of applicants (*e.g.*, recommending a CDFI from a State in which the Fund has not previously made an award over a CDFI in a State in which the Fund has already made numerous awards).

The Fund's selecting official will make a final funding determination based on the applicant's file, including, without limitation, Fund reviewer's recommendation memorandum and the panel's recommendation, and the amount of funds available. In the case of regulated CDFIs, the selecting official will also take into consideration the views of the appropriate Federal banking agencies.

The Fund reserves the right to change these evaluation procedures if the Fund deems it appropriate.

**VII. Information Sessions**

In connection with this NOFA, the Fund is conducting Information Sessions to disseminate information to organizations contemplating applying to, and other organizations interested in learning about, the Core and Intermediary Components of the CDFI Program. Registration is required, as the Information Sessions will be held in secured federal facilities. The Fund will conduct 12 in-person Information Sessions, beginning September 20, 2000, as follows:

Los Angeles, CA, September 20, 2000;
San Francisco, CA, September 22, 2000;
Chicago, IL, September 25, 2000;
Miami, FL, September 26, 2000;
Salt Lake City, UT, September 29, 2000;
Kansas City, MO, October 2, 2000;
Memphis, TN, October 3, 2000;
Charlotte, NC, October 4, 2000;
Minneapolis, MN, October 4, 2000;
Boston, MA, October 5, 2000;
San Antonio, TX, October 5, 2000; and
New York, NY, October 6, 2000.

In addition to the in-person sessions listed above, the Fund will broadcast an Information Session using interactive video-teleconferencing technology on October 12, 2000, 1 p.m. to 4 p.m. EST. Registration is required, as these sessions will be held in secured federal facilities. This Information Session will be produced in Washington, DC, and will be downlinked via satellite to the local Department of Housing and Urban Development (HUD) offices located in the following 81 cities: Albany, NY: Albuquerque, NM; Anchorage, AK; Atlanta, GA; Baltimore, MD; Bangor, ME; Birmingham, AL; Boise, ID; Boston, MA; Buffalo, NY; Burlington, VT; Camden, NJ; Casper, WY; Charleston, WV; Chicago, IL; Cincinnati, OH; Cleveland, OH; Columbia, SC; Columbus, OH; Dallas, TX; Denver, CO; Des Moines, IA; Detroit, MI; Fargo, ND; Flint, MI; Fort Worth, TX; Fresno, CA; Grand Rapids, MI; Greensboro, NC; Hartford, CT; Helena, MT; Honolulu, HI; Houston, TX; Indianapolis, IN; Jackson, MS; Jacksonville, FL; Kansas City, KS; Knoxville, TN; Las Vegas, NV; Little Rock, AR; Los Angeles, CA; Louisville, KY; Lubbock, TX; Manchester, NH; Memphis, TN; Miami, FL; Milwaukee, WI; Minneapolis, MN; Nashville, TN; New Orleans, LA; New York, NY; Newark, NJ; Oklahoma City, OK; Omaha, NE; Orlando, FL; Philadelphia, PA; Phoenix, AZ; Pittsburgh, PA; Portland, OR; Providence, RI; Reno, NV; Richmond, VA; Sacramento, CA; St. Louis, MO; Salt Lake City, UT; San Antonio, TX; San Diego, CA; San Francisco, CA; San Juan, PR; Santa Ana, CA; Seattle, WA; Shreveport, LA; Sioux Falls, SD; Spokane, WA; Springfield, IL; Syracuse, NY; Tampa, FL; Tucson, AZ; Tulsa, OK; Washington, DC; and Wilmington, DE.

To register online for an Information Session, please visit the Fund's website at *www.treas.gov/cdfi*. If you do not have Internet access, you may register by calling the Fund at (202) 622–8662.

**Authority:** 12 U.S.C. 4703, 4703 note, 4704, 4706, 4707, and 4717; 12 CFR part 1805.

Dated: August 7, 2000.

**Maurice A. Jones,**

*Deputy Director for Policy and Programs, Community Development Financial Institutions Fund.*

[FR Doc. 00–20269 Filed 8–11–00; 8:45 am]

BILLING CODE 4810–70–P


Federal Register

Monday,
August 14, 2000

Part III

# Environmental Protection Agency

**40 CFR Part 442**
**Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Transportation Equipment Cleaning Point Source Category; Final Rule**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 442**

**[FRL—6720–6]**

**RIN 2040–AB98**

## Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Transportation Equipment Cleaning Point Source Category

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes technology-based effluent limitations guidelines, new source performance standards, and pretreatment standards for the discharge of pollutants into waters of the United States and into publicly owned treatment works (POTWs) by existing and new facilities that perform transportation equipment cleaning operations. Transportation equipment cleaning (TEC) facilities are defined as those facilities that generate wastewater from cleaning the interior of tank trucks, closed-top hopper trucks, rail tank cars, closed-top hopper rail cars, intermodal tank containers, tank barges, closed-top hopper barges, and ocean/sea tankers used to transport materials or cargos that come into direct contact with the tank or container interior. Facilities which do not engage in cleaning the interior of tanks are not considered within the scope of this rule.

EPA is subcategorizing the TEC Point Source Category into the following four subparts based on types of cargos carried and transportation mode: Subpart A—Tank Trucks and Intermodal Tank Containers Transporting Chemical & Petroleum Cargos; Subpart B—Rail Tank Cars Transporting Chemical & Petroleum Cargos; Subpart C—Tank Barges and Ocean/Sea Tankers Transporting Chemical & Petroleum Cargos; Subpart D—Tanks Transporting Food Grade Cargos.

For all four subparts, EPA is establishing effluent limitations guidelines for existing facilities and new sources discharging wastewater directly to surface waters. EPA is establishing pretreatment standards for existing facilities and new sources discharging wastewater to POTWs in all subparts except for Subpart D, applicable to Food Grade Cargos. EPA is not establishing effluent limitations guidelines or pretreatment standards for facilities that generate wastewater from cleaning the interior of hopper cars.

The TEC limitations do not apply to wastewaters associated with tank cleanings performed in conjunction with other industrial, commercial, or POTW operations so long as the facility cleans only tanks and containers that have contained raw materials, by-products, and finished products that are associated with the facility's on-site processes.

The wastewater flows covered by this rule include all washwaters which have come into direct contact with the tank or container interior including pre-rinse cleaning solutions, chemical cleaning solutions, and final rinse solutions. Additionally, the rule covers wastewater generated from washing vehicle exteriors, equipment and floor washings, and TEC contaminated stormwater at those facilities subject to the TEC effluent limitations guidelines and standards. Compliance with this rule is estimated to reduce the annual discharge of priority pollutants by at least 60,000 pounds per year and result in annual benefits ranging from $1.5 million to $5.5 million. The total annualized compliance cost of the rule is projected to be $16.1 million (pre-tax).

**DATES:** This regulation shall become effective September 13, 2000.

**ADDRESSES:** The public record is available for review in the EPA Water Docket, 401 M St. SW, Washington, D.C. 20460. The public record for this rulemaking has been established under docket number W–97–25, and includes supporting documentation, but does not include any information claimed as Confidential Business Information (CBI). The record is available for inspection from 9 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. For access to docket materials, please call (202) 260–3027 to schedule an appointment.

**FOR FURTHER INFORMATION CONTACT:** For additional technical information contact Mr. John Tinger at (202) 260–4992 or send E-mail to: *tinger.john@epa.gov*. For additional economic information contact Mr. George Denning at (202) 260–7374 or send E-mail to: *denning.george@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

*Regulated Entities:* Entities potentially regulated by this action include:

| Category | Examples of regulated entities | Examples of common SIC codes |
|---|---|---|
| Industry | Facilities that generate wastewater from cleaning the interior of tank trucks, rail tank cars, intermodal tank containers, tank barges, or ocean/sea tankers used to transport materials or cargos that come into direct contact with tank or container interior, except where such tank cleanings are performed in conjunction with other industrial, commercial, or POTW operations.. | SIC 7699, SIC 4741, SIC 4491. |

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, should carefully examine the applicability criteria in § 442.1 of the rule language. If you have questions regarding the applicability of this action to a particular entity, consult the person listed for technical information in the preceding **FOR FURTHER INFORMATION CONTACT** section.

### Judicial Review

In accordance with 40 CFR Part 23.2, this rule will be considered promulgated for purposes of judicial review at 1 p.m. Eastern time on August 28, 2000. Under section 509(b)(1) of the Clean Water Act, judicial review of this regulation can be obtained only by filing a petition for review in the United States Court of Appeals within 120 days after the regulation is considered promulgated for purposes of judicial review. Under section 509 (b)(2) of the Clean Water Act, the requirements in this regulation may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

### Compliance Dates

The compliance date for Pretreatment Standards for Existing Standards (PSES) is as soon as possible, but no later than August 14, 2003. Deadlines for compliance with Best Practicable

Control Technology Currently Available (BPT), Best Conventional Pollutant Control Technology (BCT), and Best Available Technology Economically Achievable (BAT) are established in the National Pollutant Discharge Elimination System (NPDES) permits. The compliance dates for New Source Performance Standards (NSPS) and Pretreatment Standards for New Sources (PSNS) are the dates the new source commences discharging.

**Supporting Documentation**

The regulations promulgated today are supported by several major documents:

1. "Final Development Document for Effluent Limitations Guidelines and Standards for the Transportation Equipment Cleaning Category" (EPA 821–R–00–0012). Hereafter referred to as the Technical Development Document, the document presents EPA's technical conclusions concerning the rule. EPA describes, among other things, the data-collection activities in support of the regulation, the wastewater treatment technology options, wastewater characterization, and the estimated costs to the industry.

2. "Final Economic Analysis of Effluent Limitations Guidelines and Standards for the Transportation Equipment Cleaning Category" (EPA 821–R–00–0013).

3. "Final Cost-Effectiveness Analysis of Effluent Limitations Guidelines and Standards for the Transportation Equipment Cleaning Category" (EPA 821–R–00–0014).

*How To Obtain Supporting Documents*

All documents are available from the National Service Center for Environmental Publications, P.O. Box 42419, Cincinnati, OH 45242–2419, (800) 490–9198. The Technical Development Document and previous Transportation Equipment Cleaning Federal Register Notices can also be obtained on the Internet, located at *WWW.EPA.GOV/OST/GUIDE*. This website also links to an electronic version of today's notice.

**Table of Contents**



## I. Legal Authority

EPA is promulgating these regulations under the authority of Sections 301, 304, 306, 307, 308, 402, and 501 of the Clean Water Act, 33 U.S.C. 1311, 1314, 1316, 1317, 1318, 1342 and 1361.

## II. Background

### *A. Clean Water Act*

Congress adopted the Clean Water Act (CWA) to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters" (Section 101(a), 33 U.S.C. 1251(a)). To achieve this goal, the CWA prohibits the discharge of pollutants into navigable waters except in compliance with the statute. The Clean Water Act confronts the problem of water pollution on a number of different fronts. Its primary reliance, however, is on establishing restrictions on the types and amounts of pollutants discharged from various industrial, commercial, and public sources of wastewater.

Congress recognized that regulating only those sources that discharge effluent directly into the nation's waters would not be sufficient to achieve the CWA's goals. Consequently, the CWA requires EPA to promulgate nationally applicable pretreatment standards which restrict pollutant discharges for those who discharge wastewater indirectly through sewers flowing to publicly-owned treatment works (POTWs) (Sections 307(b) and (c), 33 U.S.C. 1317(b) and (c)). National pretreatment standards are established for those pollutants in wastewater from indirect dischargers which may pass through or interfere with POTW operations. Generally, pretreatment standards are designed to ensure that wastewater from direct and indirect industrial dischargers are subject to similar levels of treatment. In addition, POTWs are required to implement local treatment limits applicable to their industrial indirect dischargers to satisfy any local requirements (40 CFR 403.5).

Direct dischargers must comply with effluent limitations in National Pollutant Discharge Elimination System ("NPDES") permits; indirect dischargers must comply with pretreatment standards. These limitations and standards are established by regulation for categories of industrial dischargers and are based on the degree of control that can be achieved using various levels of pollution control technology.

1. Best Practicable Control Technology Currently Available (BPT)—Section 304(b)(1) of the CWA

In the guidelines for an industry category, EPA defines BPT effluent

limits for conventional, toxic,[1] and non-conventional pollutants. In specifying BPT, EPA looks at a number of factors. EPA first considers the cost of achieving effluent reductions in relation to the effluent reduction benefits. The Agency also considers the age of the equipment and facilities, the processes employed and any required process changes, engineering aspects of the control technologies, non-water quality environmental impacts (including energy requirements), and such other factors as the Agency deems appropriate (CWA 304(b)(1)(B)). Traditionally, EPA establishes BPT effluent limitations based on the average of the best performances of facilities within the industry of various ages, sizes, processes or other common characteristics. Where existing performance is uniformly inadequate, EPA may require higher levels of control than currently in place in an industrial category if the Agency determines that the technology can be practically applied.

2. Best Available Technology Economically Achievable (BAT)—Section 304(b)(2) of the CWA

In general, BAT effluent limitations guidelines represent the best existing economically achievable performance of direct discharging plants in the industrial subcategory or category. The factors considered in assessing BAT include the cost of achieving BAT effluent reductions, the age of equipment and facilities involved, the processes employed, engineering aspects of the control technology, potential process changes, non-water quality environmental impacts (including energy requirements), and such factors as the Administrator deems appropriate. The Agency retains considerable discretion in assigning the weight to be accorded to these factors. An additional statutory factor considered in setting BAT is economic achievability. Generally, the achievability is determined on the basis of the total cost to the industrial subcategory and the overall effect of the rule on the industry's financial health. BAT limitations may be based upon effluent reductions attainable through changes in a facility's processes and operations. As with BPT, where existing performance is uniformly inadequate, BAT may be based upon technology transferred from a different subcategory within an industry or from another industrial category. BAT may be based upon process changes or internal controls, even when these technologies are not common industry practice.

3. Best Conventional Pollutant Control Technology (BCT)—Section 304(b)(4) of the CWA

The 1977 amendments to the CWA required EPA to identify effluent reduction levels for conventional pollutants associated with BCT technology for discharges from existing industrial point sources. BCT is not an additional limitation, but replaces Best Available Technology (BAT) for control of conventional pollutants. In addition to other factors specified in Section 304(b)(4)(B), the CWA requires that EPA establish BCT limitations after consideration of a two part "cost-reasonableness" test. EPA explained its methodology for the development of BCT limitations in July 1986 (51 FR 24974).

Section 304(a)(4) designates the following as conventional pollutants: biochemical oxygen demand ($BOD_5$), total suspended solids (TSS), fecal coliform, pH, and any additional pollutants defined by the Administrator as conventional. The Administrator designated oil and grease as an additional conventional pollutant on July 30, 1979 (44 FR 44501).

4. New Source Performance Standards (NSPS)—Section 306 of the CWA

NSPS reflect effluent reductions that are achievable based on the best available demonstrated control technology. New facilities have the opportunity to install the best and most efficient production processes and wastewater treatment technologies. As a result, NSPS should represent the greatest degree of effluent reduction attainable through the application of the best available demonstrated control technology for all pollutants (*i.e.*, conventional, non-conventional, and priority pollutants). In establishing NSPS, EPA is directed to take into consideration the cost of achieving the effluent reduction and any non-water quality environmental impacts and energy requirements.

5. Pretreatment Standards for Existing Sources (PSES)—Section 307(b) of the CWA

PSES are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of publicly owned treatment works (POTWs). The CWA authorizes EPA to establish pretreatment standards for pollutants that pass through POTWs or interfere with treatment processes or sludge disposal methods at POTWs. Pretreatment standards are technology-based and analogous to BAT effluent limitations guidelines.

The General Pretreatment Regulations, which set forth the framework for implementing categorical pretreatment standards, are found at 40 CFR Part 403. Those regulations contain a definition of pass through that addresses localized rather than national instances of pass through and establish pretreatment standards that apply to all non-domestic dischargers. See 52 FR 1586, January 14, 1987.

6. Pretreatment Standards for New Sources (PSNS)—Section 307(b) of the CWA

Like PSES, PSNS are designed to prevent the discharges of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of POTWs. PSNS are to be issued at the same time as NSPS. New indirect dischargers have the opportunity to incorporate into their plants the best available demonstrated technologies. The Agency considers the same factors in promulgating PSNS as it considers in promulgating NSPS.

*B. Profile of the Industry*

The TEC industry includes facilities that generate wastewater from cleaning the interiors of tank trucks, closed-top hopper trucks, rail tank cars, closed-top hopper rail cars, intermodal tank containers, tank barges, closed-top hopper barges, and ocean/sea tankers used to transport cargos or commodities that come into direct contact with the tank or container interior. Transportation equipment cleaning is performed to prevent cross-contamination between products or commodities being transported in the tanks, containers, or hoppers, and to prepare transportation equipment for repair and maintenance activities, such as welding. The cleaning activity is a necessary part of the transportation process.

Based upon responses to EPA's 1994 Detailed Questionnaire for the Transportation Equipment Cleaning Industry (see discussion in Section V.B of the proposal (63 FR 34686)), the Agency estimates that there are approximately 2,405 facilities in the United States that perform TEC activities. This includes approximately

[1] In the initial stages of EPA CWA regulation, EPA efforts emphasized the achievement of BPT limitations for control of the "classical" pollutants (*e.g.*, TSS, pH, $BOD_5$). However, nothing on the face of the statute explicitly restricted BPT limitation to such pollutants. Following passage of the Clean Water Act of 1977 with its requirement for point sources to achieve best available technology limitations to control discharges of toxic pollutants, EPA shifted its focus to address the listed priority toxic pollutants under the guidelines program. BPT guidelines continue to include limitations to address all pollutants.

1,166 facilities that perform tank cleaning operations on site, but which are excluded from this rule because of their association with other industrial, commercial, or POTW operations. There are 1,239 TEC facilities not associated with other industrial, commercial, or POTW operations. Of these facilities, EPA estimates that 692 facilities discharge to either a POTW or to surface waters. The remaining 547 facilities are considered zero dischargers.

The TEC industry consists of distinct transportation sectors: the trucking sector, the rail sector, and the barge shipping sector. Each one of these sectors has different technical and economic characteristics. The transportation industry transports a wide variety of commodities, and TEC facilities therefore clean tanks and containers with residues (*i.e.*, heels) from a broad spectrum of commodities, such as food-grade products, petroleum-based commodities, organic chemicals, inorganic chemicals, soaps and detergents, latex and resins, hazardous wastes, and dry bulk commodities.

TEC facilities vary greatly in the level of wastewater treatment that they currently have in place. Treatment at existing TEC facilities ranges from no treatment to tertiary treatment. The majority of TEC facilities discharging to surface waters currently employ primary treatment, such as oil/water separation or gravity separation, followed by biological treatment. Indirect discharging facilities typically employ some form of primary treatment, such as oil/water separation, gravity separation, dissolved air flotation, or coagulation and flocculation. A relatively small number of direct and indirect facilities currently employ tertiary treatment, such as activated carbon adsorption.

*C. Proposed Rule*

On June 25, 1998 (63 FR 34685), EPA published proposed effluent limitations guidelines and pretreatment standards for the discharge of pollutants into waters of the United States and into POTWs by existing and new facilities that perform transportation equipment cleaning operations.

EPA received comments on many aspects of the proposal. The majority of comments related to the use of mass-based rather than concentration-based limits; the subcategorization approach; the technology options used as the basis for setting effluent limitations; the selection of pollutants proposed for regulation; the costs associated with the regulation; the cost effectiveness of the regulation; the lack of a low flow exclusion from the regulation; and the applicability of the rule. EPA evaluated all of these issues based on additional information collected by EPA or received during the comment period following the proposal. EPA then discussed the results of most of these evaluations in a Notice of Availability discussed below.

*D. Notice of Availability*

On July 20, 1999 (64 FR 38863), EPA published a Notice of Availability (NOA) in which the Agency presented a summary of new data collected by EPA or received in comments on the proposed rule. EPA discussed the major issues raised during the proposal comment period and presented several alternative approaches to address these issues. EPA solicited comment on these approaches and on the new data and analyses conducted in response to comments.

## III. Summary of Significant Changes Since Proposal

This section describes the most significant changes to the rule since proposal. The majority of these changes have been in response to comments on the proposal. All of these changes were discussed in the Notice of Availability.

*A. Concentration-Based Limitations*

EPA proposed mass-based limitations. In the proposal and NOA, EPA discussed a change to the format of the rule that would establish concentration-based rather than mass-based limits. EPA received many comments on the proposal and on the NOA from regulatory authorities, industry stakeholders, and POTWs strongly supporting the concentration-based format of the rule. EPA received only one comment on the proposal supporting mass-based limits. In the NOA, EPA presented concentration-based limitations and explained its rationale for the change. Comments on the NOA were unanimously supportive of concentration-based limits. The final limitations and standards being promulgated today are concentration-based.

*B. Modification to Subcategorization Approach*

EPA proposed separate subcategories for the Truck/Chemical, Truck/Petroleum, Rail/Chemical, and Rail/Petroleum Subcategories. In the proposal and NOA, EPA discussed combining the Truck/Chemical Subcategory and Truck/Petroleum Subcategory into the Truck/Chemical & Petroleum Subcategory, and combining the Rail/Chemical Subcategory and Rail/Petroleum Subcategory into the Rail/Chemical & Petroleum Subcategory. In the NOA, EPA presented the preliminary conclusion for making this change, and presented the costs, loadings, and economic impacts that would result if this change were made.

The majority of the commenters on the NOA, including regulatory authorities, industry stakeholders, and POTWs, supported combining these subcategories. EPA received only one comment supporting separate subcategories. EPA concluded that the proposed definitions of the chemical and petroleum subcategories did not adequately define the difference between chemical and petroleum commodities. For the final regulation, EPA has combined the proposed chemical and petroleum subcategories in both the truck and rail segments of the industry.

Additionally, EPA has combined the Truck/Food, Rail/Food, and Barge/Food Subcategories into one subcategory, the Food Subcategory. For the proposed rule, subcategorization by transportation mode was necessary because the truck, rail, and barge facilities had different regulatory flows per tank cleaned, which resulted in different mass-based limits for each subcategory. Subcategorization of the Food Subcategory by transportation mode for the final regulation is unnecessary because the limits are all based on the same BPT technology, and the final concentration-based limits are identical for all TEC facilities cleaning food grade cargos.

*C. Low Flow Exclusion*

In the proposal, EPA considered establishing a minimum flow level for defining the scope of the regulation but did not propose a low-flow exclusion. EPA conducted an analysis to determine an appropriate flow exclusion level based on the economic impacts of low flow facilities, the economic impacts on small businesses, and the relative efficiency of treatment technologies for low flow facilities, in terms of pounds of pollutants removed.

Based on comments on the proposal, EPA re-evaluated a low-flow exclusion based on 100,000 gallons per year of TEC process wastewater and presented the results in the NOA. EPA presented the costs, loadings, and economic impacts that would result if this exclusion was adopted. EPA's analyses demonstrated that 26 low flow facilities generated much less than one percent of the baseline loadings to the industry. EPA received numerous comments which supported the adoption of a low flow exclusion due to the low amounts of toxics generated by these facilities.

EPA also received comments supporting establishing a low flow exclusion at 200,000 gallons of TEC process wastewater per year. In the NOA, EPA noted that one model facility (representing nine facilities) excluded at proposal would be added to the Truck/Chemical & Petroleum Subcategory and would therefore be subject to the TEC limitations. EPA noted that an exclusion set at 200,000 gallons per year would exclude this model facility from the regulation. Consequently, EPA evaluated establishing the cutoff at 200,000 gallons per year. Establishing a low flow cutoff at 200,000 gallons per year would exclude an additional nine facilities in the combined Truck/Chemical & Petroleum Subcategory which discharge a combined total of 680 pound equivalents. This equates to 3.1 percent of facilities discharging 2.3 percent of the loadings in the Truck/Chemical & Petroleum Subcategory. EPA determined that the facilities discharging between 100,000 to 200,000 gallons per year contribute a proportional amount of toxic loadings to the industry. Additionally, EPA found that if the low flow exclusion was raised from 100,000 to 200,000 gallons per year, there would be no decrease in the number of facilities projected to close or experience financial stress.

For the final regulation, EPA is excluding facilities that discharge less than 100,000 gallons per year of TEC process wastewater. Facilities discharging less than 100,000 gallons per year will remain subject to limitations and standards established on a case-by-case basis using Best Professional Judgement by the permitting authority.

*D. Revision of Pollutant Loading Estimates*

In the NOA, EPA discussed a revision to the methodology for calculating pesticide and herbicide loadings. This revision was in response to a comment claiming that EPA overestimated pollutant reductions by using calculations based on a small number of data points detected at levels close to the pesticide/herbicide quantification levels. Specifically, EPA revised the proposed methodology by using the same editing criteria for pesticide/herbicide pollutants as were used for all other parameters. EPA made this change to the editing criteria which resulted in excluding parameters that were not detected in at least two samples and with average concentrations greater than five times the detection limit. The revised loadings were presented in the NOA.

EPA continued to receive comment from the industry that EPA had misidentified several pesticides and herbicides that were contributing to the calculation of toxic pound equivalent removals in the Truck/Chemical & Petroleum Subcategory. Based on an extensive analysis of the pesticide data collected in support of the regulation, the EPA must concur that the laboratory analysis does not conclusively support the presence of several pesticides that were believed to be present in the Truck/Chemical & Petroleum Subcategory wastewater. Therefore, the Agency has labeled the analytical results for EPN and disulfoton as "questionable" and has subsequently removed these pesticides from the cost effectiveness analysis and benefits analysis. This approach has resulted in a significant decrease in toxic pound equivalent removals when compared to the approach used at proposal.

However, EPA believes that pesticides and herbicides are present in TEC wastewater. As evidenced by responses to the Detailed Questionnaire, only 5% of tank truck facilities prohibit the cleaning of tank trucks that have contained pesticides and herbicides, meaning that 95% of tank truck facilities may potentially clean a cargo that has contained pesticides or herbicides. As documented by comments submitted by the industry, site visit reports, and a recent trade association journal article, the TEC industry is a service industry that cleans out tank trucks as needed by customers. EPA has identified over 3,000 cargo types that are cleaned at tank truck facilities, and these cargos have been documented to include pesticide and herbicides.

*E. Overlap With Other Guidelines*

EPA proposed language for excluding certain commercial and industrial facilities from the TEC guideline. Many commenters believed that this language was too restrictive and that the TEC rule, as proposed, would encompass many industrial facilities that EPA did not intend to cover. In the NOA, EPA described several situations where it concurred with commenters that the proposed language was overly restrictive. These included industrial or manufacturing facilities that clean a small number of tank cars on site but that are not covered by an existing Clean Water Act categorical effluent guideline. EPA presented revised regulatory language for excluding certain industrial and commercial facilities which the Agency believed addressed the concerns raised by commenters and more clearly defined the exclusion. The majority of commenters supported the revised language, and no commenter opposed the language. Therefore, EPA has adopted language similar to that presented in the NOA for the final regulation. The final rule does not apply to wastewaters associated with tank cleanings performed in conjunction with other industrial, commercial, or POTW operations so long as the facility cleans only tanks and containers that have contained raw materials, by-products, and finished products that are associated with the facility's on-site processes.

EPA also received comments requesting that EPA specifically exclude TEC wastewaters generated by POTWs that clean out garbage trucks, biosolid waste haulers, tankers that contained landfill leachate, and street cleaning trucks. EPA does not believe that wastewater generated from cleaning garbage trucks, biosolids trucks, landfill leachate tankers, or street cleaning trucks meets EPA's definition of cleaning a tank that has contained a chemical, petroleum, or food grade product. However, in order to address the concern that POTWs would unnecessarily be subject to the TEC rule, EPA has added language in the final applicability section which states that wastewater cleaning operations performed at POTWs (in addition to other commercial and industrial operations) are not subject to the TEC guidelines. Additionally, EPA has adopted a low flow exclusion of 100,000 gallons per year to exclude from this rule those facilities which may perform a minimal amount of tank cleaning activities (see Section III.C).

In the proposal, EPA stated that facilities that are predominantly engaged in Metal Products and Machinery (MP&M) operations and clean ocean/sea tankers, tank barges, rail tank cars, or tank trucks as part of those activities would likely be included in the upcoming MP&M regulations and, thus, are excluded from the TEC guideline. EPA received numerous comments asking EPA to more clearly define what is meant by "predominantly engaged." In the NOA, EPA attempted to address these concerns by clarifying the distinction between MP&M wastewaters and TEC wastewaters based on the purpose of cleaning. All commenters supported the revised language presented in the NOA as addressing their concerns. Therefore, EPA is adopting the following language for the final regulation: "Wastewater generated from cleaning tank interiors for purposes of shipping products (*i.e.*, cleaned for purposes other than maintenance and repair) is considered

TEC process wastewater. Wastewater generated from cleaning tank interiors for the purposes of maintenance and repair on the tank is not considered TEC process wastewater." It is possible that some facilities, or wastewater generated from some unit operations at these facilities, will be subject to the Metals Products & Machinery (MP&M) effluent guideline currently being developed by EPA. Facilities that clean tank interiors solely for the purposes of repair and maintenance would not be regulated under the TEC guideline.

Wastewater generated from cleaning tank interiors for purposes of shipping products (i.e., cleaned for purposes other than maintenance and repair) is considered TEC process wastewater and is subject to the TEC guideline. It is possible that a facility may be subject to both the TEC regulations and the MP&M regulations. If a facility generates wastewater from MP&M activities which is subject to the MP&M guideline and also discharges wastewater from cleaning tanks for purposes other than repair and maintenance of those tanks, then that facility may be subject to both guidelines.

*F. Modification to Pollutants Selected for Regulation*

EPA proposed limitations for a number of conventional, priority, and non-conventional pollutants. Many commenters requested that EPA establish oil and grease (measured as Hexane Extractable Material (HEM)) and non-polar oil and grease (measured as Silica-gel Treated Hexane Extractable Material (SGT–HEM)) as indicator pollutants for a number of other pollutants proposed to be regulated. In the NOA, EPA presented its evaluation for establishing indicator pollutants, and concluded that oil and grease (HEM) and non-polar oil and grease (SGT–HEM) could serve as indicator pollutants for the straight chain hydrocarbons proposed to be regulated. Comments on the NOA generally supported this conclusion. For the final regulation, EPA has established limits for oil and grease (HEM) and non-polar material (SGT–HEM) as indicator pollutants. EPA has therefore not established limits for any straight chain hydrocarbon, but has established limits for polyaromatic hydrocarbons for certain subcategories.

Furthermore, as described in Section VI. of this notice, EPA has decided to promulgate effluent limitations and pretreatment standards for mercury in the Truck/Chemical & Petroleum Subcategory and in the Barge/Chemical & Petroleum Subcategory. EPA has also eliminated zinc as regulated pollutant in the Truck/Chemical & Petroleum Subcategory, and has decided to eliminate COD as a regulated pollutant in all subcategories.

*G. Technology Options*

EPA presented revised costs and loads in the NOA for the technology options considered for the proposal. The costs and loads were revised due to a number of changes, which were discussed in the NOA. In summary, EPA revised the cost model; reduced the monitoring costs; revised the list of pollutants effectively removed; combined the Truck/Chemical and Truck/Petroleum Subcategories; combined the Rail/Chemical and Rail/Petroleum Subcategories; and adopted a low flow exclusion.

EPA also discussed in the NOA several options it was considering in lieu of the proposed options for the Truck/Chemical & Petroleum and Rail/Chemical & Petroleum Subcategories, including the associated costs, loads, economic impacts, and environmental benefits. Based on the revised analysis, EPA is selecting Option I instead of Option II for PSES and PSNS in the Truck/Chemical & Petroleum Subcategory. For the Rail/Chemical & Petroleum Subcategory, EPA is selecting Option II for BPT, BAT, BCT and NSPS. EPA had proposed Option I for BPT, BAT, and BCT and Option III for NSPS. For indirect dischargers in the Rail/Chemical & Petroleum Subcategory, EPA is selecting Option II for both PSES and PSNS instead of Option I for PSES and Option III for PSNS. Additionally, EPA has decided to establish PSES based on Option II for the Barge/Chemical & Petroleum Subcategory in order to prevent pass through or interference at a POTW.

EPA has eliminated flow reduction from the technology options for all subcategories because it is promulgating concentration-based rather than mass-based limitations. Note, however, that EPA has retained flow reduction as a cost-effective compliance strategy for several subcategories.

Sections VII, VIII, and IX of this notice present the final costs, pollutant reductions, economic impacts, and water quality impacts for EPA's selected options. The technology options are described in Section V of this notice. A description of the wastewater treatment technology components of the options can be found in Section VIII of the proposal and in the Technical Development Document.

## IV. Applicability of Final Regulation

EPA is establishing effluent limitations guidelines and pretreatment standards for wastewater discharges from facilities engaged in cleaning the interiors of tanks including tank trucks, rail tank cars, intermodal tank containers, tank barges, and ocean/sea tankers used to transport commodities that come into direct contact with the tank or container interior. Facilities which do not engage in cleaning the interior of tanks are not considered within the scope of this rule.

The wastewater flows covered by the rule include all washwaters that come into direct contact with the tank or container interior including pre-rinse cleaning solutions, chemical cleaning solutions, and final rinse solutions. Additionally, the rule would cover wastewater generated from washing vehicle exteriors, equipment and floor washings, and TEC contaminated wastewater only at those facilities subject to the TEC guidelines and standards.

EPA evaluated the following subcategorization approach for the final regulation: Truck/Chemical & Petroleum Subcategory; Rail/Chemical & Petroleum Subcategory; Barge/Chemical & Petroleum Subcategory; Food Subcategory; Truck/Hopper Subcategory; Rail/Hopper Subcategory; and Barge/Hopper Subcategory. Table 1 presents the final regulatory approach.

TABLE 1.—REGULATORY APPROACH FOR THE TEC CATEGORY

| Subcategory | BPT and BCT | BAT | NSPS | PSES | PSNS |
|---|---|---|---|---|---|
| Truck/Chemical & Petroleum | X | X | X | X | X |
| Rail/Chemical & Petroleum | X | X | X | X | X |
| Barge/Chemical & Petroleum | X | X | X | X | X |
| Food | X | ..... | X | ..... | ..... |
| Truck/Hopper | ..... | ..... | ..... | ..... | ..... |

TABLE 1.—REGULATORY APPROACH FOR THE TEC CATEGORY—Continued

| Subcategory | BPT and BCT | BAT | NSPS | PSES | PSNS |
|---|---|---|---|---|---|
| Rail/Hopper | ..... | ..... | ..... | ..... | ..... |
| Barge/Hopper | ..... | ..... | ..... | ..... | ..... |

EPA is establishing effluent limitations guidelines for existing facilities and new sources discharging wastewater directly to surface waters in the following subcategories: Truck/Chemical & Petroleum, Rail/Chemical & Petroleum, Barge/Chemical & Petroleum, and Food Subcategory. EPA is establishing pretreatment standards for existing facilities and new sources discharging wastewater to POTWs in the Truck/Chemical & Petroleum, Rail/Chemical & Petroleum, and Barge/Chemical & Petroleum Subcategories.

For the Food Subcategory, EPA is establishing effluent limitations guidelines for existing and new facilities discharging directly to surface waters. These limitations and standards are established to control discharges of conventional pollutants which may adversely affect waterways when discharged directly to surface waters. Few priority pollutants were found in food wastewaters; thus, EPA has chosen to not establish BAT limitations for the Food Subcategory. Because POTWs have the ability to treat conventional pollutants, EPA concluded that it was unnecessary to establish pretreatment standards for the Food Subcategory. Comments received on the proposal predominantly supported EPA's regulatory approach for the Food Subcategory.

EPA is not establishing effluent limitations guidelines or standards for the Truck/Hopper, Rail/Hopper, and Barge/Hopper Subcategories. Closed-top hopper trucks, rail cars, and barges are used to transport dry bulk materials such as coal, grain, and fertilizers. Raw wastewater generated from cleaning the interiors of hoppers was found to contain very few priority pollutants at treatable levels. This is likely due to the fact that the residual materials (heels) from dry bulk goods are easily removed prior to washing, and that relatively little wastewater is generated from cleaning the interiors of hopper tanks due to the dry nature of bulk materials transported. These facts result in low pollutant loadings being present in the wastewater discharges from hopper tank cleaning. Based on the low pollutant loadings associated with wastewater discharge from the hopper subcategories, the Agency concluded that it is not necessary to establish nationally-applicable effluent limitations for these subcategories. Rather, direct dischargers will remain subject to effluent limitations established on a case-by-case basis using Best Professional Judgement, and indirect dischargers may be subject to local pretreatment limits as necessary to prevent pass through or interference. EPA received comments supporting this conclusion.

EPA received comments on the proposal requesting that EPA include wastewater from cleaning the interiors of intermediate bulk containers (IBCs) within the scope of this regulation. The commenter believed that IBCs generate a significant amount of loadings in the industry; therefore, excluding IBCs would give an economic advantage to facilities that clean only IBCs because these facilities would not be covered by the TEC regulation. In response to these comments, EPA collected additional data on IBC cleaning performed by the TEC industry and then conducted an economic analysis on the impact of IBC cleaning on the tank truck industry. This information and analysis were presented in the NOA. Based on the analysis presented in Section VII of the NOA, EPA concluded that wastewater generated from IBC cleaning should not be included in the scope of this guideline. As discussed in the NOA, EPA will continue to evaluate the Industrial Container and Drum Cleaning Industry as a potential candidate for future regulation.

TEC process wastewater includes all wastewaters associated with cleaning the interiors of tanks including: tank trucks; rail tank cars; intermodal tank containers; tank barges; and ocean/sea tankers used to transport commodities or cargos that come into direct contact with the tank or container interior. At those facilities subject to the TEC guidelines and standards, TEC process wastewaters also include wastewater generated from washing vehicle exteriors, equipment and floor washings, and TEC-contaminated stormwater. TEC process wastewater is defined to include only wastewater generated from a regulated TEC subcategory. Therefore, TEC process wastewater does not include wastewater generated from the hopper facilities, or from food grade facilities discharging to a POTW.

EPA is adopting a low flow exclusion for this regulation. A facility that discharges less than 100,000 gallons per year of TEC process wastewater is not subject to the TEC guidelines. EPA is adopting this exclusion due to the very low pollutant loadings associated with facilities discharging less than 100,000 gallons per year.

Facilities discharging less than 100,000 gallons per year of TEC process wastewater will remain subject to limitations and standards established on a case-by-case basis using Best Professional Judgement by the permitting authority.

## V. Technology Options Selected for Basis of Regulation

All of the treatment technologies considered for the final regulations were discussed in the proposal. In the NOA, EPA presented the costs, loads, and impacts for one option in the Truck/Chemical & Petroleum Subcategory that were not presented in the proposal. This option, consisting of equalization and oil/water separation only, was a component of other options in the proposal but had not been evaluated separately as a regulatory option.

The following sections summarize the technology options that EPA considered for each subcategory. The costs, loads, economic impacts, and environmental benefits for the selected options are also presented. All results presented in this notice are expressed in 1998 dollars.

### *A. Truck/Chemical & Petroleum Subcategory*

#### 1. BPT, BCT, BAT, and NSPS for the Truck/Chemical & Petroleum Subcategory

EPA evaluated the following treatment options for the final regulation:

Option I: Equalization, Oil/Water Separation, Chemical Oxidation, Neutralization, Coagulation, Clarification, Biological Treatment, and Sludge Dewatering.

Option II: Equalization, Oil/Water Separation, Chemical Oxidation, Neutralization, Coagulation, Clarification, Biological Treatment,

Activated Carbon Adsorption, and Sludge Dewatering.

EPA proposed to establish BPT limits based on Option II, and to establish BCT, BAT, and NSPS equivalent to BPT. In the proposal, EPA stated that all three model facilities have equalization, coagulation/clarification, biological treatment, and activated carbon in place. Two of the three facilities in the cost model have sufficient treatment in place; therefore, costs for additional monitoring only are attributed to these facilities. The third facility was costed for flow reduction, sludge dewatering, and monitoring. Flow reduction and sludge dewatering generates net cost savings for the facility's entire treatment train. In addition, these net cost savings are larger than the monitoring costs incurred by the other two facilities.

EPA determined that Option II is economically achievable because it will result in a net cost savings to the industry, and will not cause any facility closures, revenue impacts, or employment impacts. EPA did not identify any more stringent treatment technology option which it considers to represent NSPS level of control.

EPA did not consider any changes to the option selected for this subcategory in the NOA. EPA did not receive any comments specific to option selection for direct discharging facilities in this subcategory in the proposal or the NOA. EPA has therefore established BPT, BCT, BAT, and NSPS based on Option II.

2. PSES and PSNS for the Truck/Chemical & Petroleum Subcategory

EPA evaluated the following treatment options for the final regulation:

Option A: Equalization and Oil/Water Separation.

Option I: Equalization, Oil/Water Separation, Chemical Oxidation, Neutralization, Coagulation, Clarification, and Sludge Dewatering.

Option II: Equalization, Oil/Water Separation, Chemical Oxidation, Neutralization, Coagulation, Clarification, Activated Carbon Adsorption, and Sludge Dewatering.

In response to comments received, EPA has also considered a pollution prevention approach as a compliance option, as discussed below.

EPA proposed to establish PSES and PSNS at Option II. In the NOA, EPA presented revised costs, loads and impacts for each option, and stated that Options I and A were also being considered for PSES and PSNS. EPA is today promulgating a pollution prevention compliance option for this subcategory as well as promulgating a traditional compliance option (*i.e.* a set of numeric pretreatment standards) based on Option I.

EPA received comments on the proposed technology options from the affected industry and from other stakeholders. Several commenters expressed concern that Option II, which includes activated carbon adsorption, was an excessive and costly level of treatment for indirect dischargers in the tank cleaning industry. Commenters also expressed concern that Option A level of control may be inadequate to control tank cleaning wastewater discharges. Several commenters were concerned with the discrepancy of treatment options proposed for the truck and rail segments of the industry.

EPA also received technical comment questioning the presence of specific pesticides in raw tank truck cleaning wastewater, and the pollutant removals associated with these pesticides for the various options.

EPA also received comments from stakeholders that encouraged EPA to explore the use of pollution prevention plans as an alternative to extensive treatment. Generally, EPA seeks to encourage practices that reduce pollutant generation or minimize the extent to which they enter treatment systems because of the substantial opportunities for reducing both treatment costs and the total pollutant load to the environment. Specifically, the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101 et seq., Pub. L. 101–508, November 5, 1990) "declares it to be the national policy of the United States that pollution should be prevented or reduced whenever feasible; pollution that cannot be prevented should be recycled in an environmentally safe manner, whenever feasible; pollution that cannot be prevented or recycled should be treated in an environmentally safe manner whenever feasible; and disposal or release into the environment should be employed only as a last resort * * *".

As described in Section VIII.A of the proposal, EPA identified and evaluated a number of pollution prevention controls applicable to the industry, including the use of dedicated tanks, heel (residual cargo remaining in tanks following unloading) minimization, water conservation practices, and reduction in the toxicity and amount of chemical cleaning solutions. These controls were also described in more detail in Chapter 8 of the proposed Technical Development Document. EPA identified these controls as voluntary practices that many facilities in the industry were already incorporating. POTWs have also required such practices as part of their local pretreatment requirements. For example, some POTWs have required that facilities segregate specific wastewaters such as cleaning solutions or pesticide residues, or have prohibited the discharge of wastewaters associated with acid brighteners.

EPA believes that pollution prevention and effective pollutant management is an appropriate and effective way of reducing pollutant discharges from this subcategory. Further, the Agency believes that providing a pollution prevention compliance option may be less costly than the technology options considered for regulation. Therefore EPA is providing both a pollution prevention option based on development and implementation of a Pollutant Management Plan (PMP) and a set of numeric limits allows facility owners and operators to choose the less expensive compliance alternative. Based on its economic analysis of technology Option I, EPA believes that PSES and PSNS based on a choice between effective pollution prevention and limits based on Option I is economically achievable for this subcategory. For the portion of the industry that already has extensive treatment in place, it may be more cost effective to comply with the numeric limits. Conversely, for those facilities already utilizing good pollution prevention practices and/or operating in accordance with a PMP, it may be more cost effective to use the pollution prevention compliance alternative.

Nationally applicable pretreatment standards are designed to prevent pass through or interference with a POTW. The legislative history of the 1972 Act indicates that pretreatment standards are to be technology-based and analogous to the BAT effluent limitations guidelines for removal of toxic pollutants. EPA conducted a pass through analysis for the pollutants of concern. EPA determined that several pollutants would pass through a POTW. The results of this analysis are presented in Section VI. of this notice. Today's rule includes numeric limits for several of these pollutants for facilities which choose not to use the pollution prevention compliance option.

Without considering a pollution prevention compliance option, Option A has a post-tax annualized cost of $5.2 million ($8.1 million pre-tax) for 286 facilities. Option I's cost is $9.2 million ($14.4 million pre-tax), and Option II's cost is $20.9 million ($32.9 million pre-

tax). Costs for any of the options in combination with a pollution prevention compliance option would likely be lower.

For the final regulation, EPA projects that there will be no closures or employment impacts for any option (even without a Pollution prevention compliance option) when a positive cost pass through assumption is made. When zero cost pass through is assumed, EPA's economic analysis indicates that 14 facilities may experience financial stress at Option I, and that 22 facilities may experience financial stress at Option II. At Option I, none of the 14 facilities experiencing financial stress are small businesses; at Option II, 7 of the 22 facilities experiencing financial stress are small businesses.

In addition to the financial stress analysis, EPA also evaluated revenue impacts at small businesses. EPA projects that the compliance cost would not be greater than three percent of revenue for any small businesses at Option I, but would exceed that percentage for 14 small business at Option II under the positive cost pass through assumption. For the zero cost pass through assumption, 14 small businesses are projected to exceed revenue impacts of three percent at Option A; 29 small businesses at Option I; and 36 small businesses at Option II.

Option A is projected to result in no monetized benefits. EPA estimates that implementation of Option I will result in significantly higher benefits than Option A, ranging from $1.5 million to $5.2 million annually. However, EPA estimates that Option II would not result in any significant additional monetized benefits incremental to Option I.

EPA also examined the projected pollutant removals and cost effectiveness of each option. In assessing removals of toxic pollutants, EPA estimates actual reductions that would be achieved by the treatment option under consideration, adjusts these to account for removals that occur at the POTW anyway, and then converts the actual pounds removed to toxic pound equivalents using a standardized set of toxic weighting factors. For Option A, EPA projects total removals for this subcategory of 1,500 toxic pound equivalents. For Option I, EPA projects total removals for this subcategory of 11,700 toxic pound equivalents. For Option II, EPA projects total removals for this subcategory of 20,900 toxic pound equivalents.

Section X of the preamble for the proposed rule describes EPA's cost effectiveness analysis. EPA uses cost effectiveness to evaluate the relative efficiency of each option in removing toxic pollutants. The cost effectiveness of Option A is estimated to be $3,200/PE. The average cost effectiveness of Option I is estimated to be $740/PE , and the incremental cost effectiveness over Option A is estimated to be $370/PE . The average cost effectiveness of Option II is estimated to be $940/PE , and the incremental cost effectiveness over Option I is estimated to be $1,200/PE .

EPA notes that these cost-effectiveness estimates do not include any credit for reductions of a number of pesticides, herbicides, or other toxic agents that may be present in TEC wastewater at some facilities but that were not found at the time of EPA's sampling. According to the detailed questionnaire responses, EPA notes that over 3,000 types of cargos are being cleaned at tank truck facilities. However, absent better estimates, EPA based its analysis on those toxic substances that were confirmed present by its sampling protocols. Based on the number presented above, EPA was concerned that the cost effectiveness estimates were high and the toxic removal estimates were low when compared to those calculated for many of the primary manufacturing industries for which EPA has promulgated pretreatment standards.

As the Agency evaluated whether or not to establish pretreatment standards for this subcategory, and at what technology option, EPA compared its information on this subcategory to that for the Industrial Laundries point source category (64 FR 45072), which EPA ultimately decided not to regulate at the national level.

First, EPA found that the estimated pollutants were similarly low for both industries. However, in contrast to the Industrial Laundries decision, the TEC record identifies a wide range of pollutants of concern to POTWs, and identified problems (past and recent) with TEC facilities that have included interference and pass through, upsets due to slug loads, not meeting local limits, and sludge contamination. These problems have generally been addressed by the application of appropriate local limits. Pretreatment authorities submitting comments on the proposal generally supported regulation of this industry. Already, 44% of the industry has been required to install technology equivalent to Option I, and 86% of the industry has been required to install technology equivalent to Option A.

Second, for industrial laundries, EPA estimated a reduction of 32 PE per facility at an average cost of $84,000 ($1998 post-tax) for the preferred option among the technology options. EPA estimates that under the preferred option for this TEC subcategory (Option I), a reduction of 40 PE per facility would be achieved at an average cost of $30,000 ($1998 post-tax).

Third, in terms of the cost effectiveness analysis, the economically achievable options for both industries had costs per PE that are high. However, the CE for laundries (at $2,360/PE) was significantly higher than the CE for this subcategory of the TEC industry (at $740/PE).

Finally, in terms of economic impacts, EPA determined that the preferred option was economically achievable in both cases. However, EPA also noted that 44 laundry facilities were projected to close under the preferred option, and no firms were projected to experience stress. No facility closures are projected under the preferred option for this TEC subcategory, and no facilities were projected to experience financial stress if they are able to pass some costs through to customers. If the facilities were unable to pass costs through to customers, 14 facilities are projected to occur financial stress.

EPA also notes that the cost-benefit analysis for the preferred treatment option for the industrial laundries industry indicated that the rule, if published, would have annual pre-tax costs of $131.2 million (1993$) and annual monetized benefits of $0.07–$0.35 million (1993$). The Truck/Chemical & Petroleum Subcategory has an annual pre-tax cost of $14.4 million and annualized monetized benefits of $1.5–$5.2 million (1998$) annually.

In summary, EPA has determined that in some respects, this subcategory is similar to the industrial laundries industry that EPA decided not to regulate (*e.g.* small pollutant removals) but in other respects it is significantly different (*e.g.* greater potential for POTW interference and less significant economic impacts).

While EPA believes that pretreatment standards are appropriate for the TEC industry, EPA acknowledges that costs for some facilities may be high relative to removals. For the 14% of facilities with no treatment in place, EPA estimated that the average cost per facility could be as high as $100,000 per year on a pre-tax basis, and would remove 67 PE per facility per year. The Agency also does not want to establish an inflexible regulation that may not be able to offer the most environmentally responsible yet cost effective solution to a particular wastestream at a individual TEC facility. In light of this, and considering the wide variety of tanker cargos accepted for cleaning, EPA recognizes that one of the most

successful means of reducing the discharge of pollutants in wastewater may be pollution prevention and source reduction.

EPA evaluated potential regulatory structures for pollution prevention practices and concluded that the Agency should promulgate a regulatory option that would reduce the pollutant loadings being discharged and also prevent pass through and interference, but that may allow more opportunities for pollution prevention than nationally applicable numeric pretreatment standards. In evaluating a pollution prevention alternative, EPA considered a number of factors that included public comments received, industry support, costs, and environmental benefits. EPA believes that the pass through and interference of pollutants of concern to EPA and to the pretreatment authorities can be appropriately controlled through effective pollution prevention and pollutant management tailored to the circumstances of the individual facility through a Pollutant Management Plan. EPA believes these pollutants can also be controlled through compliance with the numeric limits based on technology Option I. EPA is thus offering both options for compliance with PSES and PSNS.

EPA has had discussions with industry stakeholders and the U.S. Small Business Administration Office of Advocacy and EPA believes that it has sufficient support from stakeholders to proceed with this dual approach, and that this approach will provide effective pollutant reductions that prevent pass through, interference, and sludge contamination at the POTWs.

EPA has chosen to establish a pollution prevention compliance option, as well as tradition PSES and PSNS limits based on Option I. EPA does not believe that the lower cost Option A removed enough toxics to justify its selection as the basis for pretreatment standards. Additionally, EPA agrees with comments received from pretreatment authorities, including the Association of Metropolitan Sewerage Agencies (AMSA), that oil/water separation alone is not effective for achieving appropriate reductions of the pollutants which may be discharged by TEC facilities. AMSA also indicated its support for effective pollution prevention practices as an alternative to numeric limits for these facilities.

Although Option II removed significantly more pound equivalents than Option I, Option II does not achieve significant incremental reductions for any regulated pollutant and is not projected to result in any increased monetized benefits. Also, EPA notes that Option II has the potential to cause more economic impacts than Option I. EPA does not believe that the considerable cost increase for Option II incremental to Option I is justified. Therefore, EPA decided that limits based on Option II are not appropriate for this subcategory.

EPA believes that a dual approach which offers facilities a choice between Pollution prevention and compliance with numeric limits based on Option I is economically achievable and will significantly reduce pollutant loadings. Option I does not result in any projected closures, even with a zero cost pass through assumption. Although 14 facilities are projected to incur financial stress under this assumption, this is a relatively small percentage of the subcategory population (two percent of the industry) and none of these facilities are small businesses. Under the assumption of some cost pass through to customers, no facilities are projected to experience financial stress. Additionally, EPA believes that it has responded to many commenters' concerns by requiring similar levels of control for the truck and rail subcategories and by providing the pollution prevention compliance option for both subcategories and by omitting granular activated carbon, a potentially costly treatment addition, from the selected PSES and PSNS treatment option for the Truck/Chemical & Petroleum Subcategory. Also, EPA has made a finding of no barrier to entry associated with Option I level of control for new sources (discussed in Section VIII). Therefore, EPA is establishing PSES and PSNS based on a dual approach involving a pollution prevention compliance option and traditional limits based on Option I technologies.

The Agency believes that the implementation of a Pollutant Management Plan that ensures that heels, chemicals, and mixtures that are incompatible with POTW systems are not discharged to POTWs, and ensures appropriate handling of such materials (by recycle, reuse, effective pretreatment, or off-site treatment or disposal) would provide comparable effluent reductions. Wastewaters resulting from heel removals, prerinse solutions, and cleaning solutions normally contain the highest concentrations of pollutants in TEC wastewater. Some faciilities will find it less costly to implement pollution prevention and pollutant management controls, while others will find it less costly to meet numeric limits. As a regulatory compliance alternative, facility owners and operators would be given the flexibility to choose the less expensive compliance alternative, *i.e.* either meeting the specific numeric pretreatment standards, or by implementing a Pollutant Management Plan.

The management plan would require facilities to implement procedures for identifying cargos, the cleaning of which is likely to result in discharges of pollutants that would be incompatible with treatment at the POTW. This would include cargos containing pesticides, herbicides, and other toxic compounds that are not effectively treated by biological treatment. The plan would also require facilities to fully drain heels from such cargos, segregate those heels from other wastewaters, and handle them in an appropriate manner. Appropriate handling of heels could include return of the heel to the customer, off-site treatment or disposal, or pretreatment that has been demonstrated to result in sufficient reductions to prevent pass through or interference. The plan would likewise require facilities to prerinse or presteam such cargos as appropriate, segregate the prerinse/presteam wastewaters from other wastewaters as appropriate and handle in an appropriate manner to ensure that they do not cause or contribute to a discharge that would be incompatible with treatment at the POTW. Appropriate handling of prerinse/presteam wastewaters could include recycle/reuse, off-site treatment or disposal, or pretreatment that has been demonstrated to result in sufficient reductions to prevent pass through or interference.

In addition, the plan would require that all spent cleaning solutions be segregated as appropriate and handled in an appropriate manner to ensure that they do not cause or contribute to a discharge that would be incompatible with treatment at the POTW. Spent cleaning solutions include interior caustic washes, interior presolve washes, interior detergent washes, interior acid washes, and exterior acid brightener washes. Appropriate handling of spent cleaning solutions could include regeneration of the solutions, off-site treatment or disposal, or pretreatment that has been demonstrated to result in sufficient reductions to prevent pass through or interference.

The plan would also require the appropriate recycling or reuse of cleaning agents; the minimization of toxic cleaning agent use; and the maintenance of appropriate records on heel management, prerinse/presteam management, cleaning agent management, operator training, and

proper operation and maintenance of any pretreatment systems.

The plans would also provide information on the volumes, content, and chemical characteristics of cleaning agents used in cleaning or brightening operations.

EPA has identified these pollution prevention practices through its data collection efforts in support of this rulemaking, and EPA believes that it has developed the most appropriate combination of Pollution prevention practices that provides maximum flexibility while ensuring significant pollutant reductions.

*B. Rail/Chemical & Petroleum Subcategory*

1. BPT, BCT, BAT and NSPS for the Rail/Chemical & Petroleum Subcategory

EPA evaluated three treatment options for the final regulation:

Option I: Oil/Water Separation, Equalization, Biological Treatment, and Sludge Dewatering.

Option II: Oil/Water Separation, Equalization, Dissolved Air Flotation (with Flocculation and pH Adjustment), Biological Treatment and Sludge Dewatering.

Option III: Oil/Water Separation, Equalization, Dissolved Air Flotation (with Flocculation and pH Adjustment), Biological Treatment, Organo-Clay/Activated Carbon Adsorption, and Sludge Dewatering.

EPA proposed Option I for BPT, and proposed to establish BCT and BAT equivalent to BPT. EPA proposed Option III for NSPS. EPA did not receive any comments following the proposal or the NOA specific to establishing limits for direct discharging facilities in this subcategory.

All regulated toxic parameters were treated to the same level at Options I, II, and III. As discussed in Section VI, EPA did not have sampling data for direct dischargers in this subcategory because EPA only identified one direct discharger and it does not have the treatment technology used as the basis for BPT. EPA has therefore relied on technology transfer from the Barge/Chemical & Petroleum Subcategory to establish limits for conventionals, and data from indirect dischargers in the Rail/Chemical & Petroleum Subcategory to establish limits for toxic pollutants. Although EPA believes that the treatment in place at the one rail direct discharging facility (consisting of oil/water separation, equalization, pH adjustment, biological treatment, and a filter press) is sufficient to meet the limitations, EPA has decided to establish BPT, BCT, BAT, and NSPS based on Option II, which includes dissolved air flotation (DAF). EPA believes that this is the most appropriate technology because the dataset used to transfer limits (from both the rail indirect facilities and the barge direct facilities) includes DAF treatment. Therefore, EPA has included the additional costs of DAF treatment for the one direct discharging rail facility, even though this has not changed the limitations presented in the NOA.

As discussed in Section VIII.B.1.c of the proposal, EPA evaluated the costs, loads, and impacts of the one model direct discharging facility. EPA estimates that the cost of implementing Option I, for monitoring only, is about $4,900 annually on a post-tax basis ($7,600 pre-tax). EPA's estimate of costs for Option II is $40,800 annually on a post-tax basis ($59,000 pre-tax), and for Option III is $60,600 annually on a post-tax basis ($89,000 pre-tax). EPA projects that this facility would not close or experience revenue impacts, employment impacts, or financial stress at Option I or Option II level of control. EPA's economic analysis indicates that Option III would have higher costs for the existing facility used as the basis for today's regulation. The single direct discharge facility used for analysis would not close under Option III, but this facility would have annualized costs that exceed three percent of annual revenue. The results of the annualized costs to sales analysis shows a high impact that should be avoided if possible since these additional costs would not provide incremental pollutant removals in comparison to Option II.

In addition, the incremental economic impacts projected at Option III may create a barrier to entry for new sources. Therefore, EPA does not believe that there are additional removals or benefits to be obtained by establishing NSPS at a more stringent level of control, and EPA decided to establish NSPS equivalent to BPT, BCT, and BAT.

2. PSES and PSNS for the Rail/Chemical & Petroleum Subcategory

EPA considered three options for the final regulation:

Option I—Oil/Water Separation.

Option II—Oil/Water Separation, Equalization, Dissolved Air Flotation (with Flocculation and pH Adjustment), and Sludge Dewatering.

Option III—Oil/Water Separation, Equalization, Dissolved Air Flotation (with Flocculation and pH Adjustment), Organo-Clay/Activated Carbon Adsorption, and Sludge Dewatering.

EPA proposed Option I for PSES and Option III for PSNS. As discussed in Section VIII.B.5.d of the proposal, the economic impacts to the industry played a large role in EPA's selection of Option I for pretreatment standards. EPA noted that its preliminary conclusion was that Option II was projected to result in six facility closures and was not considered to be economically achievable.

EPA received several comments on the pollutant control technologies proposed for the Rail/Chemical & Petroleum Subcategory. EPA received comments from several entities, including AMSA, who argued that oil/water separation alone is not sufficient pretreatment for the pollutants in Rail/Chemical & Petroleum Subcategory wastewaters. Additionally, many commenters have expressed concern about the discrepancy in treatment technology proposed for the rail and truck facilities. Several commenters argued that the wastewater characteristics are similar for truck and rail facilities, and that the treatment options should therefore be similar for facilities which potentially compete with each other.

EPA has determined that a Pollutant Management Plan is an appropriate compliance alternative to the numerical pretreatment standards also being promulgated in today's rule for the rail/chemical and petroleum subcategory. As explained elsewhere in today's notice, the Agency believes this Pollutant Management Plan alternative is consistent with the CWA and the Pollution Prevention Act of 1990; is comparable to the numerical standards in terms of pollutant removal and costs incurred by facilities; is economically achievable; and will allow an appropriate level of flexibility to facility owners and operators on how to best achieve a reduction in pollutants being discharged to the POTW. The full discussion of the Agency's reasoning is set forth in section V.A of today's notice.

In the proposal, EPA also noted this discrepancy, and noted that there were many similarities between the truck and rail subcategory wastewaters, and that the most significant reason for proposing dissimilar technology options in the truck and rail subcategories was due to economic considerations. EPA's analysis showed that several rail facilities were unable to incur the costs of a more stringent regulatory option without sustaining significant economic impacts. However, all of the financially

stressed rail facilities will now qualify for the low flow exclusion (see Section III.C of this notice). Additionally, as discussed in Section VI, EPA has reduced monitoring costs by establishing indicator parameters. Removing low flow facilities and some monitoring costs from EPA's analysis has affected the total costs, loads, and economic impacts of the technology options for this subcategory.

For the final regulation, EPA estimates that Option I will have an annualized cost of $589,000 post-tax ($897,000 pre-tax), Option II will cost $1.0 million post-tax ($1.5 million pre-tax), and Option III will cost $1.6 million post-tax ($2.5 million pre-tax). EPA projects that Option I and Option II will both result in monetized benefits of $54,000 to $285,000 annually, and that Option III would result in benefits of $1.0 to $3.9 million annually.

EPA conducted a pass through analysis for the pollutants selected for regulation under BAT. EPA determined that several pollutants would pass through a POTW. The results of this analysis are presented in Section VI. of this notice.

For Options I, II, and III, EPA anticipates no closures, revenue impacts, or employment impacts at even the most conservative assumption of no cost pass through. Additionally, EPA does not anticipate any facilities will experience financial stress at Options I, II, or III.

EPA also considers the cost effectiveness to evaluate the relative efficiency of each option in removing toxic pollutants. Option I is projected to remove 6,600 pound equivalents, Option II will remove 7,300 pound equivalents, and Option III will remove 7,800 pound equivalents.

EPA has decided to establish PSES and PSNS based on Option II. Although Option III is projected to remove more pound equivalents and also result in higher monetized benefits then Option II, Option III was not demonstrated to achieve significant reductions incremental to Option II for any regulated pollutant. The increase in monetized benefits in Option II was due to the removal of several pesticides not proposed for regulation. EPA has discussed its rationale for not establishing limitations for pesticides in Section VI. Therefore, EPA does not believe that the higher costs for Option III justify its selection for pretreatment standards for new sources.

As noted in the NOA, the cost of Option II is 70 percent higher than the costs for Option I, and the corresponding increase in pound equivalents removed is approximately 10 percent. Comparatively, the cost of Option III is 65 percent higher than the costs for Option II, and the corresponding increase in pound equivalents removed is approximately six percent. While this results in a relatively high incremental cost-effectiveness ratio for both Options II and III, EPA has decided to establish PSES based on Option II for the reasons discussed above. Option II, which is analogous to Option I in the Truck/Chemical & Petroleum Subcategory, achieves a significant reduction in toxic loadings and results in no closures, financial stress, or revenue impacts. Additionally, EPA has modified the proposal to decrease costs for the industry, and the final costs for Option II are roughly equivalent to the costs estimated for Option I at proposal. EPA has therefore decided to establish PSES and PSNS based on Option II.

*C. Barge/Chemical & Petroleum Subcategory*

1. BPT, BCT, BAT, and NSPS for the Barge/Chemical & Petroleum Subcategory

EPA considered two options for the final regulation:

Option I: Oil/Water Separation, Dissolved Air Flotation, Filter Press, Biological Treatment, and Sludge Dewatering.

Option II: Oil/Water Separation, Dissolved Air Flotation, Filter Press, Biological Treatment, Reverse Osmosis, and Sludge Dewatering.

EPA proposed Option I for BPT, and proposed to establish BCT, BAT and NSPS equivalent to BPT. EPA estimates the annualized costs for Option I at $89,500 annually post-tax ($146,300 pre-tax) and Option II at $345,700 annually post-tax ($540,900 pre-tax). EPA estimates that both Option I and Option II remove 19,300 pounds of $BOD_5$ and TSS. Based on the treatment technologies in place at the model facilities, coupled with the biological treatment system upgrades estimated by EPA to achieve Option I performance levels, EPA predicts that Option II would not result in any additional removal of toxic pollutants because most pollutants are already treated to very low levels, often approaching or below non-detect levels. EPA did not receive any support for establishing BPT, BCT, BAT, or NSPS at Option II.

EPA has therefore decided to establish BPT, BCT, BAT, and NSPS based on Option I.

2. PSES and PSNS for the Barge/Chemical & Petroleum Subcategory

EPA considered three options for the final regulation:

Option I—Oil/Water Separation, Dissolved Air Flotation, and Filter Press.

Option II—Oil/Water Separation, Dissolved Air Flotation, Filter Press, Biological Treatment, and Sludge Dewatering.

Option III—Oil/Water Separation, Dissolved Air Flotation, Filter Press, Biological Treatment, Reverse Osmosis, and Sludge Dewatering.

EPA proposed Option II for PSNS. EPA did not propose PSES for the Barge/Chemical & Petroleum Subcategory because EPA identified only one facility discharging to a POTW. However, since the proposal, EPA has identified four facilities which previously discharged directly to surface waters and have since either switched or plan to switch discharge status. EPA noted this change in discharge status for these four barge facilities in the NOA, and EPA now estimates that there are five facilities in EPA's model which discharge wastewater to a POTW.

EPA evaluated the treatment in place and levels of control currently achieved by the model indirect discharging Barge/Chemical & Petroleum facilities. EPA was able to evaluate effluent discharge concentrations of $BOD_5$, TSS, and oil and grease from each of these model facilities (EPA did not have the data to evaluate the discharge concentrations of other parameters). Based on the discharge concentrations of these conventional pollutants, EPA believes that all model indirect discharging facilities are meeting the levels of control that would be established under PSES, and that the effluent concentrations of other pollutants of interest would also be similarly controlled.

Therefore, EPA estimates that the cost of implementing PSES standards equivalent to PSNS would be solely for increased monitoring costs, totaling approximately $67,000 (pre-tax) annually. EPA believes that all indirectly discharging facilities have sufficient treatment in place to meet standards that would be established under PSES. EPA predicts that there would be no incremental removals or benefits associated with establishing PSES standards. EPA has not received any comments that disagreed with the Agency's assessment that existing facilities would meet the standards.

EPA evaluated the pass through of pollutants regulated under BAT. As was

discussed at proposal for establishment of NSPS, and in the NOA for SGT–HEM, EPA found that a number of pollutants would in fact pass through a POTW based on BAT treatment. Due to the pass through of a number of pollutants, and due to the number of facilities that have switched discharge status since proposal, EPA concluded that it should establish PSES and PSNS based on Option II. EPA believes that PSES is necessary in order to establish similar levels of control for direct and indirect dischargers, and especially to establish similar levels of control for those facilities which may decide to switch discharge status.

As noted under NSPS for the Barge/Chemical & Petroleum Subcategory, EPA believes that Option III, consisting of reverse osmosis treatment, would not result in a significant reduction of toxic pollutants, because most pollutants are already treated to low levels based on Option II level of control. Option II was demonstrated to treat many regulated pollutants to effluent levels approaching the detection limit. EPA has therefore decided to establish PSES and PSNS based on Option II.

*D. Food Subcategory*

EPA proposed to establish separate subcategories for the Truck/Food, Rail/Food, and Barge/Food subcategories due to the differences in the amount of water generated per cleaning by truck, rail, and barge facilities. The different volumes of wastewater were used to establish distinct mass-based limits in each of the subcategories. However, EPA is establishing concentration-based instead of mass-based limits, making further subcategorization of food facilities by transportation mode unnecessary.

1. BPT, BCT, BAT, and NSPS for the Food Subcategory

EPA considered the following options for the final regulation:

Option I—Oil/Water Separation.
Option II—Oil/Water Separation, Equalization, Biological Treatment, and Sludge Dewatering.

Based on screener survey results, EPA estimates that there are 19 direct discharging facilities in the Food Subcategory.

EPA proposed Option II for BPT, BCT, and NSPS. In the proposal, EPA stated that no additional pollutant removals and no additional costs to the industry were projected because all facilities identified by EPA currently have the proposed technology in place. EPA has not received any comment objecting to the assumptions or conclusions contained in the proposal. EPA therefore continues to believe that all food grade facilities currently have the proposed treatment technology in place, and that Option II represents the average of the best treatment. EPA has decided to establish BPT at Option II, and to establish BCT and NSPS equivalent to BPT. Based on the analysis of existing facilities, EPA concluded that there would be no barrier to entry for new sources based on Option II. Additionally, EPA did not identify any treatment technology for the Food Subcategory that would achieve significant pollutant removals or would establish effluent limitations significantly more stringent than those being established under BPT. EPA is not establishing BAT because EPA did not identify toxic or non-conventional pollutants at levels sufficient to merit regulation.

2. PSES and PSNS for the Food Subcategory

In the Agency's engineering assessment of pretreatment of wastewaters for the Food Subcategory, EPA considered the types and concentrations of pollutants found in raw wastewaters in this subcategory. As expected, food grade facilities did not discharge significant quantities of toxic pollutants to POTWs. In addition, conventional pollutants present in the wastewater are amenable to treatment at a POTW. As a result, EPA did not propose to establish pretreatment standards for any of the food subcategories. Comments received on the proposal predominantly supported EPA's regulatory approach for the Food Subcategory. Therefore, EPA is not establishing PSES or PSNS for the Food Subcategory in the final regulation.

*E. Truck/Hopper, Rail/Hopper, and Barge/Hopper Subcategories*

1. BPT, BCT, BAT, and NSPS for the Truck/Hopper, Rail/Hopper, and Barge/Hopper Subcategories.

EPA did not propose to establish BPT, BAT, BCT, or NSPS regulations for any of the hopper subcategories. EPA concluded that hopper facilities discharge very few pounds of conventional or toxic pollutants. This is based on EPA sampling data, which showed very few priority toxic pollutants at treatable levels in raw wastewater. Additionally, very little wastewater is generated from cleaning the interiors of hopper tanks due to the dry nature of bulk materials transported. EPA estimates that nine hopper facilities discharge 21 pound equivalents per year to surface waters, or about two pound equivalents per year per facility. Comments on the proposal generally supported EPA's conclusion on the hopper subcategories. Therefore, EPA concluded that nationally-applicable regulations are unnecessary and hopper facilities will remain subject to limitations established on a case-by-case basis using Best Professional Judgement.

2. PSES and PSNS for the Truck/Hopper, Rail/Hopper, and Barge/Hopper Subcategories

EPA also did not propose to establish PSES or PSNS for any of the hopper subcategories. EPA estimates that there are 42 indirect discharging hopper facilities which discharge a total of 3.5 pound equivalents to the nation's waterways, or less than one pound-equivalent per facility. Additionally, EPA estimates that the total cost to the industry to implement PSES would be greater than $350,000 annually. The estimated costs to control the discharge of these small amounts of pound equivalents were not considered to be reasonable. EPA also evaluated the levels of pollutants in raw wastewaters and concluded that none were present at levels that are expected to cause inhibition to the receiving POTW.

Therefore, EPA concluded that nationally-applicable regulations are unnecessary and hopper facilities will remain subject to local pretreatment limits as necessary to prevent pass through or interference.

## VI. Development of Effluent Limitations

*A. Selection of Pollutant Parameters for Final Regulation*

EPA based its decision to select specific pollutants for regulation on a rigorous evaluation of available sampling data. This evaluation included factors such as the concentration and frequency of detection of the pollutants in the industry raw wastewater, the relative toxicity of pollutants as defined by their toxic weighting factors, the treatability of the pollutants in the modeled treatment systems, and the potential of the pollutants to pass through or interfere with POTW operations. Particular attention has been given to priority pollutants which have been detected at treatable levels. EPA has attempted to select several pollutants which have been frequently detected at sampled facilities, which are possible indicators of the presence of similar pollutants, and whose control through some combination of physical, chemical, and biological treatment will be indicative of a well-operated

treatment system capable of removing a wide range of pollutants.

EPA proposed to establish limits for a list of pollutants that included classical pollutants, semivolatile organics, and metals. EPA solicited and received numerous comments from stakeholders on the pollutants selected for regulation in each subcategory. In the NOA, EPA presented several changes being considered based on the comments received.

EPA did not propose to establish effluent limitations for any pesticide, herbicide, dioxin, or furan. These pollutants were not found in concentrations high enough to merit regulation, the cost associated with monitoring for these parameters is very high, and EPA's sampling data have shown that the discharge concentrations of pesticides, herbicides, dioxins, and furans are generally treated by the proposed technology options. In the case of dioxins and furans, the most highly toxic congeners were treated to nondetect values based on oil/water separation and coagulation/clarification. In its evaluation of treatment technologies, EPA compared the TEC treatment data to known characteristics of dioxins and furans, and to the correlation of TSS and oil & grease removals. Dioxins and furans are lipophilic and hydrophobic and are most often associated with suspended particulates and/or oils in wastewater matrices. Treatment technologies for dioxins and furans vary depending on the characteristics of the matrix. If wastes such as oils and greases are present, dioxins will tend to bind with the oil and can be effectively removed by treatments such as dissolved air flotation. If oils are not present, dioxins will tend to bind with particulates and can be effectively removed by treatments such as clarification and filtration.

The removal efficiencies for dioxins and furans across oil/water separation and coagulation/clarification ranged from 65–97 percent, (they would be 100 percent if the effluent nondetect value were set at zero), and paralleled the removal efficiencies of oil & grease and/or TSS.

In summary, EPA decided not to establish limitations for dioxin or furan congeners for several reasons: (1) the congeners found in TEC wastewater are not priority pollutants and were found at very low levels in raw wastewater, (2) the selected technology options were demonstrated to treat dioxin and furans to nondetect levels (due to control of TSS and oil and grease), and (3) dioxin and furan monitoring is very expensive (monitoring alone would increase the cost per facility by approximately $12,000 per year, compared to the average per facility cost of the regulation of approximately $30,000 per year).

Several commenters disagreed with the Agency's conclusion and thought that EPA should establish limitations for these parameters due to their toxicity. However, most comments received by EPA supported EPA's conclusion not to regulate these parameters due to the high costs associated with monitoring and due to the fact that these pollutants are generally treated by the technologies identified in this rule. EPA has decided not to establish limitations for pesticides, herbicides, dioxins, or furans in the final regulation. However, NDPES permits for any individual TEC facility must include certain other pollutants in given circumstances. For example, permits must include limitations that are necessary to ensure compliance with water quality standards and State requirements. See 40 CFR 122.44(d). Moreover, TEC industry permittees must submit with their permit application detailed monitoring information on an extensive list of pollutants. See 40 CFR 122.21(g)(7). Their permits must include technology-based limits for any toxic pollutant which the permit writer determines is or may be discharged at a level greater than the level which can be achieved by treatment requirements appropriate to the permittee. The permit writer would establish case-by-case limits for such pollutants. See 40 CFR Part 125.3 (c)(3).

EPA proposed to establish limitations for chemical oxygen demand (COD). EPA received numerous comments opposed to the Agency's preliminary decision to regulate COD and, based on these comments, EPA has decided to eliminate COD as a regulated pollutant. The majority of comments received were from POTW operators who did not want EPA to establish pretreatment standards for COD. The commenters believed that COD pollutant loads generated from tank cleaning facilities were easily treated biologically in a POTW. EPA has agreed with commenters that the levels of COD generated from tank cleaning facilities are adequately treated in a POTW and, thus, will not pass through or interfere with its operation. Additionally, EPA believes COD would be adequately controlled through the regulation of other conventional pollutants, including BOD and oil and grease for direct dischargers. EPA did not receive any comments in opposition to this change, and EPA has not included limits for COD in the final regulation. Permit writers and local authorities should carefully examine the concentration and/or treatability of COD in TEC wastewater to determine if local limits are necessary.

EPA received comments from pretreatment authorities that EPA should regulate pollutants identified in TEC wastewater that may pass through the POTW or which may accumulate in the POTW sludge. The commenter specifically identified copper, lead, and mercury as pollutants of concern to the POTW. The commenter was especially concerned that mercury was identified in the proposal as a constituent of raw TEC wastewater and was identified as a pollutant of concern for the Truck/Chemical & Petroleum Subcategory and the Barge/Chemical & Petroleum Subcategory, but was not proposed for regulation in either subcategory. In response to these comments, EPA reevaluated the frequency of detection, the level of concentrations found in raw wastewater, and the pass through analysis for each of the regulated subcategories for the pollutants copper, lead, and mercury.

In the Rail/Chemical & Petroleum Subcategory, neither copper, lead, nor mercury was detected at significant concentrations in raw wastewater to merit national regulation.

In the Truck/Chemical & Petroleum Subcategory, lead was detected at very low concentrations and EPA determined that lead did not merit national regulation. However, copper was detected in 10 out of 10 samples, with an average concentration of 1,100 µg/L, and a maximum concentration of 9,200 µg/L. Due to the frequency of detects, relatively high raw wastewater concentrations, and toxicity of copper, EPA has promulgated effluent limitations for copper. EPA conducted a pass through analysis, and determined that copper does pass through a POTW. Therefore, EPA has established pretreatment standards for copper. Mercury was detected 8 out of 10 times, with an average concentration of 1.8 µg/L and a maximum concentration of 5.0 µg/L. Mercury was also determined to pass through a POTW. Due to the high toxicity of mercury, the high frequency of detects, relatively high raw wastewater concentrations, and pass through analysis, EPA has promulgated effluent limitations and pretreatment standards for mercury in the Truck/Chemical & Petroleum Subcategory.

In the Barge/Chemical & Petroleum Subcategory, mercury was detected three out of six times, with an average concentration of 5.4 µg/L and a maximum concentration of 81 µg/L. Although the detection frequency was only 50%, the raw wastewater concentrations reached high enough

levels to be of concern, especially for a pollutant as toxic as mercury. Mercury was also determined to pass through a POTW. Therefore, EPA has decided to promulgate effluent limitations and pretreatment standards for mercury in the Barge/Chemical & Petroleum Subcategory. Additionally, both lead and copper were detected at significant concentrations in raw wastewater to merit regulation and were determined to pass through a POTW. Due to the toxicity, frequency of detects, and relatively high raw wastewater concentrations of lead and copper, EPA has promulgated effluent limitations and pretreatment standards for lead and copper.

EPA did not propose to regulate mercury in either the Truck/Chemical & Petroleum Subcategory or the Barge/Chemical & Petroleum Subcategory. However, mercury was identified as a pollutant of concern in each of these subcategories and EPA developed long term averages and variability factors for mercury at the time of proposal, which were included in the proposed statistical support document (EPA–832–B–98–014). In calculating limits for the final regulation, EPA has used the same methodology as descibed in Section VIII of the proposal and as finalized in Section VI of this notice. Based on comments, EPA has concluded that it should establish effluent limitations and pretreatment standards for mercury.

EPA also received comments from pretreatment authorities and stakeholders on EPA's decision to establish limits for parameters such as zinc and chromium which are found in potable water supply systems, and which may be found at levels higher than the proposed limitations. The commenters questioned if the presence of these parameters in TEC wastewaters was the result of cleaning cargos, or the result of source water contamination. The commenter noted that maximum contaminant levels for zinc and chromium in drinking water are 5 mg/L and 0.1 mg/l, respectively, and that the proposed limitations were low in comparison to drinking water standards. In response, EPA evaluated sampling data from TEC wastewater and source water from the Truck/Chemical & Petroleum Subcategory and Barge/Chemical & Petroleum Subcategory.

Based on a data review of the Truck/Chemical & Petroleum Subcategory, EPA concluded that one of the highest concentrations of zinc found in truck/chemical process water was actually from source water supplied from a domestic water distribution system. Furthermore, all of the levels of zinc found in truck/chemical process water were within the range of concentrations that the commenter describes as being present in drinking water (*i.e.* less than 5 mg/l.) Therefore, EPA has concluded that zinc is not a pollutant of concern for this subcategory because the zinc levels present in dischargers from Truck/Chemical & Petroleum Subcategory facilities may be due to source water contamination rather than a direct result of cleaning tanks. Therefore, EPA has decided not to promulgate effluent limitations or pretreatment standards for zinc in the Truck/Chemical & Petroleum Subcategory. However, the average raw wastewater concentration of chromium in raw wastewater was 2.4 mg/L, and the maximum concentration was 18.6 mg/L. The levels of chromium in the source water at these facilities was much lower than raw wastewater concentrations, and were all less than 0.01 mg/L. Therefore, EPA concluded that chromium is a pollutant of interest in the Truck/Chemical & Petroleum Subcategory. However, based on the discussion in Section VI.A of this notice, EPA is not promulgating effluent limitations and pretreatment standards for chromium. However, with respect to the comment that the chromium limits are too low, EPA has recalculated the limits based on additional self monitoring data received from industry after publication of the NOA. The industry data represents the effluent levels attainable at a facility over a much longer time period that was represented by EPA's original data set. Because this data more accurately accounts for the variability present in tank cleaning wastewater, the limits have become less stringent.

In the Barge/Chemical & Petroleum Subcategory, the average raw wastewater concentration of zinc was 19 mg/L, and the maximum concentration found was 78.5 mg/L. The highest level of zinc in source water at barge facilities was 0.114 mg/L. Additionally, all source water concentrations of chromium were non-detect. Therefore, EPA concluded that the levels of zinc and chromium present in barge process water were the result of barge cleaning operations, and not due to source water contamination. EPA concluded that, due to the high levels present in raw wastewater, that zinc and chromium are pollutants of interest. EPA has decided to retain the effluent limitations and pretreatment standards for zinc and chromium in the Barge/Chemical & Petroleum Subcategory.

EPA received numerous comments from POTWs, industry trade associations, and affected facilities suggesting that EPA use oil and grease (measured as HEM) and total petroleum hydrocarbons as indicator pollutants for straight chain hydrocarbons proposed for regulation. As descibed in the NOA, EPA has revised the name of "total petroleum hydrocarbons" in Method 1664 to "non-polar material" to indicate that the new test method is different from previous versions. (64 FR 26315 May 14, 1999). Non-polar materials are measured by Silica-gel Treated n-Hexane Extractable Material (SGT–HEM). Oil and Grease continues to be synonymous with the Method 1664 for n-Hexane Extractable Material (HEM). EPA proposed to regulate oil and grease (HEM) for direct discharging facilities, and non-polar oil and grease (SGT–HEM) for indirect discharging facilities. As discussed in Section XIII.G of the proposal, EPA recognizes that HEM analysis can include edible oils (such as animal fats and vegetable oils) in addition to petroleum-based oils, which are the primary constituents measured by the SGT–HEM analysis. As discussed in Section VIII.B of the NOA, EPA has deemed non-polar material (SGT–HEM) to pass through a POTW due to the prevalence of petroleum-based compounds.

Many commenters argued that straight chain hydrocarbons are components of oil and grease (HEM) and non-polar material (SGT–HEM), and that their regulation as individual pollutants would be redundant and would impose additional, unnecessary costs on the industry. These straight chain hydrocarbons include n-Hexadecane, n-Hexacosane, n-Decane, n-Docosane, n-Dodecane, n-Eicosane, n-Octacosane, n-Octadecane, n-Tetracosane, n-Tetradecane, and n-Triacontane. EPA does not necessarily agree that regulation of such individual pollutants is redundant but has considered the comment and performed the evaluation described below.

EPA reviewed the treatment effectiveness data collected in support of this regulation, and found that the treatment effectiveness of these parameters is related to the treatment effectiveness of HEM and SGT–HEM. This is consistent with the chemical characteristics of HEM and SGT–HEM, which by definition include the straight chain hydrocarbons as constituents. In cases where oil and grease (HEM) and non-polar material (SGT–HEM) were effectively controlled, all of the pollutants listed above were treated to very low levels, such as in PSES/PSNS Option II in the Rail/Chemical & Petroleum Subcategory, which consists of oil/water separation and dissolved air flotation. This system achieved substantial removals of HEM and SGT–

HEM, along with the straight chain hydrocarbons listed above. Treatment effectiveness in the Barge/Chemical & Petroleum Subcategory demonstrated similar results.

Additionally, EPA reviewed data from a characterization study of the HEM and SGT–HEM test methods conducted for the Proposed Effluent Limitations Guidelines and Pretreatment Standards for the Industrial Laundries Point Source Category (63 FR 71054 December 23, 1998). This study was performed to characterize the individual constituents measured by method 1664 (HEM and SGT–HEM); the study is available for review in Section 16 of the regulatory record for the Industrial Laundries Effluent Guideline. The laundries data demonstrate that the HEM and SGT–HEM test methods provide a general indication of the presence of the straight chain hydrocarbons listed above in wastewater samples.

EPA proposed effluent limitations and pretreatment standards for chromium in the Truck/Chemical & Petroleum Subcategory based on EPA sampling data from one BAT facility. to develop long term averages. At the time of the NOA (July 20, 1999) EPA continued to propose effluent limitations and pretreatment standards for chromium based on the proposal methodology.

However, during the comment period on the NOA, the industry submitted additional self-monitoring data from the wastewater treatment plant that EPA had sampled, and from which EPA had developed the proposed limits. The data submitted by the facility demonstrated that it would actually exceed the proposed limitations on numerous occasions. Although a significant number of effluent monitoring chromium concentrations were similar to the concentrations observed by EPA during its sampling episode, a few data points were significantly higher than the values observed by EPA.

The facility only provided EPA copies of its DMRs and associated laboratory analyses, and did not provide any information on raw wastewater concentrations, treatment system operation, or lists of cleaning operations that were performed during the time of the self-monitoring sampling. Therefore, EPA cannot evaluate the effectiveness of treatment on those days with high chromium effluent concentrations. However, based on its knowledge of the industry, EPA hypothesizes that the high concentrations of chromium in the effluent are the result of the facility performing exterior acid washes on those days. Exterior acid washing is a common service that tank truck facilities provide to their customers to brighten and remove the tarnish from the chrome parts of a tank truck. This service leaches chromium from the external truck parts.

On the days that EPA sampled the facility, it did not perform acid brightener washes. Therefore EPA's sampling data did not include high concentrations of chromium. EPA believes that its chromium data is not representative of the practices that may be performed by tank truck facilities, and that the chromium limits based on EPA's sampling data may not be achievable for facilities that are performing acid washes for their customers.

However, because the facility provided no data about its raw wastewater concentrations, treatment effectiveness, or treatment unit operations on the days it reported self-monitoring data, EPA does not believe that it would be appropriate to establish long term averages based on the industry supplied self monitoring data. EPA is unable to evaluate the effectiveness of the treatment system.

Therefore, EPA has decided not to promulgate the effluent limitations and pretreatment standards for chromium in the Truck/Chemical & Petroleum Subcategory, and leave the establishment of any chromium limitations and standards to the BPJ of the permit writer.

As described in detail in Section X of this notice, EPA has spent a considerable amount of effort in developing an alternative pollution prevention option in lieu of national pretreatment standards for the industry. Specific to the concern of chromium in tank truck washwater, and realizing the potential for pollution prevention practices in lieu of national numeric standards, EPA has included in the P2 practices the segregation of exterior acid brighteners from other wastewaters, and has specified that these wastewaters must be handled in an appropriate manner to ensure that they do not cause or contribute to a discharge that would be incompatible with treatment at the POTW. While EPA is not promulgating this pollution prevention alternative for chromium for facilities that decided to meet the numeric limitations, EPA believes that the control authority may wish to incorporate pollution prevention in lieu of BPJ numeric limitations for chromium. EPA has received comments from a POTW that currently employs such a pollution prevention practice in order to prevent high levels of chrome from being discharged to its system.

Due to concerns about its own data, insufficient documentation of the industry's self monitoring data, inadequate time for additional field sampling and public notice of any sampling efforts, and the opportunities for appropriate pollution prevention practices, EPA is not establishing limitations or pretreatment standards for chromium and the control authority may establish BPJ chromium standards, or require chromium pollution prevention practices, based on an evaluation of site specific factors.

For direct discharging facilities, EPA is establishing limitations for the Truck/Chemical & Petroleum Subcategory for $BOD_5$, TSS, Oil and Grease (HEM), Copper, Mercury, and pH. For the Rail/Chemical & Petroleum Subcategory, EPA is establishing limitations for $BOD_5$, TSS, Oil and Grease (HEM), Fluoranthene, Phenanthrene, and pH. For the Barge/Chemical & Petroleum Subcategory, EPA is establishing limitations for $BOD_5$, TSS, Oil and Grease (HEM), Cadmium, Chromium, Copper, Lead, Mercury, Nickel, Zinc, and pH. Additionally, EPA is establishing limits for the Food Subcategory for $BOD_5$, TSS, Oil and Grease (HEM), and pH.

Finally, EPA conducted a pass-through analysis on the pollutants selected for regulation under BPT and BAT to determine if the Agency should establish pretreatment standards for any pollutant. (The pass-through analysis is not applicable to conventional parameters such as $BOD_5$, TSS, and Oil and Grease (HEM). EPA is establishing pretreatment standards for those pollutants which the Agency has determined to pass through a POTW. In addition, as discussed in the NOA, EPA has concluded that non-polar material (SGT–HEM) does pass through a POTW in the Truck/Chemical & Petroleum, Rail/Chemical & Petroleum, and Barge/Chemical & Petroleum Subcategories. EPA did not receive any comments on this pass through determination, and EPA has retained its conclusion for the final regulation.

Based on the pass-through analysis, EPA is establishing PSES and PSNS in the Truck/Chemical & Petroleum Subcategory for non-polar material (SGT–HEM), Copper and Mercury. EPA is establishing PSES and PSNS in the Rail/Chemical & Petroleum Subcategory for non-polar material (SGT–HEM), Fluoranthene, and Phenanthrene. Finally, EPA is establishing PSES and PSNS in the Barge/Chemical & Petroleum Subcategory for non-polar material (SGT–HEM), Cadmium, Chromium, Copper, Lead, Mercury, Nickel, and Zinc.

Regulated facilities can meet the final limitations through the use of any

combination of physical, chemical, or biological treatment, or implementation of pollution prevention strategies (*e.g.*, good heel removal and water conservation). Additional information on the development of effluent limitations and the technology options considered for regulation is included in Section VIII of the proposed rule, Section V of this notice and the Technical Development Document.

*B. Calculation of Effluent Limitations*

1. Changes in Methodology Since Proposal

The data and methodology used to calculate effluent limitations and pretreatment standards are located in Section 21 of the regulatory record. The data and methodology are the same as proposed with several exceptions.

One, EPA has calculated concentration-based instead of mass-based limits. EPA received many comments on the proposal criticizing EPA for proposing mass-based standards. EPA described these comments in the NOA and described an alternative methodology which would establish concentration-based limits. EPA received almost unanimous comment in support of concentration-based limits and has adopted concentration-based limits for the final regulation.

Two, EPA has used data provided by industry to calculate final effluent limitations. EPA used data from two additional Barge/Chemical & Petroleum facilities for the calculation of $BOD_5$ and TSS limits, as discussed in Section II of the NOA. EPA has received no comment on the use of this additional data, and EPA has continued to use these data for developing the final $BOD_5$ and TSS limitations. EPA has used additional data from one Truck/Chemical & Petroleum Subcategory facility for the calculation of variability factors for copper, and mercury. The data provided consisted of self monitoring data for a facility that was sampled by EPA and used to calculate proposed effluent limitations. EPA had already determined this site to represent BAT treatment. EPA has used this additional self-monitoring data to determine variability factors because it represents treatment performance over a much longer time period (4 years) than was demonstrated from EPA sampling data. The complete dataset, including lab reports and certified monitoring reports, can be found in Section 15.2.2 of the regulatory record.

Third, EPA has used the pollutant-specific variability factor where available, and then calculated group and fraction-level variability factors by taking a median of all pollutants effectively removed in a chemical class, rather than using the median of only those pollutants selected for regulation in a chemical class. EPA believes this revised methodology is appropriate because the Agency believes that all pollutants in a chemical class will behave similarly, regardless of whether or not it is selected for regulation. This change was also presented in the NOA, and EPA did not receive any comment on this revised methodology. EPA has adopted this methodology for the final regulation.

Fourth, EPA has used technology transfer to establish PSES standards for non-polar material (SGT–HEM) in the Truck/Chemical & Petroleum Subcategory. EPA proposed pretreatment standards for SGT–HEM in the Truck/Chemical Subcategory based on the data from two Truck/Chemical facilities. However, EPA feels that the SGT–HEM standards developed for this subcategory may not be achievable, because the raw wastewater concentrations at these two facilities were 65 mg/L and 61 mg/L, whereas the average raw wastewater concentration for the Truck/Chemical & Petroleum subcategory was measured to be 150 mg/L. EPA is aware that some facilities in the Truck/Chemical & Petroleum Subcategory may be generating wastewater with significantly higher concentrations of oil and grease than EPA considered in the proposed limitations. Therefore, EPA transferred standards for SGT–HEM from similar treatment technologies operated in the Rail/Chemical & Petroleum Subcategory. As mentioned previously, this system consisted of oil/water separation followed by dissolved air flotation (DAF) and achieved 98 percent removal of HEM for wastewater that had an influent concentration of 1,994 mg/L. For SGT–HEM, the system achieved a 97 percent removal for wastewater that had an average influent concentration of 206 mg/L. EPA believes that technology transfer of SGT–HEM establishes limitations that are achievable for all facilities in the Truck/Chemical & Petroleum Subcategory. As discussed in Section III.F and VI.A, EPA is establishing HEM (for direct dischargers) and SGT–HEM (for indirect dischargers) as indicator pollutants for several other constituents in the Truck/Chemical & Petroleum Subcategory.

As in the proposal, EPA has continued to use technology transfer to establish BPT limits for conventional pollutants $BOD_5$, TSS, and oil and grease (HEM) in the Truck/Chemical & Petroleum and Rail/Chemical & Petroleum Subcategories. EPA does not have sampling data from a facility operating BPT biological treatment in either the Truck/Chemical & Petroleum or Rail/Chemical & Petroleum Subcategories. Therefore, EPA has transferred effluent limitations for $BOD_5$, TSS, and oil and grease (HEM) from a biological system in the Barge/Chemical & Petroleum Subcategory, as was described in Section II of the NOA.

2. Methodology for Final Limitations

EPA based the effluent limitations and standards in today's notice on widely-recognized statistical procedures for calculating long-term averages and variability factors. The following presents a summary of the statistical methodology used in the calculation of effluent limitations.

Effluent limitations for each subcategory are based on a combination of long-term average effluent values and variability factors that account for variation in day-to-day treatment performance within a treatment plant. The long-term averages are average effluent concentrations that have been achieved by well-operated treatment systems using the processes described in Section V (Technology Options Selected for Basis of Regulation). The variability factors are values that represent the ratio of a large value that would be expected to occur only rarely to the long-term average. The purpose of the variability factor is to allow for normal variation in effluent concentrations. A facility that designs and operates its treatment system to achieve a long-term average on a consistent basis should be able to comply with the daily and monthly limitations in the course of normal operations.

The variability factors and long-term averages were developed from a database composed of individual measurements on treated effluent based on EPA sampling data and from industry supplied data. EPA sampling data reflects the performance of a system over a three to five day period, although not necessarily over consecutive days.

The long-term average concentration of a pollutant for a treatment system was calculated based on either an arithmetic mean or the expected value of the distribution of the samples, depending on the number of total samples and the number of detected samples for that pollutant at that facility. A delta-lognormal distributional assumption was used for all subcategories except the Truck/Chemical & Petroleum Subcategory where the arithmetic mean was used. The pollutant long-term

average concentration for a treatment technology was the median of the long-term averages from the sampled treatment systems within the subcategory using the proposed treatment technology.

EPA calculated variability factors by fitting a statistical distribution to the sampling data. The distribution was based on an assumption that the furthest excursion from the long-term average (LTA) that a well operated plant using the proposed technology option could be expected to make on a daily basis was a point below which 99 percent of the data for that facility falls, under the assumed distribution. The daily variability factor for each pollutant at each facility is the ratio of the estimated 99th percentile of the distribution of the daily pollutant concentration values divided by the expected value of the distribution of the daily values. The pollutant variability factor for a treatment technology was the mean of the pollutant variability factors from the facilities with that technology.

There were several instances where variability factors could not be calculated directly from the TEC database because there were not at least two effluent values measured above the minimum detection level for a specific pollutant. In these cases, the sample size of the data is too small to allow distributional assumptions to be made. Therefore, in order to assume a variability factor for a pollutant, the Agency transferred variability factors from other pollutants that exhibit similar treatability characteristics within the treatment system.

In order to do this, pollutants were grouped on the basis of their chemical structure and published data on relative treatability. The median pollutant variability factor for all pollutants within a group at that sampling episode was used to create a group-level variability factor. When group-level variability factors were not able to be calculated, groups that were similar were collected into analytical method fractions and the median group-level variability factor was calculated to create a fraction-level variability factor. Group-level variability factors were used when available, and fraction-level variability factors were used if group-level variability factors could not be calculated. For the sampling episodes in the Truck/Chemical & Petroleum Subcategory, there were not enough data to calculate variability factors at any level from EPA sampling data and therefore variability factors were calculated based on industry supplied data contained in self-monitoring reports.

Limitations were based on actual concentrations of pollutants measured in wastewaters treated by the proposed technologies where such data were available. Actual measured value data were available for pollutant parameters in all subcategories with the exception of pollutants regulated for direct dischargers in the Truck/Chemical & Petroleum and Rail/Chemical & Petroleum Subcategories. Due to the small number of direct discharging facilities identified by EPA, all of EPA's sampling was conducted at indirect discharging facilities in these subcategories. In the case of BPT regulation for conventional, priority, and non-conventional pollutants, EPA concluded that establishing limits based on indirect discharging treatment systems was not appropriate because indirect discharging treatment systems are generally not operated for optimal control of pollutants which are amenable to treatment in a POTW. For example, treatment systems at indirect discharging facilities generally do not require biological treatment to control organic pollutants because a POTW will control these pollutants. Therefore, in establishing limits for conventional pollutants at direct discharging facilities, EPA has established BPT limitations based on the treatment performance demonstrated from two direct discharging Barge/Chemical & Petroleum facilities that utilized biological treatment systems. Limitations for priority and non conventional pollutants were based on the indirect discharging facilities in that subcategory.

The daily maximum limitation is calculated as the product of the pollutant long-term average concentration and the variability factor. The monthly maximum limitation is also calculated as the product of the pollutant long-term average and the variability factor, but the variability factor is based on the 95 percentile of the distribution of daily pollutant concentrations instead of the 99th percentile.

By accounting for these reasonable excursions above the LTA, EPA's use of variability factors results in standards that are generally well above the actual LTAs. Thus if a facility operates its treatment system to meet the relevant LTA, EPA expects the plant to be able to meet the standards. Variability factors assure that normal fluctuations in a facility's treatment are accounted for in the limitations.

The final limitations, as presented in today's notice, are provided as daily maximums and monthly averages for conventional pollutants. Monitoring was assumed to occur four times per month for conventional pollutants. Monitoring was assumed to occur once per month for all priority and non-conventional pollutants. This has the result that the daily maximums and monthly averages for priority and non-conventional pollutants are the same.

Although the monitoring frequency necessary for a facility to demonstrate compliance is determined by the local permitting authority, EPA must assume a monitoring frequency in order to assess costs and to determine variability of the treatment system.

EPA has assumed facilities will monitor their wastewater four times per month for conventional pollutants or SGT–HEM to ensure that facility TEC processes and wastewater treatment systems are consistently and continuously operated to achieve the associated pollutant long-term averages. EPA also assumed that facilities will monitor wastewater once per month for toxic pollutants, providing some economic relief to regulated facilities while ensuring that facility TEC processes and wastewater treatment systems are designed and operated to control the discharge of toxic pollutants.

## VII. Costs and Pollutant Reductions of Final Regulation

EPA estimated industry-wide compliance costs and pollutant loading removals associated with the effluent limitations and standards using a computer cost model and data collected through survey responses, industry submittals, site visits, and sampling episodes. Cost estimates and pollutant removals for each regulatory option are summarized below and in more detail in the Technical Development Document.

### *A. Changes to Cost Analysis Since Proposal*

Following a thorough review of the cost model, EPA made several adjustments to the costing methodology in response to comments on the proposed rule and Notice of Availability, and to correct minor inaccuracies identified by EPA. One of the most notable changes was to eliminate estimated compliance costs for facilities that would meet the low flow exclusion (*i.e.*, discharge less than 100,000 gallons per year of TEC process wastewater). After eliminating these facilities, EPA evaluated the remaining 77 Detailed Questionnaire recipients, plus four direct discharging facilities that did not receive the questionnaire, to determine TEC operations, wastewater characteristics, daily flow rates (process flow rates), operating schedules, tank cleaning production (*i.e.*, number of

tanks cleaned), and wastewater treatment technologies currently in place at the site.

Facilities that did not have the technologies for the selected option already in place were projected to incur costs as a result of compliance with this regulation. A facility that did not have the technology, or an equivalent technology, in place was costed for installing and maintaining the technology. Costs include: (1) total capital costs for installed technologies, including equipment, shipping, indirect, and start-up costs; (2) operating and maintenance (O&M) costs for installed technologies, including labor, electrical, material, and chemical usage costs; (3) solids handling costs, including capital, O&M, and disposal costs; and (4) monitoring costs.

EPA based direct capital costs for equipment, shipping, installation, controls, and retrofit costs on information from treatment vendors and other effluent guidelines. EPA also developed cost factors and applied them to the direct capital costs to account for indirect costs such as site work, interface piping, general contracting, engineering, buildings, site improvements, legal/administrative fees, interest, contingency, and taxes and insurance. For the final rule, EPA increased some of the indirect capital cost factors and included start-up costs in total capital cost estimates.

Also for the final rule, EPA made the following changes: increased capital and annual costs for activated carbon, equalization, and filter presses; revised the methodology to credit treatment in place; and removed flow reduction for some facilities. EPA also significantly reduced the monitoring costs associated with compliance by selecting indicator parameters to replace specific pollutants proposed for regulation and by using less expensive analytical methods.

Although EPA has eliminated flow reduction from the technology bases for all subcategories, EPA has retained flow reduction in the cost model for most subcategories. Flow reduction results in significant compliance cost savings and consequently EPA assumes facilities will incorporate flow reduction in their compliance strategy.

The total capital costs were amortized over 16 years and added to the total annual O&M costs (equipment and monitoring) to calculate the total annualized costs incurred by each facility to comply with this regulation. The costs associated with each of the 81 facilities in the cost analysis were then modeled to represent the national population by using statistically calculated survey weights.

All cost models, cost factors, and cost assumptions are discussed in detail in the Technical Development Document for the final rule.

*B. Compliance Costs*

The final costs for the regulated subcategories are presented in Table 2. Total capital investment, total annual (*i.e.*, O&M), and total annualized costs are shown in 1998 post-tax dollars. BPT, BCT, and BAT total annual and total annualized costs include weekly monitoring of regulated conventional pollutants and monthly monitoring of all other regulated pollutants. PSES total annual and total annualized costs include monthly monitoring of all regulated pollutants.

TABLE 2.—TOTAL COSTS OF THE TEC RULE, BY SUBCATEGORY

[Millions of 1998 dollars]

| Subcategory | Selected option | Total capital investment | Total annual O&M costs | Total annualized cost (post-tax) |
|---|---|---|---|---|
| **BPT/BCT/BAT** | | | | |
| Truck/Chemical & Petroleum | II | 0.084 | [a](0) | [a](0) |
| Rail/Chemical & Petroleum | II | 0.201 | 0.038 | 0.041 |
| Barge/Chemical & Petroleum | I | 0.093 | 0.138 | 0.089 |
| Food | II | 0 | 0 | 0 |
| **PSES** | | | | |
| Truck/Chemical & Petroleum | I | 56.3 | 8.79 | 9.16 |
| Rail/Chemical & Petroleum | II | 7.70 | 0.722 | 1.02 |
| Barge/Chemical & Petroleum | II | 0 | 0.067 | 0.041 |

[a] Net annual cost savings are the result of flow reduction and sludge dewatering for one facility, which results in a greater savings than the monitoring costs incurred by all facilities.

*C. Changes to Pollutant Reduction Analysis Since Proposal*

The BPT, BCT, BAT, and PSES limitations will control the discharge of conventional, priority toxic, and non-conventional pollutants from TEC facilities. The Agency developed estimates of the post-compliance long-term average (LTA) pollutant concentrations that would be discharged from TEC facilities within each subcategory. These estimates were calculated using the long-term average effluent concentrations of specific pollutants achieved after implementation of the BPT, BCT, BAT, and PSES technology bases. Long-term average effluent concentrations at proposal were statistically derived using treatment performance data collected during EPA's sampling program. For the final rule, EPA made the following adjustments to the load removal estimates: revised the list of pollutants for which removals were calculated; added a new criteria to determine final effluent concentrations; and incorporated additional treatment performance data for the Truck/Chemical & Petroleum Subcategory and the Barge/Chemical & Petroleum Subcategory.

BPT, BCT, BAT, and PSES pollutant reductions were first estimated on a site-specific basis for affected facilities that responded to the Detailed Questionnaire (77 facilities) and for four additional affected facilities identified from responses to the Screener Questionnaire. Site-specific pollutant reductions were calculated as the difference between the site-specific baseline pollutant loadings (*i.e.*, estimated pollutant loadings currently discharged) and the site-specific post-compliance pollutant loadings (*i.e.*,

estimated pollutant loadings discharged after implementation of the regulation). The site-specific pollutant reductions were then multiplied by statistically derived survey weighting (scaling) factors and summed to represent pollutant reductions for the entire TEC industry.

To estimate pollutant loadings discharged after implementation of the regulation, EPA estimated pollutant load removals for "pollutants of interest" for each subcategory. EPA identified pollutants of interest for each subcategory using a set of data-editing criteria such that these pollutants are typically present at treatable concentrations in the subcategory-specific raw wastewater. These editing criteria are: (1) The average influent technology option concentration must be at least five times the pollutant's method detection limit, and (2) the pollutant must be detected in at least two wastewater characterization samples (if at least two facilities in the subcategory were sampled) or one wastewater characterization sample (if only one facility in the subcategory was sampled) .

For proposal and the NOA, EPA only considered those pollutants that were removed by at least 50% by EPA's technology bases in the subcategory-specific load removals. In the proposal, EPA described how it used a modified approach to identify pesticide and herbicide pollutants included in the removal estimates; however, for the final rule, EPA applied the same approach to all pollutants. Upon further review, for the final rule, EPA included all pollutants of interest in the load removal estimates that had a removal efficiency greater than 0%. EPA believes its previous data-editing criteria requiring 50% removal was incorrect because it did not accurately reflect incidental removals of all pollutants across the various technology options. Note, however, that EPA retained the 50% removal criteria for the purpose of selecting regulated pollutants.

If a given pollutant met the pollutant of interest criteria, EPA calculated the treatment effectiveness concentrations and percent removal efficiencies from the sampling data. Treatment effectiveness concentrations are the long-term average concentrations achievable by the technology option. Percent removal efficiencies are the pollutant percent removals achievable by the technology option, based on the difference between the influent and effluent concentrations.

For the proposed rule, EPA only estimated pollutant load removals based on treatment effectiveness concentrations. For example, the TEC cost model calculated the difference between the influent concentration and the treatment effectiveness concentration achieved by the treatment unit; the result was the pollutant reduction achieved by the treatment unit. For the final rule, EPA incorporated pollutant percent removal efficiencies (for all pollutants of interest), in addition to treatment effectiveness concentrations, in the load removal calculations. For example, for pollutants with significant removals (for pollutants of interest with removals greater than 50% by the technology bases), the TEC cost model compared the influent concentration to two possible effluent concentrations, the treatment effectiveness concentration and the effluent concentration that would be achieved after applying the treatment unit (limited to the pollutant method detection limit) percent removal efficiency. The model selects the lower of the two effluent concentrations to calculate the pollutant reductions achieved by the treatment unit. No removals were credited to a pollutant if the influent concentration was at its detection limit. For other pollutants, the model uses only a percent removal efficiency.

EPA obtained additional treatment performance data following the proposed rule from two Barge/Chemical & Petroleum facilities operating BPT/BAT treatment. The data consisted of influent and effluent self-monitoring data over a one-year period. EPA used these data to calculate BPT effluent limitations and new source performance standards for biochemical oxygen demand ($BOD_5$) and total suspended solids (TSS). These additional data and revised effluent limitations were presented in the NOA.

EPA obtained additional treatment performance data following the NOA from one Truck/Chemical & Petroleum Subcategory facility operating PSES/PSNS treatment. The data consisted of effluent self-monitoring data over a four-year period. EPA used these data to calculate limitations and pretreatment standards for copper and mercury.

For the proposed rule, EPA did not consider dioxin and furan removals for any subcategory because EPA assumed that any detections of these pollutants were isolated, site-specific instances. In response to several comments on this issue, EPA reevaluated the presence of dioxins and furans in TEC wastewater based on the pollutants of interest criteria described above. EPA found that several dioxins and furans meet the editing criteria and should be considered pollutants of interest; therefore, EPA included their removals in the load removal estimates.

D. Pollutant Reductions

The final pollutant removals for the regulated subcategories are presented in Table 3, by discharge type. Pollutant removals were estimated as the difference between the subcategory baseline pollutant loadings (*i.e.*, estimated pollutant loadings currently discharged) and the subcategory post-compliance pollutant loadings (*i.e.*, estimated pollutant loadings discharged after implementation of the regulation). The load removals (in pounds per year) are scaled to represent the industry but do not account for the relative toxicity between pollutants.

TABLE 3.—TOTAL POLLUTANT REMOVALS OF THE TEC RULE

| Subcategory | Selected option | Pounds of conventional pollutants removed (lbs/yr) | Pounds of priority pollutants removed (lbs/yr) | Pounds of non-conventional pollutants removed (lbs/yr) | Total pounds of pollutant removed (lbs/yr) |
|---|---|---|---|---|---|
| **BPT/BCT/BAT (for consistency with Table 2)** | | | | | |
| Truck/Chemical & Petroleum | II | 47 | 2.3 | 670 | 720 |
| Rail/Chemical & Petroleum | II | 22 | 2.2 | 15,000 | 15,000 |
| Barge/Chemical & Petroleum | I | >19,000 | (1) | >69,000 | >88,000 |
| Food | II | 0 | 0 | 0 | 0 |

TABLE 3.—TOTAL POLLUTANT REMOVALS OF THE TEC RULE—Continued

| Subcategory | Selected option | Pounds of conventional pollutants removed (lbs/yr) | Pounds of priority pollutants removed (lbs/yr) | Pounds of non-conventional pollutants removed (lbs/yr) | Total pounds of pollutant removed (lbs/yr) |
|---|---|---|---|---|---|
| **PSES** | | | | | |
| Truck/Chemical & Petroleum | I | 20,000,000 | 60,000 | 21,000,000 | 41,000,000 |
| Rail/Chemical & Petroleum | II | 960,000 | 870 | 4,500,000 | 5,500,000 |
| Barge/Chemical & Petroleum | II | 0 | 0 | 0 | 0 |

[1] Not available.

**VIII. Economic Impacts of Final Regulation**

EPA projects that the final TEC rule will result in no facility closures, revenue losses, nor employment losses in the industry. As set forth below, the Agency's financial analysis found that 14 facilities in the Truck/Chemical & Petroleum Subcategory may experience financial stress as a result of this rule. In addition, the small business analysis, using a sales test methodology, shows that some small businesses could have compliance costs that exceed three percent of annual sales revenues. However, these impacts are quite small relative to the TEC industry, and EPA certifies, as discussed later, that the regulation will not have a significant impact on substantial number of small entities.

*A. Changes to Economic Analysis Since Proposal*

EPA has not changed the economic methodology used in the proposal for the final rulemaking action. As in the proposal, the economic methods include a cost annualization model, a market model (with a commercial component and an outsourcing component), a closure model, financial ratio analysis, secondary impacts analysis, small business analysis, and cost effectiveness analysis. The description of these analytical tools can be found in Section X of the proposal.

EPA received comments in response to the proposal and the NOA from potentially affected facilities and trade associations regarding the economic analysis. The majority of comments reflected concerns about the economic impacts that the effluent guideline would have on the industry. EPA's response is that the economic analysis finds that the regulation will not cause any facility closures, and it will not lead to the loss of any business revenues nor the loss of any jobs in the industry.

The comments did not generally address EPA's economic analysis methods. The only issue raised related to the methodology was over EPA's cost pass through analysis, which assumes that a portion of compliance costs can be passed through to the final customers. Several commenters disagreed with the assumption that a portion of the compliance costs could potentially be passed through to the customer. EPA believes that, given the relatively inelastic demand for TEC services, a portion of compliance costs can be passed through to TEC customers. In turn, EPA believes that, because TEC services are such a small portion of total transportation costs, the impact on the customer market is minimal.

The nature of the market demand for TEC services is two-fold. First, tank cleaning services are essential services in the marketplace, because transportation service providers must deliver clean and safe products. Therefore, the transportation service firms and their customers create a demand for tank cleaning services that is relatively inelastic, *i.e.*, customers need the services provided by the TEC industry. Second, EPA believes that some costs can be passed through to the customer without losing business because all facilities transporting similar cargos will be subject to the regulation. EPA performed a sensitivity analysis to evaluate the impacts that would occur under the most conservative assumption of zero cost pass through, which assumes that no compliance cost can be passed through to the final customer. EPA found that, at the most conservative cost pass through assumption, this rule will result in no closures, revenue losses, or employment losses.

As in the proposal, the economic baseline was established using data from the *1993 Tank and Container Cleaning Screener Questionnaire* and the *1994 Detailed Questionnaire for the Transportation Equipment Cleaning Industry*. Anecdotal market and economic information has been used to update trends in the industry. Details of the economic analysis are presented in the "Final Economic Analysis of Effluent Limitations Guidelines and Standards for the Transportation Equipment Cleaning Category" and in the "Final Cost-Effectiveness Analysis of Effluent Limitations Guidelines and Standards for the Transportation Equipment Cleaning Category".

EPA has updated the economic analysis to reflect the changes made by EPA since the proposal for this final rulemaking action. These changes are summarized in Section III of this notice. Briefly, the changes include promulgation of concentration-based rather than mass-based limitations, modification to the subcategorization approach, a low flow exclusion, revised pollutant loading estimates, new language for the exclusion of facilities engaged in other commercial activities, and changes to the technology options and regulated pollutants.

EPA has modified the subcategorization approach and reduced the number of subcategories from eleven in the proposal to seven for this final regulation. The economic analysis reflects the change in subcategories. For example, the number of facilities in the proposed Truck/Chemical Subcategory (288) are added to those in the proposed Truck/Petroleum Subcategory (34), giving a total of 322 for the new Truck/Chemical & Petroleum Subcategory. The economic analysis was conducted for the new subcategory rather than the two separate subcategories.

EPA has also decided to establish a flow exclusion of less than 100,000 gallons per year for process wastewater. Due to the low flow exclusion, 36 indirect Truck/Chemical & Petroleum Subcategory facilities, 11 indirect Rail/Chemical & Petroleum Subcategory facilities, and three direct discharge Barge/Chemical & Petroleum facilities will be excluded from the effluent guidelines.

The Agency has also revised the pollutant reduction analysis for the final guideline which has, in turn, affected

the cost effectiveness of the regulation. For the Truck/Chemical & Petroleum Subcategory, 17 pollutants were removed and 26 pollutants were added. For the Rail/Chemical & Petroleum Subcategory, EPA removed 37 pollutants and added 23 pollutants. For the Barge/Chemical & Petroleum Subcategory, three pollutants were removed and 18 pollutants were added. The Truck/Chemical & Petroleum Subcategory now includes 95 pollutants of interest; the Rail/Chemical & Petroleum Subcategory includes 85 pollutants of interest; and the Barge/Chemical & Petroleum Subcategory includes 82 pollutants of interest.

*B. Impacts Analysis*

EPA estimates that the total capital costs incurred by regulated facilities (over the sixteen year project life) for the transportation equipment cleaning industry effluent limitations guidelines and standards will be about $64.4 million in 1998 dollars. Total annualized costs on a post-tax basis of the regulation for all facilities are estimated to be about $10.4 million in 1998 dollars, which includes $4.8 million of annualized capital costs and $5.6 million in annualized operation and maintenance costs.

EPA estimated the total annualized compliance costs based on the incremental capital investment, annual operation and maintenance costs, and monitoring costs required for facilities to comply with this final regulation. Capital costs for each TEC facility were annualized, using EPA's cost annualization model, by spreading them over the 16 year analytic life of the project. These annualized capital costs are then added to the annual operation and maintenance costs and to the annual monitoring costs for each TEC facility to estimate total annualized post-tax costs of the selected technology alternative. EPA presented the total annualized costs on a post-tax basis to show the full opportunity compliance costs that facilities may incur after taxes. In the later section on cost-benefits analysis, costs are presented on a pre-tax basis as a proxy for social costs.

EPA's economic analysis estimates that the selected technology alternatives will result in no facility closures. In addition, EPA predicts that the selected technology alternatives will result in no loss in revenues or employment. In the financial stress analysis using the Altman Z″ bankruptcy test, EPA found that 14 facilities in the Truck/Chemical & Petroleum Subcategory could experience financial stress under the selected technology alternatives. In order to analyze these 14 facilities more carefully, EPA conducted two additional financial tests—current ratio analysis and times interest earned analysis. The current ratio analysis indicated that 14 facilities could experience financial stress as a result of the regulation. However, the times interest earned analysis, which measures the ability of facilities to cover their debt, gave results that no financial stress would occur as a result of the regulation. Therefore, EPA concludes that financial stress, if present, is minimal among 14 facilities.

1. BPT, BCT, and BAT

As described in Section V of today's notice, EPA is issuing final effluent limitations based on BPT, BCT, and BAT for the Truck/Chemical & Petroleum Subcategory, Rail/Chemical & Petroleum Subcategory, Barge/Chemical & Petroleum Subcategory, and Food Subcategory. The summary of costs and economic impacts is presented here for each subcategory. For BPT and BCT, additional information on cost and removal comparisons is presented in the Technical Development Document.

EPA estimates that the total post-tax annualized compliance costs for BPT, BCT, and BAT will be about $130 thousand. EPA based its analysis on technology Option II for the Truck/Chemical & Petroleum Subcategory, Option II for the Rail/Chemical & Petroleum Subcategory, Option I for the Barge/Chemical & Petroleum Subcategory, and Option II for the Food Subcategory. Due to data limitations as described in the proposed regulation and in this notice, EPA did not have data from the detailed questionnaire for direct discharging facilities in the Truck/Chemical & Petroleum Subcategory and Rail/Chemical & Petroleum Subcategory because of the very small population. Instead, EPA used information from the screener survey to identify direct discharging facilities. EPA assumed that the economic profile for direct discharging facilities is similar to indirect discharging facilities. EPA believes that this is a reasonable approach, because the Agency does not believe that there is a correlation between annual revenue or facility employment and the method the facility chooses to discharge its wastewater. Rather, the decision on whether to discharge wastewater directly or indirectly is determined by such considerations as cost, proximity to a POTW, permitting requirements, and wastewater treatment technology options.

EPA therefore assumed that the direct discharging Truck/Chemical & Petroleum and Rail/Chemical & Petroleum facilities were similar to indirect discharging facilities in terms of annual revenue, facility employment, and the number of tanks cleaned. Information on each of these indices was provided to EPA by the three direct discharging facilities in the screener questionnaire. EPA then identified indirect discharge facilities in the detailed questionnaire database that were similar to each of the direct dischargers in terms of revenue, employment and tanks cleaned. EPA then simulated the financial and economic profile for the direct discharging facilities based on data provided by similar indirect discharging facilities in the same subcategory. Based on this analysis, EPA determined that implementation of BPT would result in no facility closures and anticipates that no facilities will have revenue losses or employment losses.

For Barge/Chemical & Petroleum facilities, EPA estimated economic impacts for the 10 direct discharge facilities based on responses to the detailed questionnaire and incremental compliance costs. EPA has projected no closures, revenue losses, or employment losses for these facilities. EPA also described in the proposal the costs that may accrue to Barge/Chemical & Petroleum facilities under a regulation published under authority of the Clean Air Act. EPA analyzed this subcategory assuming that those regulations, and possible consequent costs, were in effect. This analysis may be found in the economic analysis for the proposal and the final regulation.

For the Food Subcategory, EPA found that direct discharge facilities have oil/water separators and biological treatment in place. This is the selected BPT and BCT technology option for the Food Subcategory, and the facilities in this subcategory will not incur incremental compliance costs nor experience economic impacts.

2. PSES

EPA estimates that the total annualized compliance costs for PSES will be approximately $10.2 million per year (1998 post-tax dollars). These costs include compliance with PSES for the Truck/Chemical & Petroleum Subcategory, the Rail/Chemical & Petroleum Subcategory, and the Barge/Chemical & Petroleum Subcategory. EPA is not setting PSES for the Food and Hopper Subcategories. Total annual compliance costs are based on the following technology alternatives: Option I for the Truck/Chemical & Petroleum Subcategory, Option II for the Rail/Chemical & Petroleum Subcategory,

and Option II for the Barge/Chemical & Petroleum Subcategory.

EPA estimates that the selected technology options will result in no facility closures, revenue losses, nor employment losses for PSES. As indicated above, EPA did find that PSES may cause financial stress for 14 facilities (4.3 percent) in the Truck/Chemical & Petroleum Subcategory under the highly conservative assumption of zero cost pass through, but confirmatory financial tests indicated that financial stress, if present, would be minimal.

Within non-TEC industries, EPA's economic analysis indicates that some industries that provide materials and equipment to the TEC industry may experience revenue increases as a result of the regulation. However, other non-TEC industries could incur revenue losses. EPA's economic analysis indicates that the regulation would result in net losses of 200 to 300 jobs in all industries (*i.e.*, including TEC and non-TEC industries). These impacts were estimated using EPA's input-output methodology for the U.S. economy. Details of EPA's input-output analysis are available in the Economic Analysis.

Within the TEC industry itself, EPA determined that many financially healthy facilities might actually experience gains in production (and thus gains in output, revenue, and employment). Financially healthy facilities in the local market area might expand to take over a portion of production from a facility having financial difficulties. In addition, some employment gains are anticipated for installation and operation of flow reduction and wastewater treatment facilities.

EPA has also conducted an analysis of the community impacts of the final regulation for PSES. EPA has determined that most facility financial stress will result in a community's unemployment rate of no more than 0.2 percent. Because the methodology assumes that all of the community impacts would occur in one State, the more probable impact is considerably lower. Thus the community impact from the transportation equipment cleaning industry regulation is estimated to be negligible.

EPA expects the rule to have minimal impact on international markets. Domestic markets might initially be slightly affected by the rule, because tank cleaning facilities will absorb a portion of the compliance costs and will pass through a portion of the costs through to their customers. For the portion of compliance costs passed through to tank cleaning customers, EPA's market model estimates that prices will increase about 0.1 percent to 4.3 percent. Output, or the number of tanks cleaned, will decrease from almost zero percent to about 0.6 percent. Because tank cleaning is an essential service and is a very small part of total transportation services costs, customers may not be as sensitive to tank cleaning prices as they are to larger cost elements.

EPA expects the rule will have minimal impacts on inflation, insignificant distributional effects, and no major impacts on environmental justice.

EPA also investigated the likelihood that customers might use methods such as installing additional on-site wastewater treatment in order to comply with the regulation. Substitution possibilities, such as on-site tank washing or purchasing dedicated tanks, are associated with potential negative impacts on customers that might deter them from choosing these potential substitutes. On-site tank cleaning capabilities require capital investment, operation and maintenance, and monitoring costs. The decision to build an on-site tank cleaning capability is more likely determined by non-pricing factors such as environmental liability, tank-cleaning quality control, and internal management controls than by a choice to develop alternatives to commercial tank washing.

EPA's analysis does not indicate that transportation service companies (*i.e.*, TEC customers) would likely decide to build a tank cleaning facility as a result of EPA's regulations. Further, because of high initial capital investment ($1.0–$2.0 million for a tank cleaning facility) and the small increase in price of transportation equipment cleaning services discussed earlier, on-site transportation equipment cleaning could require years before any cost savings might be realized. Also, EPA's market model provides a means for estimating price increases and reductions in quantity demanded for transportation equipment cleaning services at the higher price. This analysis shows a very small decrease in the number of tanks cleaned as a result of the regulation, from almost zero to about 0.6 percent of baseline production across the subcategories. Given the disincentives towards substitutes indicated above, EPA does not expect the rule to cause many, if any, customers to substitute on-site facilities for transportation equipment cleaning services or to substitute dedicated tanks. The small reduction in production is more likely to occur from customers delaying cleaning (rather than cleaning tanks after delivery of load) or dropping certain services such as handling toxic wastes heels. This decline in production is negligible compared to the approximate 10 to 20 percent per year revenue growth between 1992 and 1994, (according to data provided in the Detailed Questionnaire) in the TEC industry.

3. NSPS and PSNS

As described in today's notice, EPA is setting NSPS equivalent to BPT, BCT, and BAT, and PSNS equivalent to PSES, in all subcategories.

EPA uses a barrier-to-entry analysis to analyze the impacts of effluent guideline and pretreatment standards on new sources. The analysis focuses on whether the impact of the regulation will result in a barrier-to-entry into the market. The methodology for the barrier-to entry analysis is described in the proposal. Briefly, the analysis compares the expected compliance costs to the assets of existing facilities. This analysis is performed by analyzing the costs that each existing facility could potentially incur as a result of the regulations. EPA makes the assumption that new facilities will have impacts from the regulation that are no greater than the impact of the regulation on existing facilities. This assumption is based upon the rationale that new facilities are better able to include regulatory requirements in their design and construction plans. The incremental compliance costs are compared with the dollar value of assets of the existing facilities. The dollar value of assets of each facility provide a measure of the size of the facility in terms of financial capital in place. EPA has used the dollar value of assets as one indicator, among others, of the ability of a facility to absorb additional costs. The analytic approach is to divide the compliance costs of each facility by the dollar value of the assets of each facility. The result of the analysis is reviewed in comparison to industry trends and norms. EPA has not set a threshold value for the ratio of incremental compliance costs to the dollar value of facility assets. However, EPA decisions in the past have generally indicated that ratios below 10 percent indicate that there is no barrier-to-entry. The results of this analysis show the relative impact of the effluent guideline on existing sources.

For the Truck/Chemical & Petroleum Subcategory, average facility assets are about $2.5 million ($1998). In its economic analysis, EPA determined that the average additional facility capital costs for PSNS in this subcategory

would be about $197 thousand. The ratio of average facility capital compliance costs to average facility assets would be approximately 8.0 percent. EPA concludes that the capital cost to comply with the standards are modest in comparison to total facility assets and would not pose a barrier-to-entry into the market.

For the Rail/Chemical & Petroleum Subcategory, responses to the detailed questionnaire indicate that the average facility assets are about $5.4 million ($1998). In its economic analysis, EPA determined that the average additional facility capital compliance costs for PSNS would be about $257 thousand. The ratio average facility compliance capital costs to average facility assets would be less than five percent of average facility assets. EPA concluded that the average annual capital compliance costs are modest in comparison to average facility assets and that they would not pose a barrier-to-entry into the market.

For the Barge/Chemical & Petroleum Subcategory, the average facility assets for a barge chemical cleaning facility are about $3.3 million. The average additional compliance capital costs for NSPS are about $13,000, or less than one percent of average facility assets. This percentage is expected to be lower for new facilities, because they can include pollution control equipment in the design of new facilities. Therefore, these costs would not pose a barrier to entry into the market.

EPA is regulating only direct dischargers in the Food Subcategory. The Agency is setting BPT, BCT, and NSPS for the Food Subcategory. The direct dischargers in the Food Subcategory have treatment in place that meets the requirements that EPA is promulgating in today's rule. Because Food Subcategory facilities have treatment in place, these facilities will not incur additional costs to comply with the regulation. In addition, new sources will install treatment similar or equivalent to treatment in place for existing facilities. New sources will incur no costs as a result of the regulation that is not incurred by existing facilities. Therefore, there are no costs and no barrier to entry in this subcategory under the NSPS regulation.

EPA analyzed the number of facilities that entered the market each year during the three year period of the Detailed Questionnaire. The results of this analysis can be found in the proposal. In essence, new facilities were replacing closing facilities. In addition to replacing existing facilities, the industry also experienced modest growth during the three year period of the Detailed Questionnaire.

Similar to PSNS, EPA concludes that no barrier-to-entry exists for new direct discharge facilities to construct, operate, and maintain these technologies. EPA also analyzed the impact on new, small facilities in the TEC industry. The analysis shows that there are no small facility closures for direct discharging small businesses. New, small businesses will incur costs no higher than costs for existing, small businesses. Therefore there will be no barrier to entry for new, small businesses in the TEC industry.

4. Economic Analysis of Accepted and Rejected Options

As discussed in Section V of this notice, EPA considered several technology options for each subcategory. A summary of costs and impacts for all BPT, BCT, BAT, NSPS, PSES, and PSNS options are shown in Table 4. The annualized costs in Table 4 are presented on a post-tax basis.

EPA also conducted an economic analysis under the zero cost pass through assumption as a sensitivity analysis. Although these analyses estimated higher impacts than the analyses using positive cost pass though analysis, EPA believes that the most conservative economic and financial assumptions are highly unlikely and that all facilities will be able to pass through a portion of any incremental compliance cost that they may incur. Cost pass through is more likely to occur, because the entire industry will be required to comply with the new regulation.

TABLE 4.—SUMMARY OF IMPACTS FOR FINAL BPT, BCT, BAT, NSPS, PSES, AND PSNS OPTIONS

| Subcategory | Option | Annualized costs ($1998 millions post-tax) | Facility closures | Financial stress | Employee losses |
|---|---|---|---|---|---|
| Truck/Chemical & Petroleum (Direct) | Option I | 0 | 0 | 0 | 0 |
| | Option II (BPT, BCT, BAT, NSPS) | 0 | 0 | 0 | 0 |
| Truck/Chemical & Petroleum (Indirect) | Option A | 5.2 | N/A | N/A | N/A |
| | Option I (PSES, PSNS) | 9.2 | 0 | 14 | 0 |
| | Option II | 20.9 | 0 | 22 | 0 |
| Rail/Chemical & Petroleum (Direct) | Option I | 0.005 | 0 | 0 | 0 |
| | Option II (BPT, BCT, BAT, NSPS) | 0.041 | 0 | 0 | 0 |
| | Option III | 0.61 | 0 | 0 | 0 |
| Rail/Chemical & Petroleum (Indirect) | Option I | 0.589 | 0 | 0 | 0 |
| | Option II (PSES, PSNS) | 1.02 | 0 | 0 | 0 |
| | Option III | 1.61 | 0 | 0 | 0 |
| Barge/Chemical & Petroleum (Direct) | Option I (BPT, BCT, BAT, NSPS) | 0.089 | 0 | 0 | 0 |
| | Option II | 0.346 | 0 | 0 | 0 |
| Barge/Chemical & Petroleum (Indirect) | Option I | 0.04 | 0 | 0 | 0 |
| | Option II (PSES, PSNS) | 0.04 | 0 | 0 | 0 |
| | Option III | 0.240 | 0 | 0 | 0 |
| Food (Direct) | Option I | 0 | 0 | 0 | 0 |
| | Option II (BPT, BCT, NSPS) | 0 | 0 | 0 | 0 |
| Food (Indirect) | Option I (no regulation) | 0 | 0 | 0 | 0 |
| Truck/Hopper (Direct and Indirect) | Option I (no regulation) | 0 | 0 | 0 | 0 |
| Rail/Hopper (Direct and Indirect) | Option I (no regulation) | 0 | 0 | 0 | 0 |
| Barge/Hopper (Direct and Indirect) | Option I (no regulation) | 0 | 0 | 0 | 0 |

*C. Small Business Analysis*

For purposes of assessing the impacts of today's rule on small entities, a small entity is defined as a business that has annual revenues of less than $5,000,000.

EPA provided the initial results of the small business analysis in the proposal. As described in the proposal, a key aspect of the small business analysis was to identify options that would minimize the economic impacts fcr small businesses. The Agency considered exclusions based upon business size and wastewater flow as ways to provide relief to small businesses. In the proposal, EPA did not identify criteria for a facility exclusion to the regulation. Since the proposal, however, the Agency has continued to assess possible criteria for facility exclusions from the regulations. For this final regulation, the Agency is excluding from coverage all facilities discharging less than 100,000 gallons per year of TEC process wastewater.

In the small business analyses for the proposal, EPA applied a conservative set of assumptions, *i.e.,* zero cost past through, to analyze the options available to provide relief to small businesses. Among the analyses the Agency conducted was a sales test analysis that compares the post-tax cost of compliance with the regulation with the annual revenues of each facility in the sample survey. EPA conducted similar sales test analyses for this final regulation using both positive cost pass through and zero cost pass through assumptions. For the Truck/Chemical & Petroleum Subcategory, using the positive cost pass through analysis, 29 of 79 (37 percent) small businesses exceed the one percent sales test and zero small businesses exceed the three percent sales test. Using the zero cost pass through assumption, 29 of 79 (37 percent) small businesses exceed the one percent sales and 29 of 79 (37 percent) small businesses exceed the three percent sales test.

For the Rail/Chemical & Petroleum Subcategory, 6 of 12 (50 percent) small businesses exceed the one percent sales test under both zero cost pass and positive cost pass through assumptions. No small businesses exceed the three percent sales test under either zero or positive cost pass through scenarios.

For the Barge/Chemical & Petroleum Subcategory, no small businesses exceed either the one or three percent sales test under positive cost pass through. Using the zero cost pass through analysis, three of six small businesses exceed the one percent sales test and no facilities exceed the three percent sales test.

For the Food Subcategory, facilities will not incur additional costs, because they have the required treatment in place. Therefore, the sales test was not conducted on the 19 facilities in the Food Subcategory. There are no facilities in the Food Subcategory that will have an economic impact or have a sales test greater than zero.

EPA believes that the sales test serves as an indication of relative cost of the regulation but alone is not sufficient to determine the economic achievability for this rule. However, EPA has concluded that the rule is economically achievable, because there are no impacts on small businesses in terms of closures or employment losses. In addition, EPA has determined that there will not be a significant impact on a substantial number of small entities, because the number of small business affected by this rule is relatively low and the impact is modest for most of the affected small businesses. The impact on small businesses is even less when a portion of the costs are passed through to the final transportation industry customers.

*D. Market Analysis*

EPA conducts a market analysis using the market model (with commercial and out source components) developed for the transportation equipment cleaning industry. The market analysis provides information on the changes in the marketplace as a result of the regulation. For the Truck/Chemical & Petroleum Subcategory, EPA predicts that the regulation may increase the price of tank cleaning from about $279 to about $285 per tank, or about a two percent price increase. In response to the price increase, there could be a small adjustment in the number of tanks cleaned from a baseline of 774,000 to about 772,000 (a decrease of less than 0.5 percent). The projected price increases are modest relative to the market price and market response is expected to be minimal.

For the Rail/Chemical & Petroleum Subcategory, the market analysis shows that the cost for cleaning rail tank cars could increase from about $781 to about $815 per tank cleaned or about 4.3 percent. The market response would be a decrease in the number of rail tank cars cleaned from about 33,000 to about 32,800 (about 0.5 percent). The projected market price relative the market price of cleaning rail tank cars is modest and the expected market response is minimal.

For the Barge/Chemical & Petroleum Subcategory, the market analysis indicates that there would be a price increase from about $6,448 to about $6,456 per tank barge cleaned (or about 0.1 percent change in the price). The market response is anticipated to be an imperceptible change in the quantity of tank barges cleaned.

For the Food Subcategory, EPA's economic analysis indicates that all direct discharging facilities have treatment in place. Therefore, they will not have to install treatment technology or change operation and management practices as a result of today's promulgation. The Food Subcategory facilities will not incur costs that exceed those that they have already incurred for currently installed treatment. The market analysis indicates that there will be no impacts on the markets served by these facilities as a result of the regulation.

Although transportation cleaning services is a small part of the overall transportation services sector, cleaning services are essential for delivery of safe, quality products in the marketplace. Because these services are essential, transportation services companies must have clean tanks, cleaned by their in-house cleaning services, or provided by commercial cleaning service companies. Given the necessity of cleaning tanks to provide safe, quality products, the price may increase in the marketplace with little if any response by cleaning customers. This finding suggests that prices could increase, in some cases significantly, with little if any reduction in the number of tanks cleaned.

*E. Cost-Effectiveness Analysis*

EPA conducts the cost-effectiveness (CE) analysis to determine the cost per pound of pollutant removed as a result of the regulation. The Agency identifies the pounds of each pollutant removed by each technology considered as a basis for regulation. These removals are added for each technology option and compared to the incremental costs of each technology option. EPA estimates the average and incremental cost effectiveness of each regulatory option. Pounds removed are adjusted for the removal by POTWs and for the toxic weights of the specific pollutants. After these two adjustments, the analysis provides pound equivalents. The results of the cost effectiveness analysis for this rule are presented in 1981 dollars, the latter for comparing with other effluent guidelines if appropriate. EPA's incremental cost-effectiveness analysis for the Truck/Chemical & Petroleum Subcategory indicates a cost effectiveness ratio of $370 in 1981 dollars. For the Rail/Chemical & Petroleum Subcategory, the CE analysis indicated a result of $492 in 1981 dollars. Further information about the

cost effectiveness analysis is provided in "Final Cost-Effectiveness Analysis of Effluent Limitations Guidelines and Standards for the Transportation Equipment Cleaning Category".

*F. Cost-Benefit Analysis*

Executive Order 12866 requires agencies to prepare a cost-benefit analysis for Federal regulations that may have economic impacts on industry. Table 5 presents the costs and benefits of the TEC final regulation. The details of the cost-benefit analysis are discussed in the Economic Analysis. Total social costs for the cost-benefit analysis are estimated by using pre-tax dollars as an approximation for the total social costs of the regulation. The benefits of the regulation are derived from improvements in water quality resulting from reductions in the amount of pollutants discharged.

This rule is expected to have a total annual social cost of $17.0 million (1998 dollars), which includes $16. 4 million in pre-tax compliance costs, $0.6 million in administrative costs, and almost zero costs for administering unemployment benefits. Total annual benefits are expected to range from $1.5 million to $5.5 million (1998 dollars). This includes $1.0 million to $3.5 million for recreational benefits, $0.5 million to $1.7 million associated with nonuse values benefits, and $56,000 to $300,000 associated with cancer benefits. The derivation of annual benefits is discussed in more detail in Section IX.

TABLE 5.—SUMMARY OF THE COST-BENEFIT ANALYSIS

| Category | Costs and benefits ($1998 millions) |
|---|---|
| **Costs (pre-tax)** | |
| Compliance Costs | $16.4 |
| Administrative Costs | $0.6 |
| Administrative Costs of Unemployment | $0.0 |
| Total Social Costs | $17.0 |
| **Benefits** | |
| Human Health Benefits | |
| Cancer Benefits | $0.056–$0.30 |
| Recreational Benefits | $1.0–$3.5 |
| Nonuse Benefits | $0.5–$1.7 |
| Total Monetized Benefits | $1.5–$5.5 |

## IX. Water Quality Impacts of Final Regulation

*A. Changes to Benefits Analysis Since Proposal*

EPA has not changed the methodology described in the proposal to evaluate the environmental benefits of controlling discharges of pollutants for the final rulemaking action. As in the proposal, the methodology includes evaluation of projected in-stream concentrations of pollutants relative to aquatic criteria, analysis of potential interference with POTW operations in terms of inhibition of activated sludge and contamination of sludges, and the potential for human health impacts resulting from the ingestion of drinking water and fish containing pollutants discharged by TEC facilities. A detailed description of the methodology can be found in the Environmental Assessment of the Final Effluent Guidelines for the Transportation Equipment Cleaning (TEC) Industry.

Several changes made to the rule since proposal have affected this analysis, resulting in removal of a few facilities, the removal of some pollutants, and the addition of other pollutants assessed in the analysis for the proposal. These changes include: (1) The modification to the subcategorization approach, in which EPA combined the Truck/Chemical Subcategory and Truck/Petroleum Subcategory into the Truck/Chemical & Petroleum Subcategory, and also combined the Rail/Chemical Subcategory and Rail/Petroleum Subcategory into the Rail/Chemical & Petroleum Subcategory; (2) the establishment of a low flow exclusion, which excludes facilities that discharge less than 100,000 gallons per year of TEC process wastewater; (3) the clarification of the definition of the exclusion of facilities engaged in activities covered elsewhere (*e.g.*, the proposed MP&M guideline); and (4) a revision to the methodology for calculating pesticide and herbicide loadings.

*B. Truck/Chemical & Petroleum Subcategory*

1. Direct Dischargers

EPA projects that no additional removals of toxics will be achieved by the regulatory option because all three modeled facilities have sufficient treatment in place to meet BAT limits. EPA therefore predicts that there are no additional benefits to be obtained as a result of the selected BAT regulatory option.

2. Indirect Dischargers

EPA evaluated the potential effect on aquatic life and human health of a representative sample of 40 indirect wastewater dischargers of the 286 facilities subject to the guidelines in the Truck/Chemical & Petroleum indirect subcategory to receiving waters at current levels of treatment and at pretreatment levels. These 40 modeled facilities discharge 84 pollutants in wastewater to 34 POTWs, which then discharge to 34 receiving streams.

At the national level, 286 facilities discharge wastewater to 255 POTWs, which then discharge into 255 receiving streams. EPA projects that in-stream concentrations of one pollutant will exceed aquatic life or human health criteria (for both water and organisms) in seven receiving streams at current discharge levels. The selected pretreatment regulatory option eliminates excursions of aquatic life or human health criteria in all seven streams. Estimates of the increase in value of recreational fishing to anglers as a result of this improvement range from $975,000 to $3,484,000 annually (1998 dollars). In addition, the nonuse value (*e.g.* option, existence, and bequest value) of the improvement is estimated to range from $488,000 to $1,742,000 (1998 dollars).

The reduction of excess annual cancer cases from the ingestion of contaminated fish and drinking water by all populations evaluated generate a benefit to society of $2,200 to $13,000 (1998 dollars). (A monetary value of this benefit to society was not projected at proposal.) No systemic toxicant effects (non-cancer adverse health effects such as reproductive toxicity) are projected for anglers fishing the receiving streams at current discharge levels. Therefore, no further analysis of these types of impacts was performed.

3. POTWs

EPA also evaluated the potential adverse impacts on POTW operations (inhibition of microbial activity during biological treatment) and contamination of sewage sludge at the 34 modeled POTWs that receive wastewater from the Truck/Chemical & Petroleum Subcategory. At current discharge levels, EPA projects no inhibition or sludge contamination problems at any of the POTWs at current loadings. Therefore, no further analysis of these types of impacts was performed.

*C. Rail/Chemical & Petroleum Subcategory*

1. Direct Dischargers

EPA projects that no additional removals of toxics will be achieved by the regulatory option because the one model facility has sufficient treatment in place to comply with BAT. EPA therefore predicts that there are no additional benefits to be obtained as a result of the selected BAT regulatory option.

2. Indirect Dischargers

EPA evaluated the potential effect on aquatic life and human health of a representative sample of 10 indirect wastewater dischargers of the 30 facilities in the Rail/Chemical & Petroleum Subcategory to receiving waters at current levels of treatment and at pretreatment levels. These 10 modeled facilities discharge 74 pollutants in wastewater to nine POTWs, which discharge to nine receiving streams.

At the national level, 30 facilities discharge wastewater to 28 POTWs, which then discharge into 28 receiving streams. EPA projects that in-stream pollutant concentrations will exceed human health criteria (for both water and organisms) in 13 receiving streams at both current and pretreatment discharge levels. Since the selected pretreatment regulatory option is not expected to eliminate all occurrences of pollutant concentrations in excess of human health criteria at any of the receiving streams, no increase in value of recreational fishing to anglers is projected as a result of this pretreatment.

The reduction of excess annual cancer cases from the ingestion of contaminated fish and drinking water by all populations evaluated generate a benefit to society of $55,000 to $290,000 (1998 dollars). (A monetary value of this benefit to society was not projected at proposal.) No systemic toxicant effects (non-cancer adverse health effects such as reproductive toxicity) are projected for anglers fishing the receiving streams at current discharge levels. Therefore, no further analysis of these types of impacts was performed.

3. POTWs

EPA also evaluated the potential adverse impacts on POTW operations (inhibition of microbial activity during biological treatment) and contamination of sewage sludge at the nine modeled POTWs that receive wastewater from the Rail/Chemical & Petroleum Subcategory. Model results were then extrapolated to the national level, which included 28 POTWs.

At current discharge levels, EPA projects inhibition problems at 13 of the POTWs, caused by two pollutants. At the selected pretreatment regulatory option, EPA projects continued inhibition problems at these 13 POTWs because these two pollutants are not treated to sufficiently low levels to affect the POTW inhibition level. The Agency projects sewage sludge contamination at none of the POTWs at current loadings. Therefore, no further analysis of these types of impacts was performed.

The POTW inhibition values used in this analysis are not, in general, regulatory values. EPA based these values upon engineering and health estimates contained in guidance or guidelines published by EPA and other sources. EPA used these values to determine whether the pollutants interfere with POTW operations. The pretreatment standards today are not based on these values; rather, they are based on the performance of the selected technology basis for each standard. However, the values used in this analysis help indicate the potential benefits for POTW operations that may result from the compliance with pretreatment discharge levels.

*D. Barge/Chemical & Petroleum Subcategory*

1. Direct Dischargers

EPA projects that BAT would not result in any additional removals of toxic pollutants because most pollutants are already treated to very low levels, often approaching the detection levels. EPA therefore did not quantify additional benefits obtained as a result of the selected BAT regulatory option.

2. Indirect Dischargers

Based on the discharge concentrations of several conventional pollutants, EPA believes that all five modeled indirect discharging facilities are meeting the levels of control that would be established under PSES. EPA therefore did not additional benefits obtained as a result of the selected PSES regulatory option.

*E. Food Subcategory*

1. Direct Dischargers

EPA estimates no additional pollutant removals and no additional costs to the industry because all 19 facilities identified by EPA currently have the proposed BPT technology in place. EPA is not establishing BAT because EPA is not regulating any toxic parameters.

2. Indirect Dischargers

EPA is not establishing PSES or PSNS for the Food Subcategory.

**X. Non-Water Quality Impacts of Final Regulation**

As required by Sections 304(b) and 306 of the Clean Water Act, EPA has considered the non-water quality environmental impacts associated with the treatment technology options for the TEC industry. Non-water quality environmental impacts are impacts of the final rule on the environment that are not directly associated with wastewater, such as changes in energy consumption, air emissions, and solid waste generation of sludge and oil. In addition to these non-water quality environmental impacts, EPA examined the impacts of the final rule on noise pollution, and water and chemical use. Based on these analyses, EPA finds the relatively small increase in non-water quality environmental impacts resulting from the rule to be acceptable. EPA's estimates have not changed significantly from the proposed rule.

*A. Energy Impacts*

Energy impacts resulting from the regulatory options include energy requirements to operate wastewater treatment equipment such as aerators, pumps, and mixers. However, flow reduction technologies reduce energy requirements by reducing the number of operating hours per day and/or operating days per year for wastewater treatment equipment currently operated by the TEC industry. For some regulatory options, energy savings resulting from flow reduction exceed requirements for operation of additional wastewater treatment equipment, resulting in a net energy savings for these options. EPA estimates a net increase in electricity use of approximately 5 million kilowatt hours annually for the TEC industry as a result of the rule, which is an insignificant increase in U.S. industrial electrical energy purchase. Therefore, the Agency concludes that the effluent pollutant reduction benefits from the technology options exceed the potential adverse effects from the estimated increase in energy consumption.

*B. Air Emission Impacts*

TEC facilities generate wastewater containing concentrations of volatile and semivolatile organic pollutants, some of which are also on the list of Hazardous Air Pollutants (HAPs) in Title 3 of the Clean Air Act Amendments of 1990. These waste streams pass through treatment units open to the atmosphere, which may

result in the volatilization of organic pollutants from the wastewater. Emissions from TEC facilities also occur when tanks are opened and cleaned, with cleaning typically performed using hot water or cleaning solutions. Prior to cleaning, tanks may be opened with vapors vented through the tank hatch and air vents in a process called gas freeing. At some facilities, tanks used to transport gases or volatile material are filled to capacity with water to displace vapors to the atmosphere or a combustion device. Some facilities also perform open steaming of tanks.

Other sources of emissions at TEC facilities include heated cleaning solution storage tanks as well as emissions from TEC wastewater as it falls onto the cleaning bay floor, flows to floor drains and collection sumps, and conveys to wastewater treatment.

In order to quantify the impact of the regulation on air emissions at proposal, EPA performed a model analysis to estimate the amount of organic pollutants emitted to the air. EPA estimated the increase of air emissions at TEC facilities as a result of the wastewater treatment technology to be approximately 153,000 kilograms per year of organic pollutants (volatile and semivolatile organics), which represented approximately 35 percent of the total organic pollutant wastewater load of raw TEC wastewater. Since the final technology options are fairly similar to the proposed technology options, EPA estimates that these estimates would not change significantly. EPA's estimate of air emissions reflects the increase in emissions at TEC facilities, and does not account for baseline air emissions that are currently being released to the atmosphere at the POTW or as the wastewater is conveyed to the POTW. It is expected that much of the increased emissions at indirect TEC facilities calculated for this rule are currently being released at POTWs or during conveyance to the POTW. To a large degree, this rule will merely shift the location at which the air emissions are released, rather than increasing the total air emissions from TEC wastewater. As a result, air emission from TEC wastewater at POTWs are expected to be reduced somewhat following implementation of this rule. EPA's model analysis was performed based on the most stringent regulatory options considered for each subcategory in order to create a "worst case scenario" (*i.e.*, the more treatment technologies used, the more chance of volatilization of compounds to the air). For some subcategories, EPA is not promulgating the most stringent regulatory option; therefore, for these subcategories, air emission impacts are overestimated.

In addition, to the extent that facilities currently operate treatment in place, the results overestimate air emission impacts from the regulatory options. Additional details concerning EPA's model analysis to estimate air emission impacts are included in "Estimated Air Emission Impacts of TEC Industry Regulatory Options" in the rulemaking record.

Based on the sources of air emissions in the TEC industry and limited data concerning air pollutant emissions from TEC operations provided in response to the 1994 Detailed Questionnaire (most facilities did not provide air pollutant emissions estimates), EPA estimates that the incremental air emissions resulting from the regulatory options are a small percentage of air emissions generated by TEC operations. For these reasons, air emission impacts of the regulatory options are acceptable.

*C. Solid Waste Impacts*

Solid waste impacts resulting from the regulatory options include additional solid wastes generated by wastewater treatment technologies. These solid wastes include wastewater treatment residuals, including sludge and waste oil.

1. Wastewater Treatment Sludge

Wastewater treatment sludge is generated in two forms: dewatered sludge (or filter cake) generated by a filter press and/or wet sludge generated by treatment units such as oil/water separators, coagulation/clarification, dissolved air flotation, and biological treatment. Many facilities that currently operate wastewater treatment systems do not dewater wastewater treatment sludge. Storage, transportation, and disposal of greater volumes of undewatered sludge that would be generated after implementing the TEC industry regulatory options is less cost-effective than dewatering sludge on site and disposing of the greatly reduced volume of resulting filter cake. However, in estimating costs for the rule, EPA has included the costs for TEC facilities to install sludge dewatering equipment to handle increases in sludge generation. For these reasons, EPA estimates net decreases in the volume of wet sludge generated by the industry and net increases in the volume of dry sludge generated by the industry.

EPA estimates that the rule will result in a decrease in wet sludge generation of approximately 17 million gallons per year, which represents an estimated 98 percent decrease from current wet sludge generation. In addition, EPA estimates that the rule will result in an increase in dewatered sludge generation of approximately 35 thousand cubic yards per year, which represents an estimated 120 percent increase from current dewatered sludge generation. However, this results in a net decrease of sludge volume that will be deposited in landfills.

Compliance cost estimates for the TEC industry regulatory options are based on disposal of wastewater treatment sludge in nonhazardous waste landfills. EPA sampling of sludge using the Toxicity Characteristic Leaching Procedure (TCLP) test verified the sludge as non-hazardous. Such landfills are subject to RCRA Subtitle D standards found in 40 CFR parts 257 or 258.

The Agency concludes that the effluent benefits and the reductions in wet sludge generation from the technology options exceed the potential adverse effects from the estimated increase in wastewater treatment sludge generation.

2. Waste Oil

EPA estimates that compliance with the regulation will result in an increase in waste oil generation at TEC sites based on removal of oil from wastewater via oil/water separation. EPA estimates that this increase in waste oil generation will be approximately 670,000 gallons per year, which represents no more than an estimated 330 percent increase from current waste oil generation. EPA assumes, based on responses to the Detailed Questionnaire, that waste oil disposal will be via oil reclamation or fuels blending on or off site. Therefore, the Agency does not estimate any adverse effects from increased waste oil generation.

**XI. Regulatory Requirements**

*A. Executive Order 12866*

Under Executive Order 12866 [58 FR 51735 (October 4, 1993)], the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a "significant regulatory action." As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations have been documented in the public record.

*B. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 USC 601 et seq.*

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute 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 organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, a small entity is defined as (1) a small business that has less than $5 million in annual revenue (based on SBA size standards); (2) a small government jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In accordance with section 603 of the RFA, EPA prepared an initial regulatory flexibility analysis (IRFA) for the proposed rule (see 63 FR 34685) and convened a Small Business Advocacy Review Panel to obtain advice and recommendations from representatives of small entities that would potentially be regulated by the rule in accordance with section 609(b) of the RFA. A detailed discussion of the Panel's advice and recommendations is found in the Panel Report (DCN T10301). A summary of the Panel's recommendations is presented in the preamble to the proposed rule at 63 FR 34730.

In the final rule, EPA made changes to the proposal that reduced the level of impacts to small entities. The final regulation excludes all facilities that discharge less than 100,000 gallons per year of TEC process wastewater and excludes facilities that are engaged in non-TEC industrial, commercial, or POTW activities. In addition, EPA projects fewer economic impacts to small entities as a result of selecting a less stringent technology option in one subcategory. These and other changes made to the proposal are described in Section III of this notice.

In particular, EPA acknowledges the SBAR Panel's recommendations regarding regulatory alternatives, applicability of the final rule, and comment solicitation in the proposal. EPA carefully considered and adopted many of the recommendations made by the SBAR Panel as discussed in the proposal. EPA evaluated comments received on the proposal during the notice and comment period and decided to adopt several of the alternatives supported by commenters and the SBAR Panel. As discussed throughout this notice, EPA has decided to exclude drums and Intermediate Bulk Containers from the rule; to establish a less stringent regulatory option for the Truck/Chemical & Petroleum Subcategory; to establish similar levels of control for the Truck/Chemical & Petroleum Subcategory and Rail/Chemical & Petroleum Subcategory; and to adopt a low flow exclusion.

EPA's Economic Analysis includes an assessment of the impacts on small entities. EPA projects that no small businesses will close as a result of this rule. Using two sets of assumptions related to the ability of a business to pass the additional costs to customers, EPA projects that 35 to 38 small businesses would incur costs exceeding one percent of revenues, and that zero to 29 small businesses would incur costs exceeding three percent of revenues. This is approximately a 50 percent reduction in the impacts projected at proposal for EPA's most conservative cost pass through assumption. Due to the ability to recover all or a portion of regulatory costs by passing them through to customers, the number of small TEC operators affected at these levels is likely to fall in the lower end of the ranges.

*C. Submission to Congress and the General Accounting Office*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective September 13, 2000.

*D. Paperwork Reduction Act*

As discussed in Section V of this notice, EPA is promulgating a pollution prevention alternative as a regulatory compliance option and the final rule contains information collection requirements as a part of this compliance option. Therefore, the information collection requirements for this rule will be submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document will be prepared by EPA and published in a subsequent **Federal Register** notice. The information requirements are not enforceable until OMB approves them. EPA will incorporate new reporting and record keeping requirements and associated burden into a previously approved ICR (2040–0009) for the National Pretreatment Program with an amendment.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The OMB control number for the information collection requirements in

this rule will be listed in an amendment to 40 CFR Part 9 in a subsequent **Federal Register** document after OMB approves the ICR. Because of the delayed compliance date for the pretreatment standards in today's rule, indirect dischargers will not be subject to the information collection burden associated with the alternative Pollutant Management Plan provisions for the rail and tank/truck subcategories until three years from now. The Agency will provide burden estimates for the paperwork compliance components of the Pollutant Management Plan alternative (submission of a certification statement and the Pollutant Management Plan to the local control authority, preparation and maintenance of the plan and certain records at the facility) and obtain ICR clearance for these estimates prior to the end of that three-year time frame.

*E. Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. EPA has estimated total annualized costs of the rule as $11.1 million (1998$, post-tax). Thus, today's rule is not subject to the requirements of Sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. EPA projects that no small governments will be affected by this rule. Thus, today's rule is not subject to the requirements of Section 203 of the UMRA.

*F. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments*

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly 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, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to 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 officials 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 nor does it impose substantial direct compliance costs on them. EPA has determined that no communities of Indian tribal governments are affected by this rule. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

*G. Executive Order 13132 (Federalism)*

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The rule will not impose substantial costs on States or local governments. The rule establishes effluent limitations guidelines and pretreatment standards imposing requirements that apply to TEC facilities when they discharge wastewater or introduce wastewater to a POTW. The rule does not apply directly to States and local governments and will only affect State and local governments when they are administering CWA permitting programs. The final rule, at most, imposes minimal administrative costs on States that have an authorized NPDES programs and on local governments that are administering approved pretreatment programs. (These States and local governments must incorporate the new limitations and standards in new and reissued NPDES permits or local pretreatment orders or permits). Thus, Executive Order 13132 does not apply to this rule.

*H. National Technology Transfer and Advancement Act*

As noted in the proposed rule, Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, (Pub L. No. 104–113 Section 12(d) 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standard bodies. The NTTAA directs EPA to provide

Congress, through the Office of Management and Budget (OMB), explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking involves technical standards. The rule requires dischargers to measure for seven metals, two organic contaminants, BOD5, TSS, Oil and Grease (HEM), non-polar material (SGT–HEM), and pH. EPA performed a search to identify potentially voluntary consensus standards that could be used to measure the analytes in today's final guideline. EPA's search revealed that consensus standards exist and are already specified in the tables at 40 CFR Part 136.3 for measurement of many of the analytes. Pollutants in today's rule for which there are voluntary consensus methods include: seven metals; two organics; BOD5; TSS; Oil and Grease (HEM); non-polar material (SGT–HEM); and pH.

*I. The Edible Oil Regulatory Reform Act*

The Edible Oil Regulatory Reform Act, Public Law 104–55, requires most Federal agencies to differentiate between and establish separate classes for (1) animal fats and oils and greases, fish and marine mammal oils, and oils of vegetable origin, and (2) other greases and oils, including petroleum, when issuing or enforcing any regulation or establishing any interpretation or guideline relating to the transportation, storage, discharge, release, emission, or disposal of a fat, oil or grease.

The Agency believes that vegetable oils and animal fats pose similar types of threats to the environment as petroleum oils when spilled to the environment (62 FR 54508 Oct. 20, 1997). The deleterious environmental effects of spills of petroleum and non-petroleum oils, including animal fats and vegetable oils, are produced through physical contact and destruction of food sources (via smothering or coating) as well as toxic contamination (62 FR 54511). However, the permitted discharge of TEC process wastewater containing residual and dilute quantities of petroleum and non-petroleum oils is significantly different than an uncontrolled spill of pure petroleum or non-petroleum oil products.

As discussed in Section VI of the proposal, and in accordance with the Edible Oil Regulatory Reform, EPA has grouped facilities which clean transportation equipment that carry vegetable oils or animal fats as cargos into separate subcategories (Food Subcategory) from those facilities that clean equipment that had carried petroleum products (Truck/Chemical & Petroleum Subcategory, Rail/Chemical & Petroleum Subcategory, Barge/Chemical & Petroleum Subcategory).

*J. Executive Order 13045 and Protecting Children's Health*

The Executive Order "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 E.O. 13045 because it is not "economically significant" as defined under Executive Order 12866, and because the rule does not concern an environmental health or safety risk that may have a disproportional effect on children.

## XII. Regulatory Implementation

Upon promulgation of these regulations, the effluent limitations for the appropriate subcategory must be applied in all Federal and State NPDES permits issued to affected direct dischargers in the TEC industry. In addition, the pretreatment standards are directly applicable to affected indirect dischargers. This section discusses the relationship of upset and bypass provisions, variances and modifications, and monitoring requirements.

*A. Implementation of Limitations and Standards*

Upon the promulgation of these regulations, all new and reissued Federal and State NPDES permits issued to direct dischargers in the TEC industry must include the effluent limitations for the appropriate subcategory. Permit writers should be aware that EPA has now finalized revisions to 40 CFR 122.44(a) which could be particularly relevant to the development of NPDES permits for the TEC point source category (see 65 FR 30989, May 15, 2000). As finalized, the revision would require that permits have limitations for all applicable guidelines-listed pollutants but allows for the waiver of sampling requirements for guideline-listed pollutants on a case-by-case basis if the discharger can certify that the pollutant is not present in the discharge or present in only background levels from intake water with no increase due to the activities of the dischargers. New sources and new dischargers are not eligible for this waiver for their first permit term, and monitoring can be re-established through a minor modification if the discharger expands or changes its process. Further, the permittee must notify the permit writer of any modifications that have taken place over the course of the permit term and, if necessary, monitoring can be reestablished through a minor modification.

*B. Upset and Bypass Provisions*

A "bypass" is an intentional diversion of waste streams from any portion of a treatment facility. An "upset" is an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. EPA's regulations concerning bypasses and upsets are set forth at 40 CFR 122.41(m) and (n), and 40 CFR 403.16 (upset) and 403.17 (bypass).

*C. Variances and Modifications*

The CWA requires application of the effluent limitations established pursuant to Section 301 or the pretreatment standards of Section 307 to all direct and indirect dischargers. However, the statute provides for the modification of these national requirements in a limited number of circumstances. Moreover, the Agency has established administrative mechanisms to provide an opportunity for relief from the application of national effluent limitations guidelines and pretreatment standards for categories of existing sources for priority, conventional and non-conventional pollutants.

1. Fundamentally Different Factors Variances

EPA will develop effluent limitations guidelines or standards different from the otherwise applicable requirements if an individual existing discharging facility is fundamentally different with respect to factors considered in establishing the guidelines or standards applicable to the individual facility. Such a modification is known as a "fundamentally different factors" (FDF) variance.

Early on, EPA, by regulation, provided for FDF modifications from BPT effluent limitations, BAT limitations for priority and non-conventional pollutants and BCT limitation for conventional pollutants for direct dischargers. For indirect dischargers, EPA provided for FDF

modifications from pretreatment standards for existing facilities. FDF variances for priority pollutants were challenged judicially and ultimately sustained by the Supreme Court. (*Chemical Manufacturers Ass'n* v. *NRDC*, 479 U.S. 116 (1985)).

Subsequently, in the Water Quality Act of 1987, Congress added new Section 301(n) of the Act explicitly to authorize modification of the otherwise applicable BAT effluent limitations or categorical pretreatment standards for existing sources if a facility is fundamentally different with respect to the factors specified in Section 304 (other than costs) from those considered by EPA in establishing the effluent limitations or pretreatment standards. Section 301(n) also defined the conditions under which EPA may establish alternative requirements. Under Section 301(n), an application for approval of an FDF variance must be based solely on (1) information submitted during the rulemaking raising the factors that are fundamentally different or (2) information the applicant did not have an opportunity to submit. The alternate limitation or standard must be no less stringent than justified by the difference and not result in markedly more adverse non-water quality environmental impacts than the national limitation or standard.

EPA regulations at 40 CFR 125 Subpart D, authorizing the Regional Administrators to establish alternative guidelines and standards, further detail the substantive criteria used to evaluate FDF variance requests for existing direct dischargers. Thus, 40 CFR 125.31(d) identifies six factors (*e.g.*, volume of process wastewater, age and size of a discharger's facility) that may be considered in determining if a facility is fundamentally different. The Agency must determine whether, on the basis of one or more of these factors, the facility in question is fundamentally different from the facilities and factors considered by EPA in developing the nationally applicable effluent guidelines. The regulation also lists four other factors (*e.g.*, infeasibility of installation within the time allowed or a discharger's ability to pay) that may not provide a basis for an FDF variance. In addition, under 40 CFR 125.31(b)(3), a request for limitations less stringent than the national limitation may be approved only if compliance with the national limitations would result in either (a) a removal cost wholly out of proportion to the removal cost considered during development of the national limitations, or (b) a non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the national limits. EPA regulations provide for an FDF variance for existing indirect dischargers at 40 CFR 403.13. The conditions for approval of a request to modify applicable pretreatment standards and factors considered are the same as those for direct dischargers.

The legislative history of Section 301(n) underscores the necessity for the FDF variance applicant to establish eligibility for the variance. EPA's regulations at 40 CFR 125.32(b)(1) are explicit in imposing this burden upon the applicant. The applicant must show that the factors relating to the discharge controlled by the applicant's permit which are claimed to be fundamentally different are, in fact, fundamentally different from those factors considered by EPA in establishing the applicable guidelines. The pretreatment regulation incorporate a similar requirement at 40 CFR 403.13(h)(9).

An FDF variance is not available to a new source subject to NSPS or PSNS.

2. Removal Credits

The CWA establishes a discretionary program for POTWs to grant "removal credits" to their indirect dischargers. This credit in the form of a less stringent pretreatment standard, allows an increased concentration of a pollutant in the flow from the indirect discharger's facility to the POTW (*See* 40 CFR 403.7). EPA has promulgated removal credit regulations as part of its pretreatment regulations.

The following discussion provides a description of the existing removal credit regulations. Under EPA's existing pretreatment regulations, the availability of a removal credit for a particular pollutant is linked to the POTW method of using or disposing of its sewage sludge. The regulations provide that removal credits are only available for certain pollutants regulated in EPA's 40 CFR Part 503 sewage sludge regulations (58 FR 9386). The pretreatment regulations at 40 CFR Part 403 provide that removal credits may be made potentially available for the following pollutants:

(1) If a POTW applies its sewage sludge to the land for beneficial uses, disposes of it on surface disposal sites or incinerates it, removal credits may be available, depending on which use or disposal method is selected (so long as the POTW complies with the requirements in Part 503). When sewage sludge is applied to land, removal credits may be available for ten metals. When sewage sludge is disposed of on a surface disposal site, removal credits may be available for three metals. When the sewage sludge is incinerated, removal credits may be available for seven metals and for 57 organic pollutants (40 CFR 403.7(a)(3)(iv)(A)).

(2) In addition, when sewage sludge is used on land or disposed of on a surface disposal site or incinerated, removal credits may also be available for additional pollutants so long as the concentration of the pollutant in sludge does not exceed a concentration level established in Part 403. When sewage sludge is applied to land, removal credits may be available for two additional metals and 14 organic pollutants. When the sewage sludge is disposed of on a surface disposal site, removal credits may be available for seven additional metals and 13 organic pollutants. When the sewage sludge is incinerated, removal credits may be available for three other metals (40 CFR 403.7(a)(3)(iv)(B)).

(3) When a POTW disposes of its sewage sludge in a municipal solid waste landfill (MSWLF) that meets the criteria of 40 CFR Part 258, removal credits may be available for any pollutant in the POTW's sewage sludge (40 CFR 403.7(a)(3)(iv)(C)). Thus, given compliance with the requirements of EPA's removal credit regulations,[2] following today's promulgation of the pretreatment standards, removal credits may be authorized for any pollutant subject to pretreatment standards if the applying POTW disposes of its sewage sludge in a MSWLF that meets the requirements of 40 CFR Part 258. If the POTW uses or disposes of its sewage sludge by land application, surface disposal or incineration, removal credits may be available for the following metal pollutants (depending on the method of use or disposal): arsenic, cadmium, chromium, copper, iron, lead, mercury, molybdenum, nickel, selenium and zinc. Given compliance with Section 403.7, removal credits may be available for the following organic pollutants (depending on the method of use or disposal) if the POTW uses or disposes of its sewage sludge: benzene, 1,1-dichloroethane, 1,2-dibromoethane, ethylbenzene, methylene chloride, toluene, tetrachloroethene, 1,1,1-trichloroethane, 1,1,2-trichloroetbane and trans-1,2-dichloroethene.

Some facilities may be interested in obtaining removal credit authorization for other pollutants being regulated by

[2] Under 40 CFR 403.7, a POTW is authorized to give removal credits only under certain conditions. These include applying for, and obtaining, approval from the Regional Administrator (or Director of a State NPDES program with an approved pretreatment program), a showing of consistent pollutant removal and an approved pretreatment program. *See* 40 CFR 403.7(a)(3)(i), (ii), and (iii).

this rulemaking for which removal credit authorization would not otherwise be available under Part 403. Under Sections 307(b) and 405 of the CWA, EPA may authorize removal credits only when EPA determines that, if removal credits are authorized, that the increased discharges of a pollutant to POTWs resulting from removal credits will not affect POTW sewage sludge use or disposal adversely. As discussed in the preamble to amendments to Part 403 regulations (58 FR 9382–83), EPA has interpreted these sections to authorize removal credits for a pollutant only in one of two circumstances. Removal credits may be authorized for any categorical pollutant (1) for which EPA have established a numerical pollutant limit in Part 503; or (2) which EPA has determined will not threaten human health and the environment when used or disposed in sewage sludge. The pollutants described in paragraphs (1)–(3) above include all those pollutants that EPA either specifically regulated in Part 503 or evaluated for regulation and determined would not adversely affect sludge use and disposal.

*D. Relationship of Effluent Limitations to NPDES Permits and Monitoring Requirements*

Effluent limitations act as a primary mechanism to control the discharges of pollutants to waters of the United States. These limitations are applied to individual facilities through NPDES permits issued by EPA or authorized States under Section 402 of the Act.

The Agency has developed the limitations for this regulation to cover the discharge of pollutants for this industrial category. In specific cases, the NPDES permitting authority may elect to establish technology-based permit limits for pollutants not covered by this regulation. In addition, if State water quality standards or other provisions of State or Federal Law require limits on pollutants not covered by this regulation (or require more stringent limits on covered pollutants), the permitting authority must apply those limitations.

Working in conjunction with the effluent limitations are the monitoring conditions set out in a NPDES permit. An integral part of the monitoring conditions is the point at which a facility must monitor to demonstrate compliance. The point at which a sample is collected can have a dramatic effect on the monitoring results for that facility. Therefore, it may be necessary to require internal monitoring points in order to ensure compliance. Authority to address internal waste streams is provided in 40 CFR 122.44(i)(1)(iii) and 122.45(h). Permit writers may establish additional internal monitoring points to the extent consistent with EPA's regulations.

An important component of the monitoring requirements established by the permitting authority is the frequency at which monitoring is required. In costing the various technology options for the TEC industry, EPA assumed monthly monitoring for priority and non-conventional pollutants and weekly monitoring for conventional pollutants. These monitoring frequencies may be lower than those generally imposed by some permitting authorities, but EPA believes these reduced frequencies are appropriate due to the relative costs of monitoring when compared to the estimated costs of complying with the proposed limitations.

*E. Analytical Methods*

Section 304(h) of the Clean Water Act directs EPA to promulgate guidelines establishing test methods for the analysis of pollutants. TEC facilities use these methods to determine the presence and concentration of pollutants in wastewater, and EPA, State and local control authorities use them for compliance monitoring and for filing applications for the NPDES program under 40 CFR 122.21, 122.41, 122.44 and 123.25, and for the implementation of the pretreatment standards under 40 CFR 403.10 and 403.12. To date, EPA has promulgated methods for conventional pollutants, toxic pollutants, and for some non-conventional pollutants. In 40 CFR 401.16, EPA defines the five conventional pollutants. Table I–B at 40 CFR 136 lists the analytical methods approved for these pollutants. The 65 toxic metals and organic pollutants and classes of pollutants are defined at 40 CFR 401.15. From the list of 65 classes of toxic pollutants EPA identified a list of 126 "Priority Pollutants." This list of Priority Pollutants is shown, for example, at 40 CFR Part 423, Appendix A. The list includes non-pesticide organic pollutants, metal pollutants, cyanide, asbestos, and pesticide pollutants. Currently approved methods for metals and cyanide are included in the table of approved inorganic test procedures at 40 CFR 136.3, Table I–B. Table I–C at 40 CFR 136.3 lists approved methods for measurement of non-pesticide organic pollutants, and Table I–D lists approved methods for the toxic pesticide pollutants and for other pesticide pollutants. Dischargers must use the test methods promulgated at 40 CFR Part 136.3 or incorporated by reference in the tables to monitor pollutant discharges from TEC facilities, unless specified otherwise by the permitting authority.

The final rule would require facilities in the TEC point source category to monitor for $BOD_5$, TSS, Oil and Grease (HEM), non-polar material (SGT–HEM), Cadmium, Chromium, Copper, Lead, Mercury, Nickel, Zinc, Fluoranthene, Phenanthrene, and pH. EPA has approved test methods for all these pollutants at 40 CFR Part 136.3. EPA recently published an amendment to EPA Methods 625 and 1625 that expands the list of analytes that can be measured using these methods, (see Landfills final rule, 65 FR 3008, January 19, 2000).

As stated in the proposal (see Table 10 at 63 FR 34736, June 25, 1998), EPA used Method 1625C to collect analytical data for the semivolatile organics. The proposal further stated that commenters should use these methods or equivalent methods for analyses. In 1998, EPA also proposed to amend Methods 625 and 1625 to include additional pollutants to be measured under effluent guidelines for the Centralized Waste Treatment point source category (64 FR 2345). Since then, EPA has gathered data on the capacity of these methods to measure the additional pollutants. The modifications to EPA Methods 625 and 1625 consist of text, performance data, and quality control (QC) acceptance criteria for the additional analytes. EPA validated the QC acceptance criteria for the additional analytes in single-laboratory studies that included TEC wastewater. The collected data are summarized in a report contained in the docket for today's rulemaking.

In today's rule, EPA is approving the use of EPA Method 1625 (published at 40 CFR part 136.3, appendix A) for Fluoranthene and Phenanthrene. Method 625 (also published at 40 CFR part 136.3, appendix A) may also be used to monitor for Fluoranthene and Phenanthrene since these two analytes are listed in that method for general application.

**Appendix A: Definitions, Acronyms, and Abbreviations Used in This Notice**

AGENCY—The U.S. Environmental Protection Agency.

BAT—The best available technology economically achievable, as described in Section 304(b)(2) of the CWA.

BCT—The best conventional pollutant control technology, as described in Section 304(b)(4) of the CWA.

$BOD_5$—Five Day Biochemical Oxygen Demand. A measure of biochemical decomposition of organic matter in a water sample. It is determined by measuring the dissolved oxygen consumed by microorganisms to oxidize the organic matter in a water sample under standard laboratory

conditions of five days and 70° C, see Method 405.1. BOD5 is not related to the oxygen requirements in chemical combustion.

BPT—The best practicable control technology currently available, as described in Section 304(b)(1) of the CWA.

CARGO—Any chemical, material, or substance transported in a tank truck, closed-top hopper truck, intermodal tank container, rail tank car. closed-top hopper rail car, tank barge, closed-top hopper barge, or ocean/sea tanker that comes in direct contact with the chemical, material, or substance. A cargo may also be referred to as a commodity.

CLOSED-TOP HOPPER RAIL CAR—A completely enclosed storage vessel pulled by a locomotive that is used to transport dry bulk commodities or cargos over railway access lines. Closed-top hopper rail cars are not designed or contracted to carry liquid commodities or cargos and are typically used to transport grain, soybeans, soy meal, soda ash, lime, fertilizer, plastic pellets, flour, sugar, and similar commodities or cargos. The commodities or cargos transported come in direct contact with the hopper interior. Closed-top hopper rail cars are typically divided into three compartments, carry the same commodity or cargo in each compartment, and are generally top loaded and bottom unloaded. The hatch covers on closed-top hopper rail cars are typically longitudinal hatch covers or round manhole covers.

CLOSED-TOP HOPPER TRUCK—A motor-driven vehicle with a completely enclosed storage vessel used to transport dry bulk commodities or cargos over roads and highways. Closed-top hopper trucks are not designed or constructed to carry liquid commodities or cargos and are typically used to transport grain, soybeans, soy meal, soda ash, lime, fertilizer, plastic pellets, flour, sugar, and similar commodities or cargos. The commodities or cargos transported come in direct contact with the hopper interior. Closed-top hopper trucks are typically divided into three compartments, carry the same commodity or cargo in each compartment, and are generally top loaded and bottom unloaded. The hatch covers used on closed-top hopper trucks are typically longitudinal hatch covers or round manhole covers. Closed-top hopper trucks are also commonly referred to as dry bulk hoppers.

CLOSED-TOP HOPPER BARGE—A non-self-propelled vessel constructed or adapted primarily to carry dry commodities or cargos in bulk through rivers and inland waterways, and may occasionally carry commodities or cargos through oceans and seas when in transit from one inland waterway to another. Closed-top hopper barges are not designed to carry liquid commodities or cargos and are typically used to transport corn, wheat, soy beans, oats, soy meal, animal pellets, and similar commodities or cargos. The commodities or cargos transported come in direct contact with the hopper interior. The basic types of tops on closed-top hopper barges are telescoping rolls, steel lift covers, and fiberglass lift covers.

COD—Chemical oxygen demand—A non-conventional bulk parameter that measures the oxygen-consuming capacity of refractory organic and inorganic matter present in water or wastewater. COD is expressed as the amount of oxygen consumed from a chemical oxidant in a specific test, see Methods 410.1 through 401.4.

COMMODITY—Any chemical, material, or substance transported in a tank truck, closed-top hopper truck, intermodal tank container, rail tank car, closed-top hopper rail car, tank barge, closed-top hopper barge, ocean/sea tanker, or similar tank that comes in direct contact with the chemical, material, or substance. A commodity may also be referred to as a cargo.

CONVENTIONAL POLLUTANTS—The pollutants identified in Section 304(a)(4) of the CWA and the regulations thereunder (biochemical oxygen demand ($BOD_5$), total suspended solids (TSS), oil and grease, fecal Commentors, and pH).

CWA—CLEAN WATER ACT—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*), as amended.

CWA—Centralized Waste Treaters Effluent Guideline.

DIRECT DISCHARGER—A facility that conveys or may convey untreated or facility-treated process wastewater or nonprocess wastewater directly into waters of the United States, such as rivers, lakes, or oceans. (See United States Surface Waters definition.)

DRUM—A metal or plastic cylindrical container with either an open-head or a tight-head (also known as bung-type top) used to hold liquid, solid, or gaseous commodities or cargos which are in direct contact with the container interior. Drums typically range in capacity from 30 to 55 gallons.

FOOD GRADE CARGO—Food grade cargos include edible and non-edible food products. Specific examples of food grade products include but are not limited to: alcoholic beverages, animal by-products, animal fats, animal oils, caramel, caramel coloring, chocolate, corn syrup and other corn products, dairy products, dietary supplements, eggs, flavorings, food preservatives, food products that are not suitable for human consumption, fruit juices, honey, lard, molasses, non-alcoholic beverages, salt, sugars, sweeteners, tallow, vegetable oils, vinegar, and pool water.

HEEL—Any material remaining in a tank or container following unloading, delivery, or discharge of the transported cargo. Heels may also be referred to as container residue, residual materials or residuals.

HEXANE EXTRACTABLE MATERIAL (HEM)—A method-defined parameter that measures the presence of relatively nonvolatile hydrocarbons, vegetable oils, animal fats, waxes, soaps, greases, and related materials that are extractable in the solvent n-hexane. See Method 1664.

HEM is also referred to as oil and grease.

INDIRECT DISCHARGER-A facility that discharges or may discharge pollutants into a publicly-owned treatment works.

INTERMEDIATE BULK CONTAINER (IBC OR TOTE)—A completely enclosed storage vessel used to hold liquid, solid, or gaseous commodities or cargos which are in direct contact with the tank interior. Intermediate bulk containers may be loaded onto flat beds for either truck or rail transport, or onto ship decks for water transport. IBCs are portable containers with 450 liters (119 gallons) to 3000 liters (793 gallons) capacity. IBCs are also commonly referred to as totes or tote bins.

INTERMODAL TANK CONTAINER—A completely enclosed storage vessel used to hold liquid, solid, or gaseous commodities or cargos which come in direct contact with the tank interior. Intermodal tank containers may be loaded onto flat beds for either truck or rail transport, or onto ship decks for water transport. Containers larger than 3000 liters capacity are considered intermodal tank containers. Containers smaller than 3000 liters capacity are considered IBCs.

LTA—LONG-TERM AVERAGE—For purposes of the effluent guidelines, average pollutant levels achieved over a period of time by a facility, subcategory, or technology option. LTAs were used in developing the limitations and standards in today's final regulation.

NEW SOURCE—"New source" is defined at 40 CFR 122.2 and 122.29(b).

NON-CONVENTIONAL POLLUTANT—Pollutants other than those specifically defined as conventional pollutants (identified in Section 304(a)(4) of the Clean Water Act) or priority pollutants (identified in 40 CFR Part 423, Appendix A).

NON-DETECT VALUE—A concentration-based measurement reported below the sample specific detection limit that can reliably be measured by the analytical method for the pollutant.

NON-POLAR MATERIAL—A method-defined parameter that measures the presence of mineral oils that are extractable in the solvent n-hexane and not absorbed by silica gel. See Method 1664.

NPDES—The National Pollutant Discharge Elimination System authorized under Section 402 of the CWA. NPDES requires permits for discharge of pollutants from any point source into waters of the United States.

NONPROCESS WASTEWATER—Wastewater that is not generated from industrial processes or that does not come into contact with process wastewater. Nonprocess wastewater includes, but is not limited to, wastewater generated from restrooms, cafeterias, and showers.

NSPS—New Source Performance Standards, under Section 306 of the CWA.

OCEAN/SEA TANKER—A self- or non-self-propelled vessel constructed or adapted to transport commodities or cargos in bulk in cargo spaces (or tanks) through oceans and seas, where the commodity or cargo carried comes in direct contact with the tank interior. There are no maximum or minimum vessel or tank volumes.

OFF SITE—"Off site" means outside the contiguous and non-contiguous established boundaries of the facility.

OIL AND GREASE—A method-defined parameter that measures the presence of relatively nonvolatile hydrocarbons, vegetable oils, animal fats, waxes, soaps, greases, and related materials that are extractable in either n-hexane (referred to as HEM, see Method 1664) or Freon 113 (1,1,2-tricholoro-1,2,2-trifluoroethane, see Method 413.1). Data collected by EPA in support of the TEC effluent guideline utilized method 1664.

ON SITE—"On site" means within the contiguous and non-contiguous established boundaries of the facility.

PETROLEUM CARGO—Petroleum cargos include the products of the fractionation or straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking, or other refining processes. For purposes of this rule, petroleum cargos also include products obtained from the refining or processing of natural gas and coal. For purposes of this rule, specific examples of petroleum products include but are not limited to: asphalt; benzene; coal tar; crude oil; cutting oil; ethyl benzene; diesel fuel; fuel additives; fuel oils; gasoline; greases; heavy, medium, and light oils; hydraulic fluids, jet fuel; kerosene; liquid petroleum gases (LPG) including butane and propane; lubrication oils; mineral spirits; naphtha; olefin, paraffin, and other waxes; tall oil; tar; toluene; xylene; and waste oil.

POTW—Publicly-owned treatment works, as defined at 40 CFR 403.3(0).

PRETREATMENT STANDARD—A regulation that establishes industrial wastewater effluent quality required for discharge to a POTW. (CWA Section 307(b).)

PRIORITY POLLUTANTS—The pollutants designated by EPA as priority in 40 CFR Part 423 Appendix A.

PSES—Pretreatment standards for existing sources, under Section 307(b) of the CWA.

PSNS—Pretreatment standards for new sources, under Section 307(b) and (c) of the CWA.

RAIL TANK CAR—A completely enclosed storage vessel pulled by a locomotive that is used to transport liquid, solid, or gaseous commodities or cargos over railway access lines. A rail tank car storage vessel may have one or more storage compartments and the stored commodities or cargos come in direct contact with the tank interior. There are no maximum or minimum vessel or tank volumes.

RCRA—Resource Conservation and Recovery Act (PL 94–580) of 1976, as amended (42 U.S.C. 6901, *et. seq.*).

SILICA GEL TREATED HEXANE EXTRACTABLE MATERIAL (SGT–HEM)—A method-defined parameter that measures the presence of mineral oils that are extractable in the solvent n-hexane and not adsorbed by silica gel. See Method 1664. SGT–HEM is also referred to as non-polar material.

TANK—A generic term used to describe any closed container used to transport commodities or cargos. The commodities or cargos transported come in direct contact with the container interior, which is cleaned by TEC facilities. Examples of containers which are considered tanks include : tank trucks, closed-top hopper trucks, intermodal tank containers, rail tank cars, closed-top hopper rail cars, tank barges, closed-top hopper barges, and ocean/sea tankers. Containers used to transport pre-packaged materials are not considered tanks, nor are 55-gallon drums or pails or intermediate bulk containers.

TANK BARGE—A non-self-propelled vessel constructed or adapted primarily to carry commodities or cargos in bulk in cargo spaces (or tanks) through rivers and inland waterways, and may occasionally carry commodities or cargos through oceans and seas when in transit from one inland waterway to another. The commodities or cargos transported are in direct contact with the tank interior. There are no maximum or minimum vessel or tank volumes.

TANK TRUCK—A motor-driven vehicle with a completely enclosed storage vessel used to transport liquid, solid or gaseous materials over roads and highways. The storage vessel or tank may be detachable, as with tank trailers, or permanently attached. The commodities or cargos transported come in direct contact with the tank interior. A tank truck may have one or more storage compartments. There are no maximum or minimum vessel or tank volumes. Tank trucks are also commonly referred to as cargo tanks or tankers.

TEC INDUSTRY—Transportation Equipment Cleaning Industry.

TOTES OR TOTE BINS—A completely enclosed storage vessel used to hold liquid, solid, or gaseous commodities or cargos which come in direct contact with the vessel interior. Totes may be loaded onto flat beds for either truck or rail transport, or onto ship decks for water transport. There are no maximum or minimum values for tote volumes, although larger containers are generally considered to be intermodal tank containers. Totes or tote bins are also referred to as intermediate bulk containers or IBCs. Fifty-five gallon drums and pails are not considered totes or tote bins.

TSS—TOTAL SUSPENDED SOLIDS—A measure of the amount of particulate matter that is suspended in a water sample. The measure is obtained by filtering a water sample of known volume. The particulate material retained on the filter is then dried and weighed, see Method 160.2.

VOLATILE ORGANIC COMPOUNDS (VOCs)—Any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. See 40 CFR Part 51.100 for additional detail and exclusions

ZERO DISCHARGE FACILITY—Facilities that do not discharge pollutants to waters of the United States or to a POTW. Also included in this definition are discharge of pollutants by way of evaporation, deep-well injection, off-site transfer to a treatment facility, and land application.

### List of Subjects in 40 CFR Part 442

Environmental protection, Barge cleaning, Rail tank cleaning, Tank cleaning, Transportation equipment cleaning, Waste treatment and disposal, Water pollution control.

Dated: June 15, 2000.

**Carol M. Browner,**

*Administrotor.*

Accordingly, part 442 is added to 40 CFR chapter I to read as follows:

## PART 442—TRANSPORTATION EQUIPMENT CLEANING POINT SOURCE CATEGORY

Sec.



**Subpart A—Tank Trucks and Intermodal Tank Containers Transporting Chemical and Petroleum Cargos**



**Subpart B—Rail Tank Cars Transporting Chemical and Petroleum Cargos**



**Subpart C—Tank Barges and Ocean/Sea Tankers Transporting Chemical and Petroleum Cargos**



**Subpart D—Tanks Transporting Food Grade Cargos**

**Authority:** 33 U.S.C. 1311, 1314, 1316, 1317, 1318, 1342 and 1361.

### § 442.1 General applicability.

(a) As defined more specifically in each subpart, and except for discharges specified in paragraph (b) of this section, this part applies to discharges resulting from cleaning the interior of tanks used to transport chemical, petroleum or food grade cargos. This part does not apply to facilities that clean only the exteriors of transportation equipment. Operations which may be subject to this part typically are reported under a wide variety of Standard Industrial Classification (SIC) codes. Several of the most common SIC codes include: SIC 7699, SIC 4741, or SIC 4491 (1987 SIC Manual).

(b) This part is not applicable to the following discharges:

(1) Wastewaters associated with tank cleanings operated in conjunction with other industrial, commercial, or Publicly Owned Treatment Works (POTW) operations, provided that the cleaning is limited to tanks that previously contained raw materials, by-products, or finished products that are associated with the facility's on-site processes.

(2) Wastewaters resulting from cleaning the interiors of drums, intermediate bulk containers, or closed-top hoppers.

(3) Wastewater from a facility that discharges less than 100,000 gallons per year of transportation equipment cleaning process wastewater.

### § 442.2 General definitions.

(a) In addition to the general definitions and abbreviations at 40 CFR part 401, the following definitions shall apply to this part:

*Chemical cargos* mean, but are not limited to, the following: latex, rubber, plastics, plasticizers, resins, soaps, detergents, surfactants, agricultural chemicals and pesticides, hazardous waste, organic chemicals including: alcohols, aldehydes, formaldehydes, phenols, peroxides, organic salts, amines, amides, other nitrogen compounds, other aromatic compounds, aliphatic organic chemicals, glycols, glycerines, and organic polymers; refractory organic compounds including: ketones, nitriles, organo-metallic compounds containing chromium, cadmium, mercury, copper, zinc; and inorganic chemicals including: aluminum sulfate, ammonia, ammonium nitrate, ammonium sulfate, and bleach. Cargos which are not considered to be food grade or petroleum cargos are considered to be chemical cargos.

*Closed-top hopper* means a completely enclosed storage vessel used to transport dry bulk cargos, either by truck, rail, or barge. Closed-top hoppers are not designed or constructed to carry liquid cargos and are typically used to transport grain, soybeans, soy meal, soda ash, lime, fertilizer, plastic pellets, flour, sugar, and similar commodities or cargos. The cargos transported come in direct contact with the hopper interior. Closed-top hoppers are also commonly referred to as dry bulk hoppers.

*Drums* mean metal or plastic cylindrical containers with either an open-head or a tight-head (also known as bung-type top) used to hold liquid, solid, or gaseous commodities or cargos which are in direct contact with the container interior. Drums typically range in capacity from 30 to 55 gallons.

*Food grade cargos* mean edible and non-edible food products. Specific examples of food grade cargos include, but are not limited to, the following: alcoholic beverages, animal by-products, animal fats, animal oils, caramel, caramel coloring, chocolate, corn syrup and other corn products, dairy products, dietary supplements, eggs, flavorings, food preservatives, food products that are not suitable for human consumption, fruit juices, honey, lard, molasses, non-alcoholic beverages, sweeteners, tallow, vegetable oils, and vinegar.

*Heel* means any material remaining in a tank following unloading, delivery, or discharge of the transported cargo. Heels may also be referred to as container residue, residual materials or residuals.

*Intermediate bulk container ("IBC" or "Tote")* means a completely enclosed storage vessel used to hold liquid, solid, or gaseous commodities or cargos which are in direct contact with the container interior. IBCs may be loaded onto flat beds for either truck or rail transport, or onto ship decks for water transport. IBCs are portable containers with 450 liters (119 gallons) to 3000 liters (793 gallons) capacity. IBCs are also commonly referred to as totes or tote bins.

*Intermodal tank container* means a completely enclosed storage vessel used to hold liquid, solid, or gaseous commodities or cargos which come in direct contact with the tank interior. Intermodal tank containers may be loaded onto flat beds for either truck or rail transport, or onto ship decks for water transport. Containers larger than 3000 liters capacity are considered intermodal tank containers. Containers smaller than 3000 liters capacity are considered IBCs.

*Ocean/sea tanker* means a self or non-self-propelled vessel constructed or adapted to transport liquid, solid or gaseous commodities or cargos in bulk in cargo spaces (or tanks) through oceans and seas, where the commodity or cargo carried comes in direct contact with the tank interior. There are no maximum or minimum vessel or tank volumes.

*On-site* means within the contiguous and non-contiguous established boundaries of a facility.

*Petroleum cargos* mean products of the fractionation or straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking, or other refining processes. For purposes of this rule, petroleum cargos also include products obtained from the refining or processing of natural gas and coal. For purposes of this rule, specific examples of petroleum products include but are not limited to: asphalt; benzene; coal tar; crude oil; cutting oil; ethyl benzene; diesel fuel; fuel additives; fuel oils; gasoline; greases; heavy, medium, and light oils; hydraulic fluids, jet fuel; kerosene; liquid petroleum gases (LPG) including butane and propane; lubrication oils; mineral spirits; naphtha; olefin, paraffin, and other waxes; tall oil; tar; toluene; xylene; and waste oil.

*Pollution Prevention Allowable Discharge* for this subpart means the quantity of/concentrations of pollutants in wastewaters being discharged to publicly owned treatment works after a facility has demonstrated compliance with the Pollutant Management Plan provisions in §§ 442.15(b), 442.16(b), 442.25(b), or 442.26(b) of this part.

*Prerinse/presteam* means a rinse, typically with hot or cold water, performed at the beginning of the cleaning sequence to remove residual material from the tank interior.

*Presolve wash* means the use of diesel, kerosene, gasoline, or any other type of fuel or solvent as a tank interior cleaning solution.

*Rail Tank Car* means a completely enclosed storage vessel pulled by a locomotive that is used to transport liquid, solid, or gaseous commodities or cargos over railway access lines. A rail tank car storage vessel may have one or more storage compartments and the stored commodities or cargos come in direct contact with the tank interior. There are no maximum or minimum vessel or tank volumes.

*Tank barge* means a non-self-propelled vessel constructed or adapted primarily to carry liquid, solid or gaseous commodities or cargos in bulk

in cargo spaces (or tanks) through rivers and inland waterways, and may occasionally carry commodities or cargos through oceans and seas when in transit from one inland waterway to another. The commodities or cargos transported are in direct contact with the tank interior. There are no maximum or minimum vessel or tank volumes.

*Tank truck* means a motor-driven vehicle with a completely enclosed storage vessel used to transport liquid, solid or gaseous materials over roads and highways. The storage vessel or tank may be detachable, as with tank trailers, or permanently attached. The commodities or cargos transported come in direct contact with the tank interior. A tank truck may have one or more storage compartments. There are no maximum or minimum vessel or tank volumes. Tank trucks are also commonly referred to as cargo tanks or tankers.

*Transportation equipment cleaning (TEC) process wastewater* means all wastewaters associated with cleaning the interiors of tanks including: tank trucks; rail tank cars; intermodal tank containers; tank barges; and ocean/sea tankers used to transport commodities or cargos that come into direct contact with the interior of the tank or container. At those facilities that clean tank interiors, TEC process wastewater also includes wastewater generated from washing vehicle exteriors, equipment and floor washings, TEC-contaminated stormwater, wastewater prerinse cleaning solutions, chemical cleaning solutions, and final rinse solutions. TEC process wastewater is defined to include only wastewater generated from a regulated TEC subcategory. Therefore, TEC process wastewater does not include wastewater generated from cleaning hopper cars, or from food grade facilities discharging to a POTW. Wastewater generated from cleaning tank interiors for purposes of shipping products (i.e., cleaned for purposes other than maintenance and repair) is considered TEC process wastewater. Wastewater generated from cleaning tank interiors for the purposes of maintenance and repair on the tank is not considered TEC process wastewater. Facilities that clean tank interiors solely for the purposes of repair and maintenance are not regulated under this Part.

(b) The parameters regulated in this part and listed with approved methods of analysis in Table IB at 40 CFR 136.3, are defined as follows:

(1) *$BOD_5$* means 5-day biochemical oxygen demand.

(2) *Cadmium* means total cadmium.

(3) *Chromium* means total chromium.

(4) *Copper* means total copper.

(5) *Lead* means total lead.

(6) *Mercury* means total mercury

(7) *Nickel* means total nickel.

(8) *Oil and Grease (HEM)* means oil and grease (Hexane-Extractable Material) measured by Method 1664.

(9) *Non-polar material (SGT–HEM)* means the non-polar fraction of oil and grease (Silica Gel Treated Hexane-Extractable Material) measured by Method 1664.

(10) *TSS* means total suspended solids.

(11) *Zinc* means total zinc.

(c) The parameters regulated in this part and listed with approved methods of analysis in Table IC at 40 CFR 136.3, are as follows:

(1) Fluoranthene.

(2) Phenanthrene.

**§ 442.3 General pretreatment standards.**

Any source subject to this part that introduces process wastewater pollutants into a publicly owned treatment works (POTW) must comply with 40 CFR part 403.

## Subpart A—Tank Trucks and Intermodal Tank Containers Transporting Chemical and Petroleum Cargos

**§ 442.10 Applicability.**

This subpart applies to discharges resulting from the cleaning of tank trucks and intermodal tank containers which have been used to transport chemical or petroleum cargos.

**§ 442.11 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).**

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

(a) Effluent Limitations

| Regulated parameter | Maximum daily [1] | Maximum monthly avg.[1] |
|---|---|---|
| $BOD_5$ | 61 | 22 |
| TSS | 58 | 26 |
| Oil and grease (HEM) | 36 | 16 |
| Copper | 0.84 | |
| Mercury | 0.0031 | |
| pH | ([2]) | ([2]) |

[1] Mg/L (ppm)

[2] Within 6 to 9 at all times.

**§ 442.12 Effluent limitations attainable by the application of the best conventional pollutant control technology (BCT).**

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: Limitations for $BOD_5$, TSS, oil and grease (HEM) and pH are the same as the corresponding limitation specified in § 442.11.

**§ 442.13 Effluent limitations attainable by the application of best available technology economically achievable (BAT).**

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BAT: Limitations for copper, mercury, and oil and grease (HEM) are the same as the corresponding limitation specified in § 442.11.

**§ 442.14 New source performance standards (NSPS).**

Any new point source subject to this subpart must achieve the following performance standards: Standards for $BOD_5$, TSS, oil and grease (HEM), copper, mercury, and pH are the same as the corresponding limitation specified in § 442.11.

**§ 442.15 Pretreatment standards for existing sources (PSES).**

(a) Except as provided in 40 CFR 403.7 and 403.13 or in paragraph (b) of this section, no later than August 14, 2003, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must achieve PSES as follows:

TABLE—PRETREATMENT STANDARDS

| Regulated parameter | Maximum daily [1] |
|---|---|
| Non-polar material (SGT–HEM) | 26 |
| Copper | 0.84 |
| Mercury | 0.0031 |

[1] Mg/L (ppm).

(b) As an alternative to achieving PSES as defined in paragraph (a) of this section, any existing source subject to paragraph (a) of this section may have a pollution prevention allowable discharge of wastewater pollutants, as defined in § 442.2, if the source agrees to control mechanism with the control authority as follows:

(1) The discharger shall prepare a Pollutant Management Plan that satisfies the requirements as specified in paragraph (b)(5) of this section, and the

discharger shall conduct its operations in accordance with that plan.

(2) The discharger shall notify its local control authority prior to renewing or modifying its individual control mechanism or pretreatment agreement of its intent to achieve the pollution prevention allowable discharge pretreatment standard by submitting to the local control authority a certification statement of its intent to utilize a Pollutant Management Plan as specified in paragraph (b)(1) of this section. The certification statement must be signed by the responsible corporate officer as defined in 40 CFR 403.12(l);

(3) The discharger shall submit a copy of its Pollutant Management Plan as described in paragraph (b)(1) of this section to the appropriate control authority at the time he/she applies to renew, or modify its individual control mechanism or pretreatment agreement; and

(4) The discharger shall maintain at the offices of the facility and make available for inspection the Pollutant Management Plan as described in paragraph (b)(1) of this section.

(5) The Pollutant Manager Plan shall include:

(i) procedures for identifying cargos, the cleaning of which is likely to result in discharges of pollutants that would be incompatible with treatment at the POTW;

(ii) for cargos identified as being incompatible with treatment at the POTW, the Plan shall provide that heels be fully drained, segregated from other wastewaters, and handled in an appropriate manner;

(iii) for cargos identified as being incompatible with treatment at the POTW, the Plan shall provide that the tank be prerinsed or presteamed as appropriate and the wastewater segregated from wastewaters to be discharged to the POTW and handled in an appropriate manner, where necessary to ensure that they do not cause or contribute to a discharge that would be incompatible with treatment at the POTW;

(iv) all spent cleaning solutions, including interior caustic washes, interior presolve washes, interior detergent washes, interior acid washes, and exterior acid brightener washes shall be segregated from other wastewaters and handled in an appropriate manner, where necessary to ensure that they do not cause or contribute to a discharge that would be incompatible with treatment at the POTW;

(v) provisions for appropriate recycling or reuse of cleaning agents;

(vi) provisions for minimizing the use of toxic cleaning agents (solvents, detergents, or other cleaning or brightening solutions);

(vii) provisions for appropriate recycling or reuse of segregated wastewaters (including heels and prerinse/pre-steam wastes);

(viii) provisions for off-site treatment or disposal, or effective pre-treatment of segregated wastewaters (including heels, prerinse/pre-steam wastes, spent cleaning solutions);

(ix) information on the volumes, content, and chemical characteristics of cleaning agents used in cleaning or brightening operations; and

(x) provisions for maintaining appropriate records of heel management procedures, prerinse/pre-steam management procedures, cleaning agent management procedures, operator training, and proper operation and maintenance of any pre-treatment system;

**§ 442.16 Pretreatment standards for new sources (PSNS).**

(a) Except as provided in 40 CFR 403.7 and 403.13 or in paragraph (b) of this section, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must achieve PSNS as follows:

TABLE—PRETREATMENT STANDARDS

| Regulated parameter | Maximum daily [1] |
|---|---|
| Non-polar material (SGT–HEM) | 26 |
| Copper | 0.84 |
| Mercury | 0.0031 |

[1] Mg/L (ppm).

(b) As an alternative to achieving PSNS as defined in paragraph (a) of this section, any existing source subject to paragraph (a) of this section may have a pollution prevention allowable discharge of wastewater pollutants, as defined in § 442.2, if the source agrees to a control mechanism with the control authority as follows:

(1) The discharger shall prepare a Pollutant Management Plan that satisfies the requirements as specified in paragraph (b)(5) of this section, and the discharger shall conduct its operations in accordance with that plan.

(2) The discharger shall notify its local control authority prior to obtaining, renewing, or modifying its individual control mechanism or pretreatment agreement of its intent to achieve the pollution prevention allowable discharge pretreatment standard by submitting to the local control authority a certification statement of its intent to utilize a Pollutant Management Plan as specified in paragraph (b)(1) of this section. The certification statement must be signed by the responsible corporate officer as defined in 40 CFR 403.12(l);

(3) The discharger shall submit a copy of its Pollutant Management Plan as described in paragraph (b)(1) of this section to the appropriate control authority at the time he/she applies to renew, or modify its individual control mechanism or pretreatment agreement; and

(4) The discharger shall maintain at the offices of the facility and make available for inspection the Pollutant Management Plan as described in paragraph (b)(1) of this section.

(5) The Pollutant Management Plan shall include:

(i) Procedures for identifying cargos, the cleaning of which is likely to result in discharges of pollutants that would be incompatible with treatment at the POTW;

(ii) For cargos identified as being incompatible with treatment at the POTW, the Plan shall provide that heels be fully drained, segregated from other wastewaters, and handled in an appropriate manner;

(iii) For cargos identified as being incompatible with treatment at the POTW, the Plan shall provide that the tank be prerinsed or presteamed as appropriate and the wastewater segregated from wastewaters to be discharged to the POTW and handled in an appropriate manner, where necessary to ensure that they do not cause or contribute to a discharge that would be incompatible with treatment at the POTW;

(iv) All spent cleaning solutions, including interior caustic washes, interior presolve washes, interior detergent washes, interior acid washes, and exterior acid brightener washes shall be segregated from other wastewaters and handled in an appropriate manner, where necessary to ensure that they do not cause or contribute to a discharge that would be incompatible with treatment at the POTW;

(v) Provisions for appropriate recycling or reuse of cleaning agents;

(vi) Provisions for minimizing the use of toxic cleaning agents (solvents, detergents, or other cleaning or brightening solutions);

(vii) Provisions for appropriate recycling or reuse of segregated wastewaters (including heels and prerinse/pre-steam wastes);

(viii) Provisions for off-site treatment or disposal, or effective pre-treatment of

segregated wastewaters (including heels, prerinse/pre-steam wastes, spent cleaning solutions);

(ix) Information on the volumes, content, and chemical characteristics of cleaning agents used in cleaning or brightening operations; and

(x) Provisions for maintaining appropriate records of heel management procedures, prerinse/pre-steam management procedures, cleaning agent management procedures, operator training, and proper operation and maintenance of any pre-treatment system;

## Subpart B—Rail Tank Cars Transporting Chemical and Petroleum Cargos

### § 442.20 Applicability.

This subpart applies to discharges resulting from the cleaning of rail tank cars which have been used to transport chemical or petroleum cargos.

### § 442.21 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

TABLE—EFFLUENT LIMITATIONS

| Regulated parameter | Maximum daily [1] | Maximum monthly avg.[1] |
|---|---|---|
| $BOD_5$ | 61 | 22 |
| TSS | 58 | 26 |
| Oil and grease (HEM) | 36 | 16 |
| Fluoranthene | 0.076 | |
| Phenanthrene | 0.34 | |
| pH | ([2]) | ([2]) |

[1] Mg/L (ppm).
[2] Within 6 to 9 at all times.

### § 442.22 Effluent limitations attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: Limitations for $BOD_5$, TSS, oil and grease (HEM) and pH are the same as the corresponding limitation specified in § 442.21.

### § 442.23 Effluent limitations attainable by the application of best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BAT: Limitations for fluoranthene, phenanthrene, and oil and grease (HEM) are the same as the corresponding limitation specified in § 442.21.

### § 442.24 New source performance standards (NSPS).

Any new point source subject to this subpart must achieve the following performance standards: Standards for $BOD_5$, TSS, oil and grease (HEM), fluoranthene, phenanthrene and pH are the same as the corresponding limitation specified in § 442.21.

### § 442.25 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13 or in paragraph (b) of this section, no later than August 14, 2003 any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must achieve PSES as follows:

TABLE—PRETREATMENT STANDARDS'

| Regulated parameter | Maximum daily[1] |
|---|---|
| Non-polar material (SGT–HEM) | 26 |
| Fluoranthene | 0.076 |
| Phenanthrene | 0.34 |

[1] Mg/L (ppm).

(b) As an alternative to achieving PSES as defined in paragraph (a) of this section, any existing source subject to paragraph (a) of this section may have a pollution prevention allowable discharge of wastewater pollutants, as defined in § 442.2, if the source agrees to a control mechanism with the control authority as follows:

(1) The discharger shall prepare a Pollutant Management Plan that satisfies the requirements as specified in paragraph (b)(5) of this section, and the discharger shall conduct its operations in accordance with that plan.

(2) The discharger shall notify its local control authority prior to renewing or modifying its individual control mechanism or pretreatment agreement of its intent to achieve the pollution prevention allowable discharge pretreatment standard by submitting to the local control authority a certification statement of its intent to utilize a Pollutant Management Plan as specified in paragraph (b)(1) of this section. The certification statement must be signed by the responsible corporate officer as defined in 40 CFR 403.12(l);

(3) The discharger shall submit a copy of its Pollutant Management Plan as described in paragraph (b)(1) of this section to the appropriate control authority at the time he/she applies to renew, or modify its individual control mechanism or pretreatment agreement; and

(4) The discharger shall maintain at the offices of the facility and make available for inspection the Pollutant Management Plan as described in paragraph (b)(1) of this section.

(5) The Pollutant Management Plan shall include:

(i) Procedures for identifying cargos, the cleaning of which is likely to result in discharges of pollutants that would be incompatible with treatment at the POTW;

(ii) For cargos identified as being incompatible with treatment at the POTW, the Plan shall provide that heels be fully drained, segregated from other wastewaters, and handled in an appropriate manner;

(iii) For cargos identified as being incompatible with treatment at the POTW, the Plan shall provide that the tank be prerinsed or presteamed as appropriate and the wastewater segregated from wastewaters to be discharged to the POTW and handled in an appropriate manner, where necessary to ensure that they do not cause or contribute to a discharge that would be incompatible with treatment at the POTW;

(iv) All spent cleaning solutions, including interior caustic washes, interior presolve washes, interior detergent washes, interior acid washes, and exterior acid brightener washes shall be segregated from other wastewaters and handled in an appropriate manner, where necessary to ensure that they do not cause or contribute to a discharge that would be incompatible with treatment at the POTW;

(v) Provisions for appropriate recycling or reuse of cleaning agents;

(vi) Provisions for minimizing the use of toxic cleaning agents (solvents, detergents, or other cleaning or brightening solutions);

(vii) Provisions for appropriate recycling or reuse of segregated wastewaters (including heels and prerinse/pre-steam wastes);

(viii) Provisions for off-site treatment or disposal, or effective pre-treatment of segregated wastewaters (including heels, prerinse/pre-steam wastes, spent cleaning solutions);

(ix) Information on the volumes, content, and chemical characteristics of cleaning agents used in cleaning or brightening operations; and

(x) Provisions for maintaining appropriate records of heel management

procedures, prerinse/pre-steam management procedures, cleaning agent management procedures, operator training, and proper operation and maintenance of any pre-treatment system;

**§ 442.26 Pretreatment standards for new sources (PSNS).**

(a) Except as provided in 40 CFR 403.7 and 403.13 or in paragraph (b) of this section, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must achieve PSNS as follows:

TABLE—PRETREATMENT STANDARDS

| Regulated parameter | Maximum daily[1] |
|---|---|
| Non-polar material (SGT–HEM) | 26 |
| Fluoranthene | 0.076 |
| Phenanthrene | 0.34 |

[1] Mg/L (ppm).

(b) As an alternative to achieving PSNS as defined in paragraph (a) of this section, any new source subject to paragraph (a) of this section may have a pollution prevention allowable discharge of wastewater pollutants, as defined in § 442.2, if the source agrees to a control mechanism with the control authority as follows:

(1) The discharger shall prepare a Pollutant Management Plan that satisfies the requirements as specified in paragraph (b)(5) of this section, and the discharger shall conduct its operations in accordance with that plan.

(2) The discharger shall notify its local control authority prior to obtaining, renewing, or modifying its individual control mechanism or pretreatment agreement of its intent to achieve the pollution prevention allowable discharge pretreatment standard by submitting to the local control authority a certification statement of its intent to utilize a Pollutant Management Plan as specified in paragraph (b)(1) of this section. The certification statement must be signed by the responsible corporate officer as defined in 40 CFR 403.12(l);

(3) The discharger shall submit a copy of its Pollutant Management Plan as described in paragraph (b)(1) of this section to the appropriate control authority at the time he/she applies to obtain, renew, or modify its individual control mechanism or pretreatment agreement; and

(4) The discharger shall maintain at the offices of the facility and make available for inspection the Pollutant Management Plan as described in paragraph (b)(1) of this section.

(5) The Pollutant Management Plan shall include:

(i) procedures for identifying cargos, the cleaning of which is likely to result in discharges of pollutants that would be incompatible with treatment at the POTW;

(ii) for cargos identified as being incompatible with treatment at the POTW, the Plan shall provide that heels be fully drained, segregated from other wastewaters, and handled in an appropriate manner;

(iii) for cargos identified as being incompatible with treatment at the POTW, the Plan shall provide that the tank be prerinsed or presteamed as appropriate and the wastewater segregated from wastewaters to be discharged to the POTW and handled in an appropriate manner, where necessary to ensure that they do not cause or contribute to a discharge that would be incompatible with treatment at the POTW;

(iv) all spent cleaning solutions, including interior caustic washes, interior presolve washes, interior detergent washes, interior acid washes, and exterior acid brightener washes shall be segregated from other wastewaters and handled in an appropriate manner, where necessary to ensure that they do not cause or contribute to a discharge that would be incompatible with treatment at the POTW;

(v) provisions for appropriate recycling or reuse of cleaning agents;

(vi) provisions for minimizing the use of toxic cleaning agents (solvents, detergents, or other cleaning or brightening solutions);

(vii) provisions for appropriate recycling or reuse of segregated wastewaters (including heels and prerinse/pre-steam wastes);

(viii) provisions for off-site treatment or disposal, or effective pre-treatment of segregated wastewaters (including heels, prerinse/pre-steam wastes, spent cleaning solutions);

(ix) information on the volumes, content, and chemical characteristics of cleaning agents used in cleaning or brightening operations; and

(x) provisions for maintaining appropriate records of heel management procedures, prerinse/pre-steam management procedures, cleaning agent management procedures, operator training, and proper operation and maintenance of any pre-treatment system;

## Subpart C—Tank Barges and Ocean/Sea Tankers Transporting Chemical and Petroleum Cargos

**§ 442.30 Applicability.**

This subpart applies to discharges resulting from the cleaning of tank barges or ocean/sea tankers which have been used to transport chemical or petroleum cargos.

**§ 442.31 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).**

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

TABLE—EFFLUENT LIMITATIONS

| Regulated parameter | Maximum daily[1] | Maximum monthly avg.[1] |
|---|---|---|
| $BOD_5$ | 61 | 22 |
| TSS | 58 | 26 |
| Oil and grease (HEM) | 36 | 16 |
| Cadmium | 0.020 | |
| Chromium | 0.42 | |
| Copper | 0.10 | |
| Lead | 0.14 | |
| Mercury | 0.0013 | |
| Nickel | 0.58 | |
| Zinc | 8.3 | |
| pH | [2] | [2] |

[1] Mg/L (ppm).
[2] Within 6 to 9 at all times.

**§ 442.32 Effluent limitations attainable by the application of the best conventional pollutant control technology (BCT).**

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: Limitations for $BOD_5$, TSS, oil and grease (HEM) and pH are the same as the corresponding limitation specified in § 442.31.

**§ 442.33 Effluent limitations attainable by the application of best available technology economically achievable (BAT).**

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BAT: Limitations for cadmium, chromium, copper, lead, mercury, nickel, and zinc are the same as the corresponding limitation specified in § 442.31.

**§ 442.34 New source performance standards (NSPS).**

Any new point source subject to this subpart must achieve the following performance standards: Standards for $BOD_5$, TSS, oil and grease (HEM), cadmium, chromium, copper, lead, mercury, nickel, zinc and pH are the same as the corresponding limitation specified in § 442.31.

**§ 442.35 Pretreatment standards for existing sources (PSES).**

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart must achieve the following pretreatment standards:

TABLE—PRETREATMENT STANDARDS

| Regulated parameter | Maximum daily[1] |
|---|---|
| Non-polar material (SGT–HEM) | 26 |
| Cadmium | 0.020 |
| Chromium | 0.42 |
| Copper | 0.10 |
| Lead | 0.14 |
| Mercury | 0.0013 |
| Nickel | 0.58 |
| Zinc | 8.3 |

[1] Mg/L (ppm).

**§ 442.36 Pretreatment standards for new sources (PSNS).**

Except as provided in 40 CFR 403.7, any new source subject to this subpart must achieve the following pretreatment standards: Standards for non-polar materials (SGT–HEM), cadmium, chromium, copper, lead, mercury, nickel and zinc are the same as the corresponding standard specified in § 442.35.

## Subpart D—Tanks Transporting Food Grade Cargos

**§ 442.40 Applicability.**

This subpart applies to discharges resulting from the cleaning of tank trucks, intermodal tank containers, rail tank cars, tank barges and ocean/sea tankers which have been used to transport food grade cargos. If wastewater generated from cleaning tanks used to transport food grade cargos is mixed with wastewater resulting from cleaning tanks used to transport chemical or petroleum cargos, then the combined wastewater is subject to the provisions established for the corresponding tanks (i.e., truck, railcar or barge) in Subparts A, B, or C of this part.

**§ 442.41 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).**

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

TABLE—EFFLUENT LIMITATIONS

| Regulated parameter | Maximum daily[1] | Maximum monthly avg.[1] |
|---|---|---|
| $BOD_5$ | 56 | 24 |
| TSS | 230 | 86 |
| Oil and grease (HEM) | 20 | 8.8 |
| pH | ([2]) | ([2]) |

[1] Mg/L (ppm).
[2] Within 6 to 9 at all times.

**§ 442.42 Effluent limitations attainable by the application of the best conventional pollutant control technology (BCT). s**

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: Limitations for $BOD_5$, TSS, oil & grease (HEM) and pH are the same as the corresponding limitation specified in § 442.41.

**§ 442.43 Effluent limitations attainable by the application of best available technology economically achievable (BAT). [Reserved]**

**§ 442.44 New source performance standards (NSPS).**

Any new point source subject to this subpart must achieve the following performance standards: Standards for $BOD_5$, TSS, oil and grease (HEM) and pH are the same as the corresponding limitation specified in § 442.41.

[FR Doc. 00–15841 Filed 8–11–00; 8:45 am]
BILLING CODE 6560–50–F

Federal Register

Monday,
August 14, 2000

Part IV

# Department of Labor

## Employment and Training Administration

**Labor Exchange Performance Measurement System; Notice**

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Labor Exchange Performance Measurement System

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice and request for comments.

**SUMMARY:** This notice announces and requests comments on two components of a proposed labor exchange performance measurement system. A set of performance measures are proposed for measuring the performance of the public employment service in providing effective labor exchange services to employers and job seekers as part of the One-Stop delivery systems established by the States. A set of procedures also are proposed for State agencies and ETA to employ in establishing expected levels of performance to assure the delivery of high quality labor exchange services. These proposed labor exchange performance measures and procedures for establishing expected levels of performance will be key components of a comprehensive performance accountability system being developed for the employment service.

**DATES:** Comments on these proposed labor exchange performance measures and procedures for establishing expected levels of performance must be received by the U.S. Department of Labor on or before October 13, 2000. Late-filed comments will be considered to the extent possible.

**ADDRESSES:** Send comments to Timothy F. Sullivan, Chief, Division of United States Employment Service & ALMIS, U.S. Department of Labor, 200 Constitution Avenue NW., Room C–4514, Washington, DC 20210, Facsimile: 202–208–5844, E-mail: tsullivan@doleta.gov.

**FOR FURTHER INFORMATION CONTACT:** Timothy F. Sullivan, 202–219–5257, E-mail: tsullivan@doleta.gov.

**SUPPLEMENTARY INFORMATION:**

#### I. Authority

Components of a labor exchange performance measurement system are proposed under the following authority:

*A. Wagner-Peyser Act Sec. 3(a), 29 U.S.C. 49b(a)*

The Secretary shall assist in coordinating the State public employment services throughout the country and in increasing their usefulness by developing and prescribing minimum standards of efficiency, assisting them in meeting problems peculiar to their localities, promoting uniformity in their administrative and statistical procedures, furnishing and publishing information as to opportunities for employment and other information of value in the operation of the system, and maintaining a system for clearing labor between the States.

*B. Wagner-Peyser Act Sec. 3(c)(2), 29 U.S.C. 49b(c)*

The Secretary shall—(2) assist in the development of continuous improvement models for such nationwide system that ensure private sector satisfaction with the system and meet the demands of job seekers relating to the system.

*C. Wagner-Peyser Act Sec. 7(b), 29 U.S.C. 49f(b)*

Ten percent of the sums allotted to each State pursuant to section 6 shall be reserved for use in accordance with this subsection by the Governor of each such State to provide—(1) performance incentives for public employment service offices and programs, consistent with performance standards established by the Secretary, taking into account direct or indirect placements (including those resulting from self-directed job search or group job search activities assisted by such offices or programs), wages on entered employment, retention, and other appropriate factors.

*D. Wagner-Peyser Act Sec. 10(c), 29 U.S.C. 49i(c)*

Each State receiving funds under this Act shall—

(1) make such reports concerning its operations and expenditures in such form and containing such information as shall be prescribed by the Secretary, and

(2) establish and maintain a management information system in accordance with guidelines established by the Secretary designed to facilitate the compilation and analysis of programmatic and financial data necessary for reporting, monitoring and evaluating purposes.

*E. Wagner-Peyser Act Sec. 13(a), 29 U.S.C. 49l(a)*

The Secretary is authorized to establish performance standards for activities under this Act which shall take into account the differences in priorities reflected in State plans.

*F. Wagner-Peyser Act Sec. 15(e)(2)(I), 29 U.S.C. 49l–2(e)*

(e) State responsibilities.—

(2) Duties.—In order to receive Federal financial assistance under this section, the State agency shall—

(I) utilize the quarterly records described in section 136(f)(2) of the Workforce Investment Act of 1998 (29 U.S.C. 2871(f)(2)) to assist the State and other States in measuring State progress on State performance measures.

#### II. Labor Exchange Performance Measurement System

The Employment and Training Administration (ETA) is establishing a comprehensive performance measurement system for the public labor exchange. This process consists of three tasks: (1) Developing a set of labor exchange performance measures, (2) developing procedures for establishing expected levels of performance that State agencies and ETA can use for assuring the delivery of high quality labor exchange services, and (3) revising the data collection procedures and reporting requirements applicable to the public labor exchange.

In February 2000, ETA convened a workgroup to begin the development of a comprehensive performance measurement system for the public labor exchange. This workgroup was formed in collaboration with the Interstate Conference of Employment Security Agencies (ICESA), and is comprised of representatives from fifteen State agencies, ICESA, the Veterans' Employment and Training Service (VETS), and the ETA regional and national offices. Representatives from America's Workforce Technology Solutions (AWTS) and Social Policy Research (SPR) Associates, Inc. provided technical support to the workgroup, but did not participate in the process of making final recommendations. The workgroup met once in the winter and once in the spring of 2000.

By the conclusion of the spring 2000 meeting, the workgroup had identified and defined a set of recommended performance measures for the public labor exchange. It also had developed recommended procedures for State agencies and ETA to employ in establishing expected levels of performance for the labor exchange and for assuring the delivery of high quality labor exchange services.

This notice announces and requests comments on a proposed set of performance measures to be used to measure the performance of the public employment service in providing effective labor exchange services to employers and job seekers as part of the One-Stop delivery systems. It also announces and requests comments on a

proposed set of procedures for State agencies and ETA to use in establishing expected levels of performance.

*A. Labor Exchange Performance Measures*

Based on recommendations of the labor exchange performance measurement system workgroup, ETA proposes the following performance measures for the public labor exchange:

- Employer Customer Satisfaction
- Job Seeker Customer Satisfaction
- Employment Rate
- Entered Employment Rate
- Employment Retention Rate at Six Months

1. Identification and Selection of Performance Measures

During the first meeting, the workgroup followed a methodological approach in developing performance measures to recommend for the labor exchange. This consisted of describing the value that implementation of a performance measurement system would have for the public labor exchange and identifying concerns that might arise out of such a system; identifying the labor exchange outcomes that should be measured; and identifying qualities that are characteristic of good performance measures.

The workgroup identified a number of sound reasons for establishing a performance measurement system for the labor exchange. Key among these are that performance measures are essential for program managers to monitor the effectiveness of service delivery, and that performance information is of paramount importance to the Congress, State legislatures, the business community, and the general public as a means of assessing the value of the public labor exchange. The workgroup also noted that funds for the labor exchange are budgeted and appropriated, in part, based on such information and the message it conveys regarding the effectiveness of labor exchange service delivery. Additionally, performance reporting is required under the Government Performance and Results Act (GPRA) and it is important that a common system of measurement be developed so that performance reports of the various State agencies can be aggregated for reporting at the Federal level in support of GPRA requirements.

The workgroup recommended that the labor exchange performance measurement system contain procedures for setting expected levels of performance. These procedures should take into account the many differences between the States, such as labor market conditions and variations in how the States administer their programs under the Wagner-Peyser Act. The workgroup decided that demographic characteristics of the population served, such as age, race, ethnicity, and sex should not be considered when negotiating expected levels of performance. This is consistent with the requirement of providing universal access to job seekers. The workgroup also observed that timely and reliable data are essential to an effective performance measurement system. Finally, the group recognized that the labor exchange performance measurement system must not be developed in a vacuum. The performance measurement systems developed for related workforce development programs, such as the one currently being implemented for the Workforce Investment Act of 1998 (WIA) and those currently in use by the various States, should be taken into account in the development process.

The events that naturally result from the labor exchange carrying out its roles and responsibilities in providing services to its customers can be termed outcomes. There are two types of outcomes: end outcomes and intermediate outcomes. End outcomes represent the final objectives of the labor exchange, while intermediate outcomes represent accomplishments that lead to achieving the final objectives. The workgroup identified the following as key end outcomes for customers of the labor exchange:

- Job placements
- Entry into employment
- Shorter duration of unemployment
- Steady employment and income
- Customer satisfaction

The workgroup identified the following as key intermediate outcomes for primary customers:

- Quality job matches
- Knowledge of career and labor market information
- Qualified applicants
- Access to qualified applicants
- Access to job openings

The workgroup also identified characteristics of a good performance measurement system and used these as it considered and then recommended performance measures for the labor exchange. A good performance measurement system must be comprehensive and, to the extent possible, measure the primary end outcomes of the labor exchange. It must consist of a limited number of simple and easy to understand measures, and must yield timely information for management purposes. The performance measurement system must be developed such that it is objective and non-manipulative in order to avert unintended consequences. Data necessary for input to the performance measures must be readily available and collected at a reasonable cost. The system must take into account the uniqueness of the States and how each operates somewhat differently, while also allowing for uniform measurement across the States so that the aggregation of State performance information will be meaningful at the national level. The system also should allow for the measures to be applied at the sub-State level if so desired by the various States. Finally, the system should be consistent, to the extent possible, with related workforce development programs.

2. Proposed Labor Exchange Performance Measures

Five performance measures are proposed for the public labor exchange based on recommendations of the labor exchange performance measurement system workgroup. In its deliberations, the workgroup considered a wide range of options as potential measures of performance. The workgroup agreed by consensus to recommend two customer satisfaction measures, an employment rate measure and an entered employment rate measure. A substantial majority of the workgroup also supported the employment retention rate at six months measure. These recommended labor exchange performance measures are consistent with the aforementioned characteristics of good performance measures.

What follows are operational definitions of the proposed labor exchange employer and job seeker performance measures, and the rationale for recommending them:

*a. Employer Measure*

Employer Customer Satisfaction

It is proposed that the results of the American Customer Satisfaction Index (ACSI) which will be used to measure employer customer satisfaction under WIA also be used to measure employers' satisfaction with labor exchange services. Under this proposal, one survey will be conducted by the States to measure employer customer satisfaction with both WIA services and Wagner-Peyser Act labor exchange services. Specifications for the employer customer satisfaction survey are described in Training and Employment Guidance Letter (TEGL) 7–99, pp. 36–40, issued by ETA on March 3, 2000.

Adopting the WIA employer employer customer satisfaction measure for the labor exchange is proposed because the employer population from which the sample is drawn consists of employers who received a substantial service involving personal contact with One-Stop staff. Labor exchange staff provide a substantial portion of such services and the WIA employer satisfaction measure depicts, to a great extent, the satisfaction of employers with labor exchange services. Using a common measure to obtain information on employer customer satisfaction for both WIA and the labor exchange supports the integration of the labor exchange into the One-Stop delivery system. It also emphasizes the importance of providing high quality services to employers, a focus of the One-Stop delivery system. State Wagner-Peyser Act agencies will need to coordinate with State WIA agencies to obtain the results from the employer customer satisfaction survey and, if they so desire, to add additional questions to the survey instrument.

Using a uniform telephone methodology, each State must survey up to 1000 employers each year to obtain at least 500 completed surveys (except for States that serve less than 1000 employers, in which case, all employers served must be surveyed). The surveys should be conducted on a rolling basis throughout the program year. To obtain sufficient numbers, smaller States will need to survey on an ongoing basis. Employers should be contacted within 60 days of the completion of the service or 30–60 days after a job order has been listed where no referrals have been made. The employer customer satisfaction score is a weighted average of employer ratings on each of three questions regarding overall satisfaction, and is reported on a 0–100 point scale. The score is a weighted average, not a percentage.

What Questions Will Be Asked in the Survey?

The survey will be conducted by telephone. The proposed lead-in can be modified to suit the individual needs of the State and the program names recognizable for their population. The lead-in provided below is a model to be used as guidance. However, the numbered questions must remain as stated.

My name is _____ with XXXXX and I am conducting a survey for the XXXX XXXXX. I would like to speak to Ms./Mr. _____.

Are you the Ms./Mr. _____ who (describe the service received).

I would like to ask you some questions about your recent experience with _____. Our purpose is to learn from you how to improve programs and services offered to employers. The survey should take about XX minutes to complete.

(1) Utilizing a scale of 1 to 10 where "1" means "Very Dissatisfied" and "10" means "Very Satisfied" what is your overall satisfaction with the service(s) provided from _____?

| Very Dissatisfied | | | | | | | | | Very Satisfied | DK | REF |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |

(2) Considering all of the expectations you may have had about the services, to what extent have the services met your expectations? "1" now means "Falls Short of Your Expectations" and "10" means "Exceeds Your Expectations."

| Falls Short of Expectations | | | | | | | | | Exceeds Expectations | DK | REF |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |

(3) Now think of the ideal service(s) for people in your circumstances. How well do you think the service(s) you received compare with the ideal service(s)? "1" now means "Not Very Close to Ideal" and "10" now means "Very Close to the Ideal."

| Not Close To Ideal | | | | | | | | | Very Close To Ideal | DK | REF |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |

Definition of Terms

*Sample.* A group of cases selected from a population by a random process where everyone has an equal probability of being selected.

*Response rate.* The percentage of people who have valid contact information who are contacted and respond to all the questions on the survey.

*DK.* Don't Know.

*REF.* Refused to answer.

The Calculation

The overall score for the American Customer Satisfaction Index (ACSI) Measure is accomplished by calculating the weighted average of the raw scores for each of the customer satisfaction questions given by each respondent. The weighted average score is then transformed to an index reported on a 0–100 scale. The aggregate index score is simply the weighted average of each case's index score.

The ACSI trademark is proprietary property of the University of Michigan. The Department has established a license agreement with the University of Michigan that will allow States the use of the ACSI for a Statewide sample of employers (and WIA participants). States that want to use the ACSI for measuring customer satisfaction for each local area will have to establish an independent contract with the University of Michigan. States may also contract with CFI Group for additional assistance in measuring, analyzing, and understanding ACSI data. Procedures for contracting with the CFI Group are being developed and will be issued when finalized.

**Notes:** CFI Group will provide the actual weights given for (W1), (W2), and (W3) below. (It has yet to be determined how the weights will be distributed to the States). In calculating respondent level index scores, round to two decimal points.

When calculating the average index score, round to the nearest whole number. For any case, the general formula for calculating the index score is given as:

$$\text{Index Score} = \{[(Q1)(W1) + (Q2)(W2) + (Q3)(W3)] - 1\} \times 11.111$$ where:

Q1 = raw score on question #1
Q2 = raw score on question #2
Q3 = raw score for question #3
W1 = weight for question #1

W2 = weight for question #2
W3 = weight for question #3

Example:

If the respondent answers were 5, 8, and 9 respectively for each of the three customer satisfaction questions, and the weights for each of the three questions were .4, .2, and .4* respectively the calculation for the respondent's index score would be as follows:

$\{[(5)(.4) + (8)(.2) + (9)(.4)]—1\} \times 11.111$
$= \{[7.2] - 1\} \times 11.111 = 68.89$

If two more respondents whose raw scores on the three questions were 6, 10, and 6 and 9, 6, and 7 respectively, using the same weights listed above, those two respondent's index scores would be: 64.44 and 73.33. To calculate the aggregate index score, simply average the individual respondent's index scores and round to the nearest whole number as follows:

$(68.89 + 64.44 + 73.33) / 3 = 69$

* These weights are examples only, CFI group will provide the actual weights.

The workgroup considered other options for employer measures including a job order or job opening fill rate, an employer market penetration rate, and a measure of employer use of labor exchange services. The workgroup was unable to identify definitions for these types of employer performance measures that were consistent with the identified characteristics of a good performance measure. While employer customer satisfaction is the only proposed performance measure for employers, ETA will research the development of possible additional employer performance measures for future consideration.

*b. Job Seeker Measures*

For job seekers, measures will be used to account for performance of the public labor exchange with respect to all applicants who register, subject to the criteria contained in the definition of each measure. The universe of job seekers will consist of an unduplicated count of job seekers who register, or who renew or reactivate their registration, during the applicable program year.

Including all registrants in the universe is proposed because it maintains consistency with the concept of providing universal access to labor exchange services. The measurement system is designed to capture the employment outcomes of all those who request access to labor exchange services through registration. This allows for measuring the outcomes of all labor exchange services that are made available to job-seeking applicants. It also maintains consistency with the criteria described in section 7(b) of the Wagner-Peyser Act for performance standards to be established by the Secretary that take into account entry into employment resulting from either self-directed job search activities or staff-assisted job search activities.

The job seeker customer satisfaction measure will rely on telephone survey data for outcome information, while the employment rate, entered employment rate, and employment retention rate at six months outcome measures will rely on unemployment insurance (UI) wage records as a primary data source. State agencies also will retain the option to use data obtained from administrative follow-up, the method of data collection currently used by many State agencies, to supplement the wage record information. The use of wage record information will allow for more reliable and comprehensive collection of employment outcome data at a lower cost than methods currently used by many State agencies. The advent of the Wage Record Interchange System (WRIS) will provide State agencies with an additional resource for obtaining wage records from other State agencies to use in tracking the outcomes of job seekers who have migrated across State lines.

The measurement period will consist of the four quarters comprising a program year. Performance outcomes will be attributable to the program year in which the outcome occurs, whether the job seeker registered with the labor exchange in that program year or the previous program year. This will require reporting in the numerator, the total number of job seekers who achieve the expected outcomes during the appropriate measurement quarters, and reporting in the denominator, the total number of registered job seekers who could have achieved the expected outcomes (*i.e.* employment or retention) during the measurement quarters.

The aforementioned criteria apply, as appropriate, to the following job seeker labor exchange performance measures:

Job Seeker Customer Satisfaction

ETA proposes to implement a job seeker customer satisfaction measure that mirrors the WIA participant customer satisfaction survey and uses the ACSI methodology. Specifications for the labor exchange job seeker customer satisfaction survey are as follows:

The job seeker customer satisfaction score is a weighted average of participant ratings on each of three questions regarding overall satisfaction, and is reported on a 0–100 point scale. The score is a weighted average, not a percentage.

Who Will Be Surveyed?

All labor exchange applicants who register with the labor exchange are eligible to be chosen for inclusion in the random sample.

How Many Must Be Surveyed?

A sample of 250 will be taken from the job seeker applicants who register with the labor exchange in each quarter. Five hundred completed job seeker surveys must be obtained each year for calculation of the measure. A completed job seeker survey is defined as a survey in which all three questions regarding overall satisfaction have been answered. The response rate from the sample with valid contact information must be a minimum of 50 percent. The standard of 500 from a sample of the whole population of customers provides accuracy such that there is only a 5 in 100 chance that the results would vary by more than ±5 points from the score obtained from surveying the whole population.

How Should the Survey Be Conducted?

The responses are obtained using a uniform telephone methodology. The rationale for only using telephone surveys include: the comparability of the measure for assessing performance levels is most reliably obtained with a telephone survey; telephone surveys are easily and reliably administered; and defining procedures for mailed surveys is more difficult than defining procedures for telephone surveys. Estimates of the cost of telephone surveys nationwide average $15 per completed survey. Since States will need to complete 500 job seeker surveys, the cost is estimated at about $7,500 per State per year.

When Should the Survey Be Conducted?

The surveys should be conducted on a rolling basis within the timeframe indicated below for job seekers. To obtain sufficient numbers, smaller States will need to survey on an ongoing basis. Job seekers should be contacted within 60–90 days of the date of registration, or renewal or reactivation.

What Questions Will Be Asked in the Survey?

The survey will be conducted by telephone and the following lead-in will be used at the beginning of the interview. The lead-in can be modified to suit the individual needs of the State and the names for program services recognizable for their population. The

lead-in provided below is a model to be used as guidance. The numbered questions must remain as stated.

My name is _____ with XXXXX and I am conducting a survey for the XXXX XXXXX. I would like to speak to Ms./Mr. _____.

Are you the Ms./Mr. _____ who was looking for a job a few months ago?

I would like to ask you some questions about your recent experience looking for a job. Our purpose is to learn from you how to improve programs and services offered to people in XXX. The survey should take about XX minutes to complete. First I am going to read a list of services you may have received. Indicate as I read them those you recall receiving during the period in which you were seeking employment and/or training at the XX center.

- A thorough assessment of your needs
- Assistance about finding a job
- Assistance to develop an individual employment plan
- Assistance to decide about the best training to take
- Assistance from someone to support you during your job search or training
- Use of electronic job search tools (*e.g.* America's Job Bank, Internet tools)

(States may modify the list of services as appropriate for the labor exchange)

Did you get any other help or services that I have not mentioned? (specify)

(1) Utilizing a scale of 1 to 10 where "1" means "Very Dissatisfied" and "10" means "Very Satisfied" what is your overall satisfaction with the services provided from _____?

| Very dissatisfied | | | | | | | | | Very satisfied | DK | REF |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |

(2) Considering all of the expectations you may have had about the services, to what extent have the services met your expectations? "1" now means "Falls Short of Your Expectations" and "10" means "Exceeds Your Expectations."

| Falls short of expectations | | | | | | | | | Exceeds expectations | DK | REF |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |

(3) Now think of the ideal program for people in your circumstances. How well do you think the services you received compare with the ideal set of services? "1" now means "Not very close to the Ideal" and "10" means "Very close to the Ideal."

| Not close to ideal | | | | | | | | | Very close to ideal | DK | REF |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |

The same ASCI calculation is used for the job seeker customer satisfaction measure as was described above for the employer customer satisfaction measure. The Department is currently engaging in discussions with the University of Michigan to make arrangements to use the ACSI for the labor exchange job seeker customer satisfaction measure. As the population of job seekers registering with the labor exchange is different from the population of participants exiting WIA services, a separate survey is required to adequately gauge the satisfaction of job seeker customers.

State agencies will have flexibility in modifying the lead-in to the questionnaire to suit their particular needs and also may add additional questions, as long as the three questions presented above remain the same and are the initial three questions in the survey. Since there likely will be a number of individuals who both register with the labor exchange and who exit WIA, State agencies are requested to coordinate these survey efforts to eliminate the possibility of individuals being surveyed twice.

Employment Rate

The proposed employment rate performance measure is defined as:

All Wagner-Peyser Act labor exchange applicants who registered in quarter $Q_0$ and who earned wages in quarter $Q_1$ or $Q_2$ after registration, divided by the number of Wagner-Peyser Act labor exchange applicants who registered in quarter $Q_0$.

This performance measure reports on the employment outcomes that may be attributable to the labor exchange services made available to all applicants. Including all applicants in the measurement population supports the concept of providing universal access to labor exchange services by establishing accountability for the employment outcomes of all job seekers provided access to labor exchange services. This includes new entrants to the labor market, job seekers who are not employed, and incumbent workers.

This performance measure uses a period of two quarters to look for entry into employment because two quarters can be considered an appropriate length of time in which to expect a positive employment outcome for those provided access to labor exchange services. This period of time is also similar to the 26-week maximum period of eligibility for unemployment insurance (UI) benefits, which is deemed to be an appropriate period of time for UI claimants, a key labor exchange customer group, to obtain suitable employment.

In addition to entry into employment with a new employer, this measure also recognizes as a positive outcome, the job seeker who is employed at the time of registration with the labor exchange, and who during the next two quarters remains employed with the same employer. In such instances, if this job seeker registered with the labor exchange, he or she had some inclination to continue being employed, either with the same or a different employer. For the job seeker who remained with the same employer, available labor exchange services, such as job counseling and labor market information, may have enabled that job seeker to assess his or her employment situation by surveying the labor market (*i.e.* available jobs, availability of transportation, wage rates, training requirements, *etc.*). That job seeker's continued employment, with the same employer, may in part be attributable to a rational decision to maintain his or her employment situation based on such labor exchange services.

The workgroup considered including only as a positive outcome for this measure, entry into employment by those not employed and entry into employment with a different employer by those currently employed. While such a definition was a strong candidate for a labor exchange performance measure, members of the workgroup deemed the difficulty of distinguishing employment with one employer from that with another as too burdensome for performance measurement purposes, and thus this option was not recommended to ETA. Such a performance measure would have required each State agency to conduct a match to determine whether the Federal Employer Identification Number (FEIN) on a job seeker's wage records was with a different employer in the measurement quarters ($Q_1$ or $Q_2$) than it was in the registration quarter ($Q_0$). Several members of the workgroup expressed concern that this was not feasible at a reasonable cost. Others pointed out that it would also exclude job seekers who obtained a new position with the same employer.

Finally, a considerable number of workgroup members suggested limiting the measurement period to a single quarter following registration, rather than two quarters as proposed for the job seeker measures. While this would enhance consistency with the WIA core measures and might support the more timely delivery of services to job seekers, the workgroup ultimately decided to use two quarters, acknowledging that the benefits of allowing two quarters to record employment outcomes outweighed these other concerns.

Entered Employment Rate

The proposed entered employment rate performance measure is defined as:

Of those Wagner-Peyser Act labor exchange applicants who were not employed upon registration in quarter $Q_0$: The number who earned wages in quarter $Q_1$ or $Q_2$ after registration, divided by the number who registered in quarter $Q_0$.

Within the universe of all applicants, this performance indicator measures the employment outcomes of the job seeker population that is not employed at the time of registration. The rationale for using a time period of two quarters for this performance measure is the same as that described above for the employment rate measure. The entered employment rate measure is proposed out of recognition that it is important to obtain employment outcome information specifically on job seekers who are not employed when registering with the labor exchange.

It is acknowledged that there are some subtle distinctions between the entered employment rate measure for labor exchange job seekers and the entered employment rate measure for WIA participants, (*i.e.*, using registration as the trigger for the measurement period for the labor exchange, rather than exit, as is done for WIA; and using two quarters as the measurement period for the labor exchange, rather than one, as is the case for WIA). The entered employment rate measure for the labor exchange is recommended, as defined above, since the nature of the labor exchange services provided to job seekers are different than the services provided under WIA. Many WIA participants need core, intensive, and training services in order to become job ready, while the preponderance job seekers who avail themselves of labor exchange services are at the stage of actively seeking work.

The workgroup also considered including in the definition of the entered employment rate measure, the outcomes of currently employed job seekers who enter into new employment with a different employer. For the same reasons as indicated for the employment rate measure, the workgroup did not recommend defining the entered employment rate measure to include this group of job seekers.

Employment Retention Rate at Six Months

The proposed employment retention rate at six months performance measure is defined as:

Of those Wagner-Peyser Act labor exchange applicants who registered in quarter $Q_0$ and who earned wages in quarter $Q_1$ or $Q_2$ after registration: the number who also earned wages in the second quarter following the quarter in which earned wages were first recorded, divided by the number who earned wages in quarter $Q_1$ or $Q_2$.

This performance measure recognizes as a positive employment outcome employment in any job two quarters following the employment that is recorded in an initial job during quarter $Q_1$ or $Q_2$ after registration. In recommending this performance measure, the workgroup acknowledged that while many job seekers register with the labor exchange to search for and find a job that results in lasting employment, others may use labor exchange services to assist them in acquiring temporary employment or a series of short-term jobs. Services such as job search workshops, résumé assistance, job finding clubs, job counseling, and even self-services are activities that have a lasting effect on job seekers and can contribute to a job seeker retaining employment in his or her current job, or entering and retaining employment in a subsequent job.

The labor exchange employment retention rate measure provides a degree of consistency with the WIA performance measurement system, which also includes an employment retention measure. Both rely on the assumption that the vast majority of individuals seeking the services provided by the respective programs possess an inherent desire to maintain employment during the Short- and medium-term. However, a small number of seasonal workers, such as students and some farmworkers, may desire to work only sporadically throughout the year. Recognizing that such workers are only a small fraction of all job seekers and that it is important for the labor exchange to be able to monitor the employment outcomes of job seekers beyond their initial entry into employment, the employment retention rate at six months measure is recommended as one that provides valuable information on the medium-term employment outcomes of the job seekers who register with the labor exchange.

*B. Procedures for Establishing Expected Levels of Performance*

In accordance with the recommendation from the workgroup, the WIA Title I framework will be used for negotiating and setting expected performance levels for labor exchange services. This means that States will develop baseline data for the measures, analyze the baseline data, and propose performance levels for each measure based on that analysis. After providing the required information to the appropriate ETA Regional Office, States will negotiate with the region to obtain mutually agreed upon expected levels of performance. In developing baseline data, States should use two years of data if possible, but not less than one year in determining trends for performance and factors which may influence performance. For the customer satisfaction measures, States should look at experience thus far under WIA and any other survey instruments they have previously used. In establishing expected performance levels for each measure, factors beyond the control of the State are also to be considered. The specific steps for setting expected levels are as follows:

Baseline Performance

Baselines for each of the measures will be developed by each State and will be a key factor used to determine the expected level of performance that is negotiated with ETA. Baselines are intended to give an indication of the past outcomes of a performance measure. For performance negotiations to be data-driven and reality based, the development of baselines is a critical aspect of the negotiation process.

State Expected Levels of Performance

As part of the 5 year State Plan submitted to the Department of Labor, each State will propose expected levels of performance for the next three program years (PY 2001–2003). States should be prepared to provide support for their proposed levels by providing information on how baseline performance levels were developed and providing other information they believe may affect performance. States will include in their plan expected levels of performance levels for each measure. In addition, States will provide the baseline performance data and a description of any other factors, such as economic conditions, that contributed to the establishment of the expected performance levels. States also should include the methodology for developing the baseline data, a description of data sources and appropriate factors used to project expected levels of performance.

In recommending factors to be considered, the workgroup explicitly excluded applicant characteristics and types of services provided. The labor exchange is viewed as an agency offering universal access to all job seekers, with basically the same set of services provided across all States. Allowing for differences in applicant characteristics might have the unintended consequence of favoring service provision to some applicant groups over others. With respect service mix, this is not an appropriate factor for adjusting expected levels of performance, because this is within the full control of the State agency.

Examples of possible factors to consider in negotiating expected levels of performance are: economic conditions such as the unemployment rate, the rate of job creation/loss, new business start-ups; community factors such as availability of transportation and daycare; pursuit of new or enhanced employer partnerships; other factors such as State legislation or policies which might impact performance; and natural disasters. This list is not intended to be prescriptive or exhaustive, but to suggest the kinds of information that might be considered in the negotiation process.

Negotiation of Expected Levels of Performance

The Regional Office will review the information contained in the State plan and will compare the expected performance levels with the national averages, baseline information from other States, and the negotiated levels of performance established for other States, taking into account factors including differences in economic conditions and other factors as discussed above. In addition, the Regional Office will analyze the quality of the data presented by States, including the relevance of the data, the source of the data, the time period from which the data were drawn, and if the data are part of a trend or anomalous. Established GPRA Annual Performance Plan goals for relevant measures will also be an important part of regional review and negotiation of performance levels. When the Regional Office finalizes its analysis, there will be negotiations with the State to obtain mutually agreed upon expected levels of performance.

Similar to WIA, provision will be made for renegotiation of performance levels if circumstances arise that result in a significant change in the factors used to establish the original levels. It is understood that either a State or the regional office may elect to renegotiate performance as new information becomes available. Factors which will be considered for making changes include those discussed above.

Expected performance levels may, depending on the factors to be considered, be renegotiated for any one or all three years of the performance period. States initiating the renegotiation will prepare a modification to the approved State plan and submit it to the regional office. The negotiation process described above will then be followed. In cases where the change is initiated by the region, States will be asked to prepare an amendment to the approved plan. Once the amendment is submitted to the regional office, the established negotiation process will then be followed.

*C. Rules for Application*

Actual performance for each program year will be compared to negotiated performance levels. For a State to be designated as "exemplary," expected levels for all measures must be achieved or exceeded for all measures. Actions that may be taken in the case of "exemplary" performance by States include: formal recognition by the Department of Labor through letters to Governors and publication of results in an annual report; recognizing and publicizing practices that foster good performance through publication on Internet websites; and the election by States to use their Wagner-Peyser Act 7(b) funds to provide performance incentives for public employment service offices and programs. States and regional offices should analyze performance information on an ongoing basis and, where performance is not achieving expected levels, work together to develop corrective action plans—including the provision of any training or technical assistance that may be required.

Signed at Washington, DC, this 24th day of July, 2000.

**Ray Bramucci,**

*Assistant Secretary for Employment and Training.*

[FR Doc. 00–20544 Filed 8–11–00; 8:45 am]

BILLING CODE 4510–30–P

Federal Register

Monday,
August 14, 2000

Part V

# Department of the Interior

## Bureau of Land Management

**Level 5 Fire Restrictions, Southwestern Montana and Level 3 Fire Restrictions, Eastern Montana; Notices**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[MT–912–0777–XQ]

### Notice of Implementation of Level 5 Fire Restrictions in Southwestern Montana; Montana

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** Pursuant to 43 Code of Federal Regulations 9212.2, all Bureau of Land Management lands administered by the Missoula Field Office in Missoula, Granite, Powell, Mineral, and Ravalli Counties and all lands administered by the Butte Field Office in Deer Lodge, Silver Bow, and west Lewis and Clark Counties are closed to public use. These closures are in addition to restrictions enumerated in 43 Code of Federal Regulations 9212.1 and become effective as of 12:01 a.m. Mountain Daylight Time August 11, 2000, and will remain in effect until rescinded or revoked. They amend or replace the restrictions enacted on Wednesday, August 9, 2000 for the Missoula Field Office and Saturday, August 5, 2000 for the Butte Field Office.

**Exemptions.**

Pursuant to 43 Code of Federal Regulations 9212.2, the following persons are exempt from this order:

1. Any Federal, State, or local officer or member of an organized rescue or firefighting force in the performance of an official duty.
2. Persons with a permit or other written authorization specifically allowing the otherwise prohibited act or omission.
3. Private landowners requiring access to their lands across closed public lands.
4. Grazing permittees in the performance of activities directly related to management of their livestock.

All exemptions will observe the following:

1. Driving will only be allowed on "cleared roads". These are roads that are at least 12' wide and cleared of vegetation shoulder to shoulder. All other access will be by foot or horseback.
2. Anyone using public lands must have a reliable form of communication.

Violation of this order is prohibited by the provisions of the regulations cited. Under 43 Code of Federal Regulations 9212.4, any violation is subject to punishment by a fine of not more than $1,000 and/or imprisonment of not more than 12 months.

**DATES:** Restrictions go into effect at 12:01 a.m. mountain daylight time, Friday, August 11, 2000, and will remain in effect until further notice.

**ADDRESSES:** Comments should be sent to BLM Montana State Director, Attention: Pat Mullaney, P.O. Box 36800, Billings, Montana 59107–6800.

**FOR FURTHER INFORMATION CONTACT:** Pat Mullaney, Fire Management Specialist, 406–896–2915.

August 10, 2000.

**Mat Millenbach,**

*State Director.*

[FR Doc. 00–20760 Filed 8–11–00; 10:57 am]

**BILLING CODE 4310–$$–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[MT–912–0777–HN–003E]

### Notice of Implementation of Level 3 Fire Restrictions in Eastern Montana; Montana

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** Bureau of Land Management Montana State Director Mat Millenbach has initiated Level 3 fire restrictions, effective August 11, 2000, on the BLM lands in the Montana counties listed below. These restrictions strengthen those initiated last week on BLM lands and are in response to the regions's increasing fire potentials, the current level of fire activity, and the current scarcity of fire suppression resources.

The Level 3 fire restrictions apply to BLM lands in: Liberty, Hill, Blaine, Phillips, Valley, Daniels, Sheridan, Roosevelt, Choteau, Judith Basin, Fergus, Petroleum, Garfield, McCone, Richland, Dawson, Prairie, Wibaux, Wheatland, Golden Valley, Musselshell, Yellowstone, Big Horn, Treasure, Rosebud, Custer, Powder River, Fallon, and Carter counties.

With Level 3 fire restrictions, the following activities are prohibited on BLM managed lands:

Building, maintaining, attending, or using a campfire or any open fire except at a developed, designated recreation site or campground is prohibited. On public lands in the Upper Missouri River Wild and Scenic River corridor campfires or charcoal fires will only be permitted in these three developed, designated sites: Coal Banks Landing, Judith Landing and Kipp Recreation Area (43 CFR 9212.1(h)). Gas-and liquid-fueled stoves and lanterns are still permitted.

Smoking, except within an enclosed vehicle or building; at an improved place of habitation; at a developed, designated recreation site or campground; or while stopped in an area at least 3 feet in diameter that is cleared of all flammable material, is prohibited (43 CFR 9212.1(h)).

Use of chainsaws or other equipment with internal combustion engines for felling, bucking, skidding, wood cutting, road building, and other high fire risk operations between 1 p.m. and 1 a.m. local time is prohibited. Exceptions are helicopter yarding and earth moving on areas of cleared and bare soil. Sawing incidental to loading operations on cleared landings is not necessarily restricted (43 CFR 9212.1(h)).

Using chainsaws or other equipment with internal combustion engines for felling, bucking, skidding, wood cutting or any other operation within areas having a significant accumulation of dead or down slash or timber is prohibited (43 CFR 9212.1(h)).

Welding, blasting (except seismic operations confined by ten or more feet of soil, sand or cuttings), and other activities with a high potential for causing forest fires are prohibited (43 CFR 9212.1(h)).

A patrol is required for a period of two hours after any woods operations including felling, bucking, skidding, wood cutting, or road building cease. A patrol is also required for one hour following the cessation of all work activity. The patrolperson's responsibilities include checking for compliance with required fire precautions.

Possessing or using motorized vehicles such as, but not limited to cars, trucks, trail bikes, motorcycles and all terrain vehicles off cleared roads is prohibited except for persons engaged in a trade, business or occupation in the area. Cleared roads are defined as roads at least 12' wide and cleared of vegetation shoulder to shoulder (43 CFR 9212.1(h)).

Exemptions to the above prohibitions are allowed only for any Federal, State, or local officer, or member of an organized rescue or firefighting force in the performance of an official duty, or persons with a permit or written authorization allowing the otherwise prohibited act or omission.

Authority for these prohibitions is pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, *et seq.*), Sections 302(b) and 301(a); and Title 43 of the Code of Federal Regulations, Part 9210 (Fire Management), Subpart 9212 (Wildfire Prevention). These restrictions will become effective at 1:00 a.m., Mountain

Daylight Time, August 11, 2000, and will remain in effect until rescinded or revoked.

Violation of this prohibition is punishable by a fine of not more than $1,000 or imprisonment for not more than 12 months, or both.

**DATES:** Restrictions go into effect at 1 a.m. Friday, August 11, 2000, and will remain in effect until further notice.

**ADDRESSES:** Comments should be sent to BLM Montana State Director, Attention: Pat Mullaney, P.O. Box 36800, Billings, Montana 59107–6800.

**FOR FURTHER INFORMATION CONTACT:** Pat Mullaney, Fire Management Specialist, 406–896–2915.

August 10, 2000.

**Mat Millenbach,**

*State Director.*

[FR Doc. 00–20761 Filed 8–11–00; 10:57 am]

BILLING CODE 4310–$$–P

# Reader Aids

Federal Register

Vol. 65, No. 157

Monday, August 14, 2000

## CUSTOMER SERVICE AND INFORMATION

| | |
|---|---|
| **Federal Register/Code of Federal Regulations** | |
| General Information, indexes and other finding aids | 202–523–5227 |
| **Laws** | 523–5227 |
| **Presidential Documents** | |
| Executive orders and proclamations | 523–5227 |
| **The United States Government Manual** | 523–5227 |
| **Other Services** | |
| Electronic and on-line services (voice) | 523–4534 |
| Privacy Act Compilation | 523–3187 |
| Public Laws Update Service (numbers, dates, etc.) | 523–6641 |
| TTY for the deaf-and-hard-of-hearing | 523–5229 |

## ELECTRONIC RESEARCH

**World Wide Web**

Full text of the daily Federal Register, CFR and other publications:

**http://www.access.gpo.gov/nara**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

**http://www.nara.gov/fedreg**

**E-mail**

**PENS** (Public Law Electronic Notification Service) is an E-mail service for notification of recently enacted Public Laws. To subscribe, send E-mail to

**listserv@www.gsa.gov**

with the text message:

subscribe PUBLAWS-L your name

Use listserv@www.gsa.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries.

**Reference questions.** Send questions and comments about the Federal Register system to:

**info@fedreg.nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

## FEDERAL REGISTER PAGES AND DATE, AUGUST

| | |
|---|---|
| 46859–47242 | 1 |
| 47243–47652 | 2 |
| 47653–47824 | 3 |
| 47825–48134 | 4 |
| 48135–48346 | 7 |
| 48347–48600 | 8 |
| 48601–48884 | 9 |
| 48885–49188 | 10 |
| 49189–49468 | 11 |
| 49469–49718 | 14 |

## CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

### 3 CFR

**Proclamations:**
7332 ..... 47825

**Executive Orders:**
12722 (See Notice of July 28, 2000) ..... 47241
12724 (See Notice of July 28, 2000) ..... 47241
12924 (See Notice of August 3, 2000) ..... 48347
13165 ..... 49469

**Administrative Orders:**
Notices:
July 28, 2000 ..... 47241
August 3, 2000 ..... 48347
Presidential Determinations:
No. 00-27 of July 21, 2000 ..... 47827

### 5 CFR

330 ..... 47829
550 ..... 48135
595 ..... 48135
610 ..... 48135
1201 ..... 48885
1203 ..... 48885
1204 ..... 48885
1205 ..... 48886
1206 ..... 48886
1207 ..... 48886
2640 ..... 47830

**Proposed Rules:**
532 ..... 48641

### 7 CFR

2 ..... 49471
97 ..... 47243
253 ..... 47831
371 ..... 49471
457 ..... 47834
920 ..... 49472
927 ..... 48136
929 ..... 48349
930 ..... 48139
945 ..... 48142
982 ..... 47245
1240 ..... 48318
1479 ..... 47840
3015 ..... 49474
3016 ..... 49474
3019 ..... 49474

**Proposed Rules:**
46 ..... 48185
47 ..... 48185
205 ..... 48642
305 ..... 47908
319 ..... 47908
905 ..... 46879
1240 ..... 48324
1940 ..... 47695

### 8 CFR

**Proposed Rules:**
212 ..... 46882
236 ..... 46882
241 ..... 46882

### 9 CFR

78 ..... 47653
93 ..... 46859

**Proposed Rules:**
1 ..... 47908
2 ..... 47908

### 10 CFR

Ch.1 ..... 47654

**Proposed Rules:**
30 ..... 49207
61 ..... 49207
431 ..... 48828, 48838, 48852

### 12 CFR

360 ..... 49189
1805 ..... 49642

**Proposed Rules:**
225 ..... 47696

### 13 CFR

120 ..... 49481
121 ..... 48601

**Proposed Rules:**
107 ..... 49511

### 14 CFR

11 ..... 47247
21 ..... 47247
25 ..... 47247, 47841
33 ..... 48887
39 ..... 46862, 47248, 47252, 47255, 47660, 48144, 48351, 48353, 48355, 48358, 48360, 48362, 48364, 48368, 48371, 48373, 48605, 48607, 49481
71 ..... 47258, 47259, 47260, 47261, 47843, 48146, 48147, 48608, 48609, 48888, 49192
73 ..... 49483
97 ..... 48889, 48891, 48893
1204 ..... 47663

**Proposed Rules:**
23 ..... 49513
39 ..... 47356, 47701, 48399, 48401, 48402, 48404, 48643, 48645, 48646, 48648, 48931, 48933, 48936, 48937, 48941, 48943, 48945, 48947, 48950, 49523
71 ..... 48651

### 15 CFR

287 ..... 48894

### 16 CFR

423 ..... 47261, 48148

**17 CFR**

1.....47843
4.....47848
30.....47275,
230.....47281
231.....47281
271.....47281

**Proposed Rules:**

1.....49208
3.....49208
4.....49208
5.....49208
15.....49208
20.....49208
35.....49208
36.....49208
37.....49208
38.....49208
39.....49208
100.....49208
140.....49208
155.....49208
166.....49208
170.....49208
180.....49208
240.....47900, 48406

**18 CFR**

101.....47664
125.....48148
154.....47284
161.....47284
225.....48148
250.....47284
284.....47284
330.....47294
356.....48148
385.....47294

**Proposed Rules:**

342.....47355

**20 CFR**

652.....49294
660.....49294
661.....49294
662.....49294
663.....49294
664.....49294
665.....49294
666.....49294
667.....49294
668.....49294
669.....49294
670.....49294
671.....49294

**Proposed Rules:**

440.....49208
416.....49208

**21 CFR**

73.....48375
172.....48377
201.....46864, 48902
310.....48902
341.....46864
344.....48902
514.....47668
868.....47669
876.....48609
884.....47305
1304.....49483
1308.....47306
1310.....47309, 48546

**23 CFR**

1335.....48905

**24 CFR**

903.....49484

**25 CFR**

**Proposed Rules:**

0.....47859
142.....47704

**26 CFR**

1.....48379

**Proposed Rules:**

1.....48185, 48198

**27 CFR**

**Proposed Rules:**

9.....48953

**28 CFR**

1.....48379
91.....48392

**30 CFR**

250.....49485

**Proposed Rules:**

70.....49215
72.....49215
75.....49215
90.....49215
920.....49524

**32 CFR**

199.....48911, 49491
310.....48169
701.....48170
1615.....47670
1698.....47670

**Proposed Rules:**

317.....48202

**33 CFR**

100.....47316, 48612, 48613, 49493
117.....46868, 46870
165.....47318, 47321, 48381, 48383, 48614, 48616, 49495, 49497

**Proposed Rules:**

84.....47936
151.....48548
155.....48548
157.....48548
158.....48548
183.....47936

**34 CFR**

600.....49134
668.....47590, 49134
674.....47634
675.....49134
682.....47590, 47634, 49124, 49134
685.....47590, 47634, 49124, 49134
690.....47590, 49134

**36 CFR**

**Proposed Rules:**

293.....48205

**37 CFR**

1.....49193
201.....46873, 48913
202.....48913
204.....48913

**38 CFR**

**Proposed Rules:**

4.....48205
36.....46882

**39 CFR**

20.....47322, 48171
111.....48385

**Proposed Rules:**

111.....47362

**40 CFR**

Ch. I.....47323
Ch. IV.....48108
9.....48286
35.....48286
52.....46873, 47326, 47336, 47339, 47862, 49499, 49501
60.....48914
63.....47342
70.....48391
132.....47864
180.....47874, 47877, 48617, 48620, 48626, 48634, 48637
271.....48392
300.....48172, 48930, 49503
302.....47342
442.....49666

**Proposed Rules:**

9.....49062
51.....48825
52.....47363, 47705, 48652, 49527
69.....47706
80.....47706, 48058
86.....47706, 48058
122.....49062
123.....49062
124.....49062
125.....49062
141.....49638
142.....49638
261.....48434
300.....47363, 48210, 49527, 49528

**41 CFR**

Ch. 102.....48392
101.....48392

**Proposed Rules:**

101–11.....48655
102–193.....48655
102–194.....48655
102–195.....48655

**42 CFR**

59.....49057
130.....47348
410.....47026, 47054
412.....47026, 47054
413.....47026, 47054, 47670
419.....47670
482.....47026
485.....47026, 47054

**Proposed Rules:**

413.....47706

**46 CFR**

307.....47678

**Proposed Rules:**

25.....47936
67.....49529
172.....48548

**47 CFR**

0.....47678
1.....47348, 47678
2.....48174,
22.....49199, 49202
54.....47882
64.....47678, 48393
73.....48183, 48639
74.....48174
78.....48174
101.....48174

**Proposed Rules:**

Ch. I.....49530
1.....47366, 48658
54.....47940, 49216
73.....47370, 48210
76.....48211
78.....48211

**48 CFR**

Ch. 15.....47323
1807.....46875
1819.....46875
1830.....49205

**49 CFR**

10.....48184
544.....49505

**Proposed Rules:**

37.....48444
222.....46884
229.....46884
393.....48660
571.....47945
575.....46884

**50 CFR**

21.....49508
230.....49509
635.....47214
648.....46877, 47648
679.....47693, 47906, 47907

**Proposed Rules:**

17.....49530, 49531
216.....48669
635.....46885, 48671

## REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

## RULES GOING INTO EFFECT AUGUST 14, 2000

**AGRICULTURE DEPARTMENT**
**Animal and Plant Health Inspection Service**
Organization, functions, and authority delegations:
Under Secretary for Marketing and Regulatory Programs et al.; published 8-14-00

**AGRICULTURE DEPARTMENT**
Grants and cooperative agreements to State and local governments, universities, hospitals, and other non-profit organizations; uniform administrative requirements; published 8-14-00
Organization, functions, and authority delegations:
Under Secretary for Marketing and Regulatory Programs et al.; published 8-14-00

**COMMERCE DEPARTMENT**
**National Oceanic and Atmospheric Administration**
Whaling provisions:
Aboriginal subsistence whaling quotas; published 8-14-00

**DEFENSE DEPARTMENT**
Civilian health and medical program of uniformed services (CHAMPUS):
TRICARE program—
Enhancement of retiree dental benefits; published 8-14-00

**ENVIRONMENTAL PROTECTION AGENCY**
Air pollution control:
State operating permits programs—
Montana; published 6-13-00
Air quality implementation plans; approval and promulgation; various States:
Utah; published 6-14-00

**FEDERAL COMMUNICATIONS COMMISSION**
Digital television stations; table of assignments:
Nevada; published 7-3-00
Radio services, special:
Maritime services—
Los Angeles and Long Beach, CA; 156.250 MHz frequency availability for port operations; published 7-14-00
Radio stations; table of assignments:
Montana; published 7-17-00
New Mexico; published 8-9-00
New York; published 7-20-00
Wisconsin; published 7-20-00
Television stations; table of assignments:
Arizona and Nevada; published 7-17-00

**INTERIOR DEPARTMENT**
**Fish and Wildlife Service**
Migratory bird permits:
Falconry standards—
Delaware; published 8-14-00

**JUSTICE DEPARTMENT**
**Drug Enforcement Administration**
Freight forwarding facilities for DEA distributing registrants; correction; published 8-14-00

**LABOR DEPARTMENT**
**Employment and Training Administration**
Birth and adoption unemployment compensation; published 6-13-00

**PERSONNEL MANAGEMENT OFFICE**
Prevailing rate systems; published 7-13-00

**SMALL BUSINESS ADMINISTRATION**
Business loans:
Unguaranteed portions of loans; securitization, sales, and pledges
Correction; published 8-14-00

**TRANSPORTATION DEPARTMENT**
**Coast Guard**
Ports and waterways safety:
New York Harbor, western Long Island Sound, and East and Hudson Rivers, NY; safety zones; published 7-13-00

**TRANSPORTATION DEPARTMENT**
**Federal Aviation Administration**
Airworthiness directives:
Cessna; published 8-8-00
General Electric Co.; published 6-13-00

**TRANSPORTATION DEPARTMENT**
**National Highway Traffic Safety Administration**
Insurer reporting requirements:
Insurers required to file reports; list; published 8-14-00

**TRANSPORTATION DEPARTMENT**
**Research and Special Programs Administration**
Hazardous materials:
Hazardous substances other than radionuclides; published 2-14-00

**TREASURY DEPARTMENT**
**Community Development Financial Institutions Fund**
Community Development Financial Institutions Program; implementation; published 8-14-00

## COMMENTS DUE NEXT WEEK

**AGRICULTURE DEPARTMENT**
**Animal and Plant Health Inspection Service**
Export certification:
Laboratory seed health testing and seed crop field inspection; accreditation standards; comments due by 8-21-00; published 6-20-00
Irradiation phytosanitary treatment of imported fruits and vegetables; comments due by 8-21-00; published 8-4-00

**AGRICULTURE DEPARTMENT**
**Food Safety and Inspection Service**
Meat and poultry inspection:
Inspection services—
Fee increases; comments due by 8-23-00; published 7-24-00

**COMMERCE DEPARTMENT**
**National Oceanic and Atmospheric Administration**
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Western Alaska Community Development Quota Program; comments due by 8-23-00; published 7-24-00

**COMMODITY FUTURES TRADING COMMISSION**
Commodity Exchange Act:
Bilateral transactions exemption; clearing organizations, regulatory framework; etc.; comments due by 8-21-00; published 8-11-00

**DEFENSE DEPARTMENT**
Freedom of Information Act; implementation:
National Imagery and Mapping Agency; comments due by 8-21-00; published 6-20-00

**EDUCATION DEPARTMENT**
Special education and rehabilitative services:
State Vocational Rehabilitation Services Program; comments due by 8-25-00; published 6-26-00

**ENVIRONMENTAL PROTECTION AGENCY**
Acquisition regulations:
Business ownership representation; comments due by 8-22-00; published 6-23-00
Air pollutants, hazardous; national emission standards:
Primary copper smelters; comments due by 8-25-00; published 6-26-00
Air quality implementation plans; approval and promulgation; various States:
Arizona; comments due by 8-23-00; published 7-24-00
California; comments due by 8-21-00; published 7-21-00
District of Columbia; comments due by 8-21-00; published 7-20-00
Maryland; comments due by 8-24-00; published 7-25-00
Nevada; comments due by 8-21-00; published 7-20-00
Pennsylvania; comments due by 8-25-00; published 7-26-00
Texas; comments due by 8-25-00; published 7-26-00
Hazardous waste program authorizations:
Indiana; comments due by 8-25-00; published 7-26-00
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Inert ingredients; processing fees; comments due by 8-23-00; published 7-24-00

## LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402

(phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

**S. 1629/P.L. 106–257**

Oregon Land Exchange Act of 2000 (Aug. 8, 2000; 114 Stat. 650)

**S. 1910/P.L. 106–258**

To amend the Act establishing Women's Rights National Historical Park to permit the Secretary of the Interior to acquire title in fee simple to the Hunt House located in Waterloo, New York. (Aug. 8, 2000; 114 Stat. 655)

**H.R. 4576/P.L. 106–259**

Department of Defense Appropriations Act, 2001 (Aug. 9, 2000; 114 Stat. 656)

**Last List August 9, 2000**

## Public Laws Electronic Notification Service (PENS)

**PENS** is a free electronic mail notification service of newly enacted public laws. To subscribe, go to www.gsa.gov/archives/publaws-l.html or send E-mail to **listserv@www.gsa.gov** with the following text message:

**SUBSCRIBE PUBLAWS-L** Your Name.

**Note:** This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

## CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The CFR is available free on-line through the Government Printing Office's GPO Access Service at http://www.access.gpo.gov/nara/cfr/index.html. For information about GPO Access call the GPO User Support Team at 1-888-293-6498 (toll free) or 202-512-1530.

The annual rate for subscription to all revised paper volumes is $951.00 domestic, $237.75 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250-7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, Master Card, or Discover). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at **(202) 512-1800** from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to **(202) 512-2250**.

| Title | Stock Number | Price | Revision Date |
|---|---|---|---|
| **1, 2 (2 Reserved)** | (869-038-00001-3) | 6.50 | Apr. 1, 2000 |
| **3** (1997 Compilation and Parts 100 and 101) | (869-042-00002-1) | 22.00 | [1] Jan. 1, 2000 |
| **4** | (869-042-00003-0) | 8.50 | Jan. 1, 2000 |
| **5 Parts:** | | | |
| 1-699 | (869-042-00004-8) | 43.00 | Jan. 1, 2000 |
| 700-1199 | (869-042-00005-6) | 31.00 | Jan. 1, 2000 |
| 1200-End, 6 (6 Reserved) | (869-042-00006-4) | 48.00 | Jan. 1, 2000 |
| **7 Parts:** | | | |
| 1-26 | (869-042-00007-2) | 28.00 | Jan. 1, 2000 |
| 27-52 | (869-042-00008-1) | 35.00 | Jan. 1, 2000 |
| 53-209 | (869-042-00009-9) | 22.00 | Jan. 1, 2000 |
| 210-299 | (869-042-00010-2) | 54.00 | Jan. 1, 2000 |
| 300-399 | (869-042-00011-1) | 29.00 | Jan. 1, 2000 |
| 400-699 | (869-042-00012-9) | 41.00 | Jan. 1, 2000 |
| 700-899 | (869-042-00013-7) | 37.00 | Jan. 1, 2000 |
| 900-999 | (869-042-00014-5) | 46.00 | Jan. 1, 2000 |
| 1000-1199 | (869-042-00015-3) | 18.00 | Jan. 1, 2000 |
| 1200-1599 | (869-042-00016-1) | 44.00 | Jan. 1, 2000 |
| 1600-1899 | (869-042-00017-0) | 61.00 | Jan. 1, 2000 |
| 1900-1939 | (869-042-00018-8) | 21.00 | Jan. 1, 2000 |
| 1940-1949 | (869-042-00019-6) | 37.00 | Jan. 1, 2000 |
| 1950-1999 | (869-042-00020-0) | 38.00 | Jan. 1, 2000 |
| 2000-End | (869-042-00021-8) | 31.00 | Jan. 1, 2000 |
| **8** | (869-042-00022-6) | 41.00 | Jan. 1, 2000 |
| **9 Parts:** | | | |
| 1-199 | (869-042-00023-4) | 46.00 | Jan. 1, 2000 |
| 200-End | (869-042-00024-2) | 44.00 | Jan. 1, 2000 |
| **10 Parts:** | | | |
| 1-50 | (869-042-00025-1) | 46.00 | Jan. 1, 2000 |
| 51-199 | (869-042-00026-9) | 38.00 | Jan. 1, 2000 |
| 200-499 | (869-042-00027-7) | 38.00 | Jan. 1, 2000 |
| 500-End | (869-042-00028-5) | 48.00 | Jan. 1, 2000 |
| **11** | (869-042-00029-3) | 23.00 | Jan. 1, 2000 |
| **12 Parts:** | | | |
| 1-199 | (869-042-00030-7) | 18.00 | Jan. 1, 2000 |
| 200-219 | (869-042-00031-5) | 22.00 | Jan. 1, 2000 |
| 220-299 | (869-042-00032-3) | 45.00 | Jan. 1, 2000 |
| 300-499 | (869-042-00033-1) | 29.00 | Jan. 1, 2000 |
| 500-599 | (869-042-00034-0) | 26.00 | Jan. 1, 2000 |
| 600-End | (869-042-00035-8) | 53.00 | Jan. 1, 2000 |
| **13** | (869-042-00036-6) | 35.00 | Jan. 1, 2000 |
| **14 Parts:** | | | |
| 1-59 | (869-042-00037-4) | 58.00 | Jan. 1, 2000 |
| 60-139 | (869-042-00038-2) | 46.00 | Jan. 1, 2000 |
| 140-199 | (869-038-00039-1) | 17.00 | [4] Jan. 1, 2000 |
| 200-1199 | (869-042-00040-4) | 29.00 | Jan. 1, 2000 |
| 1200-End | (869-042-00041-2) | 25.00 | Jan. 1, 2000 |
| **15 Parts:** | | | |
| 0-299 | (869-042-00042-1) | 28.00 | Jan. 1, 2000 |
| 300-799 | (869-042-00043-9) | 45.00 | Jan. 1, 2000 |
| 800-End | (869-042-00044-7) | 26.00 | Jan. 1, 2000 |
| **16 Parts:** | | | |
| 0-999 | (869-042-00045-5) | 33.00 | Jan. 1, 2000 |
| 1000-End | (869-042-00046-3) | 43.00 | Jan. 1, 2000 |
| **17 Parts:** | | | |
| 1-199 | (869-042-00048-0) | 32.00 | Apr. 1, 2000 |
| 200-239 | (869-042-00049-8) | 38.00 | Apr. 1, 2000 |
| 240-End | (869-042-00050-1) | 49.00 | Apr. 1, 2000 |
| **18 Parts:** | | | |
| 1-399 | (869-042-00051-0) | 54.00 | Apr. 1, 2000 |
| 400-End | (869-042-00052-8) | 15.00 | Apr. 1, 2000 |
| **19 Parts:** | | | |
| 1-140 | (869-042-00053-6) | 40.00 | Apr. 1, 2000 |
| 141-199 | (869-042-00054-4) | 40.00 | Apr. 1, 2000 |
| 200-End | (869-042-00055-2) | 20.00 | Apr. 1, 2000 |
| **20 Parts:** | | | |
| 1-399 | (869-042-00056-1) | 33.00 | Apr. 1, 2000 |
| 400-499 | (869-042-00057-9) | 56.00 | Apr. 1, 2000 |
| 500-End | (869-042-00058-7) | 58.00 | [7] Apr. 1, 2000 |
| **21 Parts:** | | | |
| 1-99 | (869-042-00059-5) | 26.00 | Apr. 1, 2000 |
| 100-169 | (869-042-00060-9) | 30.00 | Apr. 1, 2000 |
| 170-199 | (869-042-00061-7) | 29.00 | Apr. 1, 2000 |
| 200-299 | (869-042-00062-5) | 13.00 | Apr. 1, 2000 |
| 300-499 | (869-042-00063-3) | 20.00 | Apr. 1, 2000 |
| 500-599 | (869-042-00064-1) | 31.00 | Apr. 1, 2000 |
| 600-799 | (869-038-00065-2) | 9.00 | Apr. 1, 1999 |
| 800-1299 | (869-042-00066-8) | 38.00 | Apr. 1, 2000 |
| 1300-End | (869-042-00067-6) | 15.00 | Apr. 1, 2000 |
| **22 Parts:** | | | |
| 1-299 | (869-042-00068-4) | 54.00 | Apr. 1, 2000 |
| 300-End | (869-042-00069-2) | 31.00 | Apr. 1, 2000 |
| **23** | (869-042-00070-6) | 29.00 | Apr. 1, 2000 |
| **24 Parts:** | | | |
| 0-199 | (869-042-00071-4) | 40.00 | Apr. 1, 2000 |
| 200-499 | (869-042-00072-2) | 37.00 | Apr. 1, 2000 |
| 500-699 | (869-042-00073-1) | 20.00 | Apr. 1, 2000 |
| 700-1699 | (869-042-00074-9) | 46.00 | Apr. 1, 2000 |
| 1700-End | (869-042-00075-7) | 18.00 | [5] Apr. 1, 2000 |
| **25** | (869-042-00076-5) | 52.00 | Apr. 1, 2000 |
| **26 Parts:** | | | |
| §§ 1.0-1-1.60 | (869-042-00077-3) | 31.00 | Apr. 1, 2000 |
| §§ 1.61-1.169 | (869-042-00078-1) | 56.00 | Apr. 1, 2000 |
| §§ 1.170-1.300 | (869-042-00079-0) | 38.00 | Apr. 1, 2000 |
| §§ 1.301-1.400 | (869-042-00080-3) | 29.00 | Apr. 1, 2000 |
| §§ 1.401-1.440 | (869-042-00081-1) | 47.00 | Apr. 1, 2000 |
| §§ 1.441-1.500 | (869-042-00082-0) | 36.00 | Apr. 1, 2000 |
| §§ 1.501-1.640 | (869-042-00083-8) | 32.00 | Apr. 1, 2000 |
| §§ 1.641-1.850 | (869-042-00084-6) | 41.00 | Apr. 1, 2000 |
| §§ 1.851-1.907 | (869-042-00085-4) | 43.00 | Apr. 1, 2000 |
| §§ 1.908-1.1000 | (869-042-00086-2) | 41.00 | Apr. 1, 2000 |
| §§ 1.1001-1.1400 | (869-042-00087-1) | 45.00 | Apr. 1, 2000 |
| §§ 1.1401-End | (869-042-00088-9) | 66.00 | Apr. 1, 2000 |
| 2-29 | (869-042-00089-7) | 45.00 | Apr. 1, 2000 |
| 30-39 | (869-042-00090-1) | 31.00 | Apr. 1, 2000 |
| 40-49 | (869-042-00091-9) | 18.00 | Apr. 1, 2000 |
| 50-299 | (869-042-00092-7) | 23.00 | Apr. 1, 2000 |
| 300-499 | (869-042-00093-5) | 43.00 | Apr. 1, 2000 |
| 500-599 | (869-042-00094-3) | 12.00 | Apr. 1, 2000 |
| 600-End | (869-042-00095-1) | 12.00 | Apr. 1, 2000 |
| **27 Parts:** | | | |
| 1-199 | (869-042-00096-0) | 59.00 | Apr. 1, 2000 |

| Title | Stock Number | Price | Revision Date |
|---|---|---|---|
| 200–End | (869–042–00097–8) | 18.00 | Apr. 1, 2000 |
| **28 Parts:** | | | |
| 0–42 | (869–038–00098–9) | 39.00 | July 1, 1999 |
| 43–end | (869–038–00099–7) | 32.00 | July 1, 1999 |
| **29 Parts:** | | | |
| 0–99 | (869–038–00100–4) | 28.00 | July 1, 1999 |
| 100–499 | (869–038–00101–2) | 13.00 | July 1, 1999 |
| 500–899 | (869–038–00102–1) | 40.00 | [7] July 1, 1999 |
| 900–1899 | (869–038–00103–9) | 21.00 | July 1, 1999 |
| 1900–1910 (§§ 1900 to 1910.999) | (869–038–00104–7) | 46.00 | July 1, 1999 |
| 1910 (§§ 1910.1000 to end) | (869–038–00105–5) | 28.00 | July 1, 1999 |
| 1911–1925 | (869–038–00106–3) | 18.00 | July 1, 1999 |
| 1926 | (869–038–00107–1) | 30.00 | July 1, 1999 |
| 1927–End | (869–038–00108–0) | 43.00 | July 1, 1999 |
| **30 Parts:** | | | |
| 1–199 | (869–038–00109–8) | 35.00 | July 1, 1999 |
| 200–699 | (869–038–00110–1) | 30.00 | July 1, 1999 |
| 700–End | (869–038–00111–0) | 35.00 | July 1, 1999 |
| **31 Parts:** | | | |
| 0–199 | (869–038–00112–8) | 21.00 | July 1, 1999 |
| 200–End | (869–038–00113–6) | 48.00 | July 1, 1999 |
| **32 Parts:** | | | |
| 1–39, Vol. I | | 15.00 | [2] July 1, 1984 |
| 1–39, Vol. II | | 19.00 | [2] July 1, 1984 |
| 1–39, Vol. III | | 18.00 | [2] July 1, 1984 |
| 1–190 | (869–038–00114–4) | 46.00 | July 1, 1999 |
| 191–399 | (869–038–00115–2) | 55.00 | July 1, 1999 |
| 400–629 | (869–038–00116–1) | 32.00 | July 1, 1999 |
| 630–699 | (869–038–00117–9) | 23.00 | July 1, 1999 |
| 700–799 | (869–038–00118–7) | 27.00 | July 1, 1999 |
| 800–End | (869–038–00119–5) | 27.00 | July 1, 1999 |
| **33 Parts:** | | | |
| 1–124 | (869–038–00120–9) | 32.00 | July 1, 1999 |
| 125–199 | (869–038–00121–7) | 41.00 | July 1, 1999 |
| 200–End | (869–038–00122–5) | 33.00 | July 1, 1999 |
| **34 Parts:** | | | |
| 1–299 | (869–038–00123–3) | 28.00 | July 1, 1999 |
| 300–399 | (869–038–00124–1) | 25.00 | July 1, 1999 |
| 400–End | (869–038–00125–0) | 46.00 | July 1, 1999 |
| **35** | (869–038–00126–8) | 14.00 | [7] July 1, 1999 |
| **36 Parts** | | | |
| 1–199 | (869–038–00127–6) | 21.00 | July 1, 1999 |
| 200–299 | (869–038–00128–4) | 23.00 | July 1, 1999 |
| 300–End | (869–038–00129–2) | 38.00 | July 1, 1999 |
| **37** | (869–038–00130–6) | 29.00 | July 1, 1999 |
| **38 Parts:** | | | |
| 0–17 | (869–038–00131–4) | 37.00 | July 1, 1999 |
| 18–End | (869–038–00132–2) | 41.00 | July 1, 1999 |
| **39** | (869–038–00133–1) | 24.00 | July 1, 1999 |
| **40 Parts:** | | | |
| 1–49 | (869–038–00134–9) | 33.00 | July 1, 1999 |
| 50–51 | (869–038–00135–7) | 25.00 | July 1, 1999 |
| 52 (52.01–52.1018) | (869–038–00136–5) | 33.00 | July 1, 1999 |
| 52 (52.1019–End) | (869–038–00137–3) | 37.00 | July 1, 1999 |
| 53–59 | (869–038–00138–1) | 19.00 | July 1, 1999 |
| 60 | (869–038–00139–0) | 59.00 | July 1, 1999 |
| 61–62 | (869–038–00140–3) | 19.00 | July 1, 1999 |
| 63 (63.1–63.1119) | (869–038–00141–1) | 58.00 | July 1, 1999 |
| 63 (63.1200–End) | (869–038–00142–0) | 36.00 | July 1, 1999 |
| 64–71 | (869–038–00143–8) | 11.00 | July 1, 1999 |
| 72–80 | (869–038–00144–6) | 41.00 | July 1, 1999 |
| 81–85 | (869–038–00145–4) | 33.00 | July 1, 1999 |
| 86 | (869–038–00146–2) | 59.00 | July 1, 1999 |
| 87–135 | (869–038–00146–1) | 53.00 | July 1, 1999 |
| 136–149 | (869–038–00148–9) | 40.00 | July 1, 1999 |
| 150–189 | (869–038–00149–7) | 35.00 | July 1, 1999 |
| 190–259 | (869–038–00150–1) | 23.00 | July 1, 1999 |
| 260–265 | (869–038–00151–9) | 32.00 | July 1, 1999 |
| 266–299 | (869–038–00152–7) | 33.00 | July 1, 1999 |
| 300–399 | (869–038–00153–5) | 26.00 | July 1, 1999 |
| 400–424 | (869–038–00154–3) | 34.00 | July 1, 1999 |
| 425–699 | (869–038–00155–1) | 44.00 | July 1, 1999 |
| 700–789 | (869–038–00156–0) | 42.00 | July 1, 1999 |
| 790–End | (869–038–00157–8) | 23.00 | July 1, 1999 |
| **41 Chapters:** | | | |
| 1, 1–1 to 1–10 | | 13.00 | [3] July 1, 1984 |
| 1, 1–11 to Appendix, 2 (2 Reserved) | | 13.00 | [3] July 1, 1984 |
| 3–6 | | 14.00 | [3] July 1, 1984 |
| 7 | | 6.00 | [3] July 1, 1984 |
| 8 | | 4.50 | [3] July 1, 1984 |
| 9 | | 13.00 | [3] July 1, 1984 |
| 10–17 | | 9.50 | [3] July 1, 1984 |
| 18, Vol. I, Parts 1–5 | | 13.00 | [3] July 1, 1984 |
| 18, Vol. II, Parts 6–19 | | 13.00 | [3] July 1, 1984 |
| 18, Vol. III, Parts 20–52 | | 13.00 | [3] July 1, 1984 |
| 19–100 | | 13.00 | [3] July 1, 1984 |
| 1–100 | (869–038–00158–6) | 14.00 | July 1, 1999 |
| 101 | (869–038–00159–4) | 39.00 | July 1, 1999 |
| 102–200 | (869–038–00160–8) | 16.00 | July 1, 1999 |
| 201–End | (869–038–00161–6) | 15.00 | July 1, 1999 |
| **42 Parts:** | | | |
| 1–399 | (869–038–00162–4) | 36.00 | Oct. 1, 1999 |
| 400–429 | (869–038–00163–2) | 44.00 | Oct. 1, 1999 |
| 430–End | (869–038–00164–1) | 54.00 | Oct. 1, 1999 |
| **43 Parts:** | | | |
| 1–999 | (869–038–00165–9) | 32.00 | Oct. 1, 1999 |
| 1000–end | (869–038–00166–7) | 47.00 | Oct. 1, 1999 |
| **44** | (869–038–00167–5) | 28.00 | Oct. 1, 1999 |
| **45 Parts:** | | | |
| 1–199 | (869–038–00168–3) | 33.00 | Oct. 1, 1999 |
| 200–499 | (869–038–00169–1) | 16.00 | Oct. 1, 1999 |
| 500–1199 | (869–038–00170–5) | 30.00 | Oct. 1, 1999 |
| 1200–End | (869–038–00171–3) | 40.00 | Oct. 1, 1999 |
| **46 Parts:** | | | |
| 1–40 | (869–038–00172–1) | 27.00 | Oct. 1, 1999 |
| 41–69 | (869–038–00173–0) | 23.00 | Oct. 1, 1999 |
| 70–89 | (869–038–00174–8) | 8.00 | Oct. 1, 1999 |
| 90–139 | (869–038–00175–6) | 26.00 | Oct. 1, 1999 |
| 140–155 | (869–038–00176–4) | 15.00 | Oct. 1, 1999 |
| 156–165 | (869–038–00177–2) | 21.00 | Oct. 1, 1999 |
| 166–199 | (869–038–00178–1) | 27.00 | Oct. 1, 1999 |
| 200–499 | (869–038–00179–9) | 23.00 | Oct. 1, 1999 |
| 500–End | (869–038–00180–2) | 15.00 | Oct. 1, 1999 |
| **47 Parts:** | | | |
| 0–19 | (869–038–00181–1) | 39.00 | Oct. 1, 1999 |
| 20–39 | (869–038–00182–9) | 26.00 | Oct. 1, 1999 |
| 40–69 | (869–038–00183–7) | 26.00 | Oct. 1, 1999 |
| 70–79 | (869–038–00184–5) | 39.00 | Oct. 1, 1999 |
| 80–End | (869–038–00185–3) | 40.00 | Oct. 1, 1999 |
| **48 Chapters:** | | | |
| 1 (Parts 1–51) | (869–038–00186–1) | 55.00 | Oct. 1, 1999 |
| 1 (Parts 52–99) | (869–038–00187–0) | 30.00 | Oct. 1, 1999 |
| 2 (Parts 201–299) | (869–038–00188–8) | 36.00 | Oct. 1, 1999 |
| 3–6 | (869–038–00189–6) | 27.00 | Oct. 1, 1999 |
| 7–14 | (869–038–00190–0) | 35.00 | Oct. 1, 1999 |
| 15–28 | (869–038–00191–8) | 36.00 | Oct. 1, 1999 |
| 29–End | (869–038–00192–6) | 25.00 | Oct. 1, 1999 |
| **49 Parts:** | | | |
| 1–99 | (869–038–00193–4) | 34.00 | Oct. 1, 1999 |
| 100–185 | (869–038–00194–2) | 53.00 | Oct. 1, 1999 |
| 186–199 | (869–038–00195–1) | 13.00 | Oct. 1, 1999 |
| 200–399 | (869–038–00196–9) | 53.00 | Oct. 1, 1999 |
| 400–999 | (869–038–00197–7) | 57.00 | Oct. 1, 1999 |
| 1000–1199 | (869–038–00198–5) | 17.00 | Oct. 1, 1999 |
| 1200–End | (869–038–00199–3) | 14.00 | Oct. 1, 1999 |
| **50 Parts:** | | | |
| 1–199 | (869–038–00200–1) | 43.00 | Oct. 1, 1999 |
| 200–599 | (869–038–00201–9) | 22.00 | Oct. 1, 1999 |

| Title | Stock Number | Price | Revision Date |
|---|---|---|---|
| 600–End | (869–038–00202–7) | 37.00 | Oct. 1, 1999 |
| CFR Index and Findings Aids | (869–042–00047–1) | 53.00 | Jan. 1, 2000 |
| Complete 1999 CFR set | | 951.00 | 1999 |
| Microfiche CFR Edition: | | | |
| Subscription (mailed as issued) | | 290.00 | 1999 |
| Individual copies | | 1.00 | 1999 |
| Complete set (one-time mailing) | | 247.00 | 1997 |
| Complete set (one-time mailing) | | 264.00 | 1996 |

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 1999, through January 1, 2000. The CFR volume issued as of January 1, 1999 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 1999, through April 1, 2000. The CFR volume issued as of April 1, 1999 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 1998, through July 1, 1999. The CFR volume issued as of July 1, 1998, should be retained.

# Would you like to know. . .

if any changes have been made to the Code of Federal Regulations or what documents have been published in the Federal Register without reading the Federal Register every day? If so, you may wish to subscribe to the *LSA (List of CFR Sections Affected)*, the *Federal Register Index*, or both.

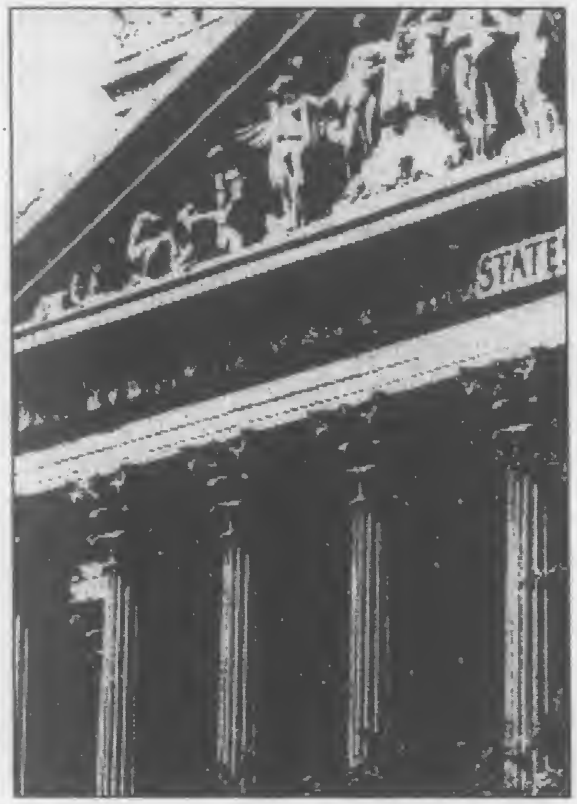
**LSA • List of CFR Sections Affected**

The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register. The LSA is issued monthly in cumulative form. Entries indicate the nature of the changes—such as revised, removed, or corrected. $31 per year.

**Federal Register Index**

The index, covering the contents of the daily Federal Register, is issued monthly in cumulative form. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references. $28 per year.

*A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.*




---

## Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5421**

*Charge your order. It's Easy!*

**To fax your orders (202) 512–2250**
**Phone your orders (202) 512–1800**

☐ **YES**, enter the following indicated subscriptions for one year:

——— **LSA (List of CFR Sections Affected)**, (LCS) for $31 per year.
——— **Federal Register Index** (FRUS) $28 per year.

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

**Please Choose Method of Payment:**

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐☐☐☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

*Thank you for your order!*

Authorizing Signature 4/00

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

## INFORMATION ABOUT THE SUPERINTENDENT OF DOCUMENTS' SUBSCRIPTION SERVICE

**Know when to expect your renewal notice and keep a good thing coming.** To keep our subscription prices down, the Government Printing Office mails each subscriber *only one renewal notice*. You can learn when you will get your renewal notice by checking the number that follows month/year code on the top line of your label *as shown in this example:*

A renewal notice will be sent approximately 90 days **before the shown date.**

AFR SMITH212J DEC97 R 1
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704

A renewal notice will be sent approximately 90 days **before the shown date.**

AFRDO SMITH212J DEC97 R 1
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704

To be sure that your service continues without interruption, please return your renewal notice promptly. If your subscription service is discontinued, simply send your mailing label from any issue to the Superintendent of Documents, Washington, DC 20402–9372 with the proper remittance. Your service will be reinstated.

**To change your address:** Please SEND YOUR MAILING LABEL, along with your new address to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

**To inquire about your subscription service:** Please SEND YOUR MAILING LABEL, along with your correspondence, to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

**To order a new subscription:** Please use the order form provided below.

---

### Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5468**

***Charge your order. It's Easy!***

**To fax your orders (202) 512–2250**
**Phone your orders (202) 512–1800**

☐ **YES**, enter my subscription(s) as follows:

_____ subscriptions to **Federal Register (FR);** *including* the daily Federal Register, monthly Index and List of CFR Sections Affected (LSA), at $697 each per year.

_____ subscriptions to **Federal Register**, *daily only* (FRDO), at $638 each per year.

The total cost of my order is $_____. **Price includes regular domestic postage and handling**, and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

**May we make your name/address available to other mailers?** YES ☐ NO ☐

**Please Choose Method of Payment:**

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

***Thank you for your order!***

Authorizing signature 4/00

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

# Public Laws

**106th Congress, 2nd Session, 2000**

Pamphlet prints of public laws, often referred to as slip laws, are the initial publication of Federal laws upon enactment and are printed as soon as possible after approval by the President. Legislative history references appear on each law. Subscription service includes all public laws, issued irregularly upon enactment, for the 106th Congress, 2nd Session, 2000.

Individual laws also may be purchased from the Superintendent of Documents, U.S. Government Printing Office. Prices vary. See Reader Aids Section of the Federal Register for announcements of newly enacted laws or access the online database at http://www.access.gpo.gov/nara/index.html

---

Superintendent of Documents **Subscriptions** Order Form

Order Processing Code:
* 6216

☐ **YES**, enter my subscription(s) as follows:

*Charge your order. It's Easy!*

**To fax your orders (202) 512–2250**
**Phone your orders (202) 512–1800**

_____ subscriptions to **PUBLIC LAWS** for the 106th Congress, 2nd Session, 2000 for $136 per subscription.

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

**May we make your name/address available to other mailers?** YES ☐ NO ☐

**Please Choose Method of Payment:**

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

*Thank you for your order!*

Authorizing signature 12/99

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

# Microfiche Editions Available...

## Federal Register

The Federal Register is published daily in 24x microfiche format and mailed to subscribers the following day via first class mail. As part of a microfiche Federal Register subscription, the LSA (List of CFR Sections Affected) and the Cumulative Federal Register Index are mailed monthly.

## Code of Federal Regulations

The Code of Federal Regulations, comprising approximately 200 volumes and revised at least once a year on a quarterly basis, is published in 24x microfiche format and the current year's volumes are mailed to subscribers as issued.


## Microfiche Subscription Prices:

### Federal Register:

One year: $253.00
Six months: $126.50

### Code of Federal Regulations:

Current year (as issued): $290.00

---

Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5419**

☐ **YES**, enter the following indicated subscription in 24x microfiche format:

_____ **Federal Register** (MFFR) ☐ One year at $253 each ☐ Six months at $126.50

_____ **Code of Federal Regulations** (CFRM7) ☐ One year at $290 each

*Charge your order. It's Easy!* MasterCard VISA

**To fax your orders (202) 512–2250**
**Phone your orders (202) 512–1800**

The total cost of my order is $_____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

**Please Choose Method of Payment:**

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐-☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

*Thank you for your order!*

Authorizing signature 4/00

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

# Now Available Online

through

## *GPO Access*

*A Service of the U.S. Government Printing Office*

# *Federal Register*

Updated Daily by 6 a.m. ET

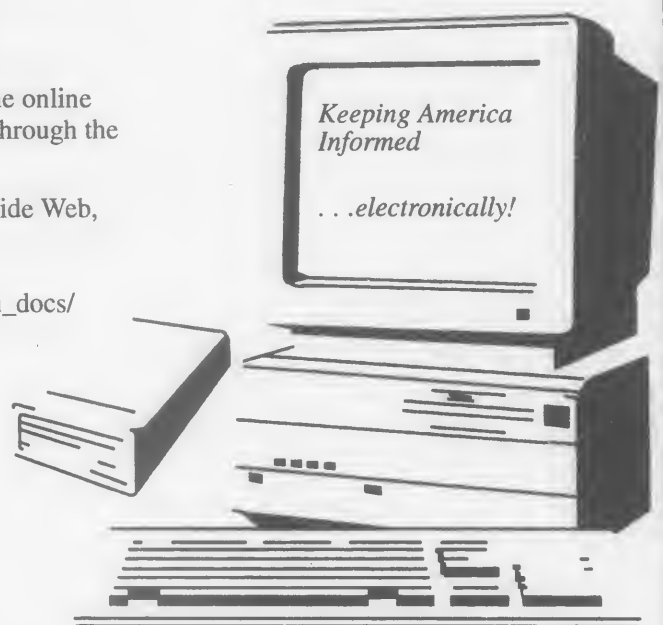
## Easy, Convenient, FREE

Free public connections to the online Federal Register are available through the GPO Access service.

To connect over the World Wide Web, go to the Superintendent of Documents' homepage at http://www. access. gpo.gov/su_docs/

To connect using telnet, open swais.access.gpo.gov and login as guest (no password required).

To dial directly, use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required).




You may also connect using local WAIS client software. For further information, contact the GPO Access User Support Team:

Voice: (202) 512–1530 (7 a.m. to 5 p.m. Eastern time).
Fax: (202) 512–1262 (24 hours a day, 7 days a week).
Internet E-Mail: gpoaccess@gpo.gov

(Rev. 4/23)

Printed on recycled paper