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Wednesday
June 17, 1998

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 54

[No. LS–96–006]

RIN 0581–AB44

Changes in Fees for Federal Meat Grading and Certification Services

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is revising the hourly fee rates for voluntary Federal meat grading and certification services. The hourly fees will be adjusted by this final rule to reflect the increased cost of providing service, and ensure that the Federal meat grading program is operated on a financially self-supporting basis as required by law.

EFFECTIVE DATE: June 18, 1998.

FOR FURTHER INFORMATION CONTACT: Larry R. Meadows, Chief, Meat Grading and Certification (MGC) Branch, 202–720–1246.

SUPPLEMENTARY INFORMATION:

Regulatory Impact Analysis

This final rule was reviewed under the USDA procedures established to implement Executive Order 12866, and was determined to be not significant. Therefore, it has not been reviewed by the Office of Management and Budget.

Effect on Small Entities

This action will not require any additional or new recordkeeping. The final rule was reviewed under the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), wherein the Administrator of AMS determined that this final rule will not have a significant economic impact on a substantial number of small entities.

AMS provides meat grading and certification services to a total of 370 businesses of which 261 are small entities. Small entities are defined as those which employ less than 500 employees. The Agency provides meat grading and certification services to 93 meat processors, 90 livestock slaughterers, 52 reprocessors of Federally donated products, 13 trade associations, 9 livestock feeders, 3 trucking companies, and 1 broker.

Small entities generate 38 percent of the Agency's meat grading and certification hourly revenues. In fiscal year (FY) 1998, the fee increase will cost small entities approximately $336,840 or an average of $1,290 per small entity. In FY 1999, small entities will pay approximately $627,000 or an average of $2,402 per small entity.

We have limited the impact fee increases have had on small entities during the more than 70 years that we have charged hourly fees. On numerous occasions, the Agency considered charging applicants based on production volume. This alternative has not been adopted because it would increase the documentation required by the applicant, the amount of time required for the AMS employee to complete the task, and the related nonproductive administrative costs of such a fee system. Each of these factors would increase the total cost of the service. Also considered was the fact that the Agency incurs direct employee costs by the hour. Based on all of the involved information, the Agency concluded that charging for service by the hour remains the most cost-effective and equitable method for basing fees.

This fee increase, the first since 1993, is necessary to offset increased program operating costs resulting from: (1) the congressionally-mandated, governmentwide salary increases for 1995, 1996, and 1997, (2) inflation of nonsalary operating costs since 1993, and (3) accumulated increases in CONUS per diem rates for the 4-year period from 1994 to 1997. Since 1993, costs increased an average of $1,905,000 per year or a total of $7,620,000.

Since the last fee increase, the MGC Branch has continued to develop more efficient grading and certification procedures and services. At the same time, applicants for service have become more efficient in their production techniques. These two factors working in combination have resulted in the MGC Branch grading and certifying larger volumes of products and charging fewer revenue hours. Accordingly, fewer revenue dollars are available to offset increases in operating expenses. In FY 1993, MGC Branch employees graded or certified 23,445,219,703 pounds of meat at an average of 49,902 pounds per revenue hour. In FY 1997, MGC Branch employees graded or certified 33,029,179,286 pounds of meat at an average of 73,699 pounds per revenue hour. In FY 1997, the unit cost of program services (revenue/total pounds graded and certified) was approximately $0.00055 per pound. In FY 1998, including the hourly rate increase, program services are projected to cost only $0.000617 per pound as compared to the $0.000766 per pound program services cost in FY 1993. While the unit cost of program services decreased and the average number of pounds graded and certified per hour increased, the total number of revenue hours generated by Branch employees decreased from 469,819 in FY 1993 to 448,162 in FY 1997. These factors resulted in a loss of $737,000 in FY 1997. If revenues remain constant and costs continue to increase, program operating costs are projected to exceed total revenue by $1,519,000 in FY 1998 and $2,124,000 in FY 1999.

Since 1993, in an effort to control overhead costs, the MGC Branch has closed three field offices, reduced mid-level supervisory staff by 43 percent, and reduced the number of support staff by 29 percent. At the same time, the MGC Branch has become more reliant on automated information management systems for data collection and dissemination, account billing, and disbursement of employee entitlements. The reduction of field offices, supervisory staff, and support personnel and the increased reliance on automated systems enabled the MGC Branch to absorb increased operating costs in 1994, 1995, 1996, and 1997.

Despite the cost reduction efforts, the decrease in revenue hours plus the increase in salaries, nonsalary operating costs, and CONUS per diem rates resulted in a net operating loss for FY 1997, and will result in a net operating loss for FY 1998. Such operating deficits can only be balanced by adjusting the hourly fee rate charged to users of the service. Any further reduction in

personnel, services, or management infrastructure beyond those already implemented would have a detrimental effect on the program's ability to provide meat grading and certification services and support the accurate and uniform application of such services. The hourly rate increase is necessary to recover the costs of providing voluntary Federal meat grading and certification services and for the program to continue serving the industry.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act do not apply to this rulemaking as it does not require the collection of any information or data.

Comments

On December 31, 1997, in the **Federal Register**, the Agency published the proposed rule to increase the fees and requested comments by March 2, 1998. The Agency received two comments. The first respondent requested additional information about the effect of the fee increase on small entities. Additional information has been provided in the Effect on Small Entities section of this final rule. Respondent # 1 also alleged that the program charges a minimum of 8 hours per day, and suggested that charges should be based on volume of production. As identified in 7 CFR 54.27 (a), noncommitment applicants, of which almost all are small entities, are charged to the nearest quarter hour, and the minimum charge is half an hour. For reasons cited in the Effect on Small Entities section, the Agency determined that the current hourly fee method of charging applicants provides the best alternative for businesses who need less than 8 hours of service.

Respondent # 2 asked the Agency to continue to find ways to reduce costs and to refrain from imposing higher grading costs on the industry. The Agency is continually seeking ways to reduce costs and increase efficiency. This fee increase amounts to an average annual increase of 2.2 percent since the last increase in 1993. Even though businesses will pay more for hourly services, the Agency has increased the amount of service provided by over 9,580,000,000 pounds per year in comparison to FY 1993. This amounts to a 48 percent per hour increase in efficiency which reduces the cost of services by 0.0149 cents per pound. As requested by the respondent, the Agency will continue seeking way to increase efficiency, quality, and timeliness of services.

Background

The Secretary of Agriculture is authorized by the Agricultural Marketing Act (AMA) of 1946, as amended, 7 U.S.C. 1621 *et seq.*, to provide voluntary Federal meat grading and certification services to facilitate the orderly marketing of meat and meat products and to enable consumers to obtain the quality of meat they desire. The AMA also provides for the collection of fees from users of Federal meat grading and certification services that are approximately equal to the cost of providing these services. The hourly fees for service are established by equitably distributing the projected annual program operating costs over the estimated hours of service—revenue hours—provided to users of the service. Program operating costs include salaries and fringe benefits of meat graders, supervision, travel, training, and all administrative costs of operating the program. Employee salaries and benefits account for approximately 80 percent of the total budget. Revenue hours include base hours, premium hours, and service performed on Federal legal holidays. As program operating costs change, the hourly fees must be adjusted to enable the program to remain financially self-supporting as required by law.

In view of these considerations, the Agency will increase the base hourly rate commitment applicants pay for voluntary Federal meat grading and certification services from $36.60 to $39.80. A commitment applicant is a user of the service who agrees, by commitment or agreement memorandum, to use meat grading and certification services for 8 consecutive hours per day, Monday through Friday, between the hours of 6 a.m. and 6 p.m., excluding legal holidays. The base hourly rate for noncommitment applicants for voluntary Federal meat grading and certification services will increase from $39.00 to $42.20, and will be charged to applicants who utilize the service for 8 consecutive hours or less per day, Monday through Friday, between the hours of 6 a.m. and 6 p.m., excluding legal holidays. The premium hourly rate for all applicants will increase from $44.60 to $47.80, and will be charged to users of the service for the hours worked in excess of 8 hours per day between the hours of 6 a.m. and 6 p.m.; for hours worked between 6 p.m. and 6 a.m., Monday through Friday; and for any time worked on Saturday and Sunday, except on legal holidays. The holiday rate for all applicants will increase from $73.20 to $79.60, and will be charged to users of the service for all hours worked on legal holidays.

Pursuant to 5 U.S.C. 553, it is hereby found that since the program is operating at a loss, good cause exists for not delaying the effective action until 30 days after publication of this final rule in the **Federal Register**. Therefore, this final rule will be effective on June 18, 1998.

List of Subjects in 7 CFR Part 54

Food grades and standards, Food labeling, Meat and meat products.

For the reasons set forth in the preamble, 7 CFR part 54 is amended as follows:

PART 54—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

1. The authority citation for part 54 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

§ 54.27 [Amended]

2. In § 54.27, paragraph (a), ''$39.00'' is removed and ''$42.20'' is added in its place, ''$44.60'' is removed and ''$47.80'' is added in its place, ''$73.20'' is removed ''$79.60'' is added in its place, and in paragraph (b), ''$36.60'' is removed and ''$39.80'' is added in its place, ''$44.60'' is removed and ''$47.80'' is added in its place, and ''$73.20'' is removed and ''$79.60'' is added in its place.

Dated: June 11, 1998.

Robert L. Leverette,

Acting Deputy Administrator, Livestock and Seed Program.

[FR Doc. 98–16010 Filed 6–16–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 953

[Docket No. FV98–953–1 IFR]

Irish Potatoes Grown in Southeastern States; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule increases the assessment rate established for the Southeastern Potato Committee (Committee) under Marketing Order No. 953 for the 1998–99 and subsequent fiscal periods from $0.0075 to $0.01 per hundredweight of potatoes handled. The Committee is responsible for local administration of the marketing order

which regulates the handling of Irish potatoes grown in two southeastern States (Virginia and North Carolina). Authorization to assess potato handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins June 1 and ends May 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective June 18, 1998. Comments received by July 17, 1998 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, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; Fax 202–205–6632. 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.

FOR FURTHER INFORMATION CONTACT: Jim Wendland, DC Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: 202–720–2491, Fax: 202–205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, also at the above address, telephone, and Fax.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 104 and Order No. 953, both as amended (7 CFR part 953), regulating the handling of Irish potatoes grown in two southeastern States (Virginia and North Carolina), hereinafter referred to as the ''order.'' The 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, Virginia-North Carolina potato 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 potatoes beginning June 1, 1998, and continuing 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 increases the assessment rate established for the Committee for the 1998–99 and subsequent fiscal periods from $0.0075 to $0.01 per hundredweight of potatoes handled.

The 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 Committee consists of seven producer members and five handler members, each of whom is familiar with the Committee's needs and with 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 budget and assessment rate were formulated and discussed in a public meeting. Thus, all directly affected persons had an opportunity to participate and provide input.

For the 1996–97 and subsequent fiscal periods the Committee recommended, and the Department approved, an assessment rate of $0.0075 per hundredweight of potatoes handled 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.

The Committee met on April 16, 1998, and unanimously recommended 1998–99 expenditures of $12,000, the same as last year. The major expenditures include $7,700 for the manager's and secretarial salaries and $1,000 for travel expenses. These and all other expense items are budgeted at last year's amounts.

Regarding the assessment rate, after considering several options, the Committee concluded that the current $0.0075 per hundredweight would not be adequate for the 1998–99 fiscal period for the following reasons. The Committee's operating reserve is only $5,000 and is expected to be quickly exhausted. This reserve is the lowest ever for any of the Committee's fiscal periods except one. Also, wet fields caused delayed plantings and unfavorable growing conditions, resulting in potato plant stands estimated to be 20 percent below normal. As a result of this and other factors, the Committee projects that during the industry's brief, predominately June and July, shipping and assessing period, its total potato volume to be handled will be down at least 100,000 hundredweight. Therefore, the Committee unanimously recommended an assessment rate of $0.01 per hundredweight, $0.0025 higher than the rate currently in effect.

The assessment rate recommended by the Committee was based on projected shipments of 1,200,000 hundredweight of Southeastern potatoes, which should provide $12,000 in assessment income. Income derived from handler assessments, along with funds from the Committee's authorized operating reserve, will be adequate to cover budgeted expenses. Funds in the reserve at the beginning of the 1997–98 fiscal period are estimated at only $5,000. Funds in the reserve will be kept within the maximum permitted by the order of approximately one fiscal period's expenses of $12,000 (§ 953.35).

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 1998–99 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 85 producers of Southeastern potatoes in the production area and approximately 40 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of Southeastern potato producers and handlers may be classified as small entities.

This rule increases the assessment rate established for the Southeastern Potato Committee and collected from handlers for the 1998–99 and subsequent fiscal periods from $0.0075 per hundredweight to $0.01 per hundredweight of potatoes handled. Both the $0.01 assessment rate and the 1998–99 budget of $12,000 were unanimously recommended by the Committee at its April 16, 1998, meeting. The assessment rate established by this action is $0.0025 higher than the 1997–98 rate. The Committee recommended an increased assessment rate to help offset the smaller projected crop of assessable Southeastern potatoes in 1998. The anticipated crop of 1,200,000 hundredweight is approximately 100,000 hundredweight less than the 1997 crop. The $0.01 rate should provide $12,000 in assessment income which will be adequate to meet the 1998–99 fiscal period's budgeted expenses.

The Committee discussed leaving the assessment at the current $0.0075 rate but determined that since the crop is estimated to be only 1,200,000 hundredweight, which is 20 percent below normal, that this would not generate enough income to meet budgeted expenses without exhausting the $5,000 operating reserve.

The major expenditures recommended by the Committee for the 1998–99 fiscal period include $7,700 for the manager's and secretarial salaries and $1,000 for travel expenses. These and all other expense items are budgeted at last year's amounts.

A review of historical information and preliminary information pertaining to the upcoming season indicates that the grower price for the 1998–99 potato season could average $8.60 per hundredweight of potatoes. Shipments for 1998 are expected to be 1,200,000 hundredweight. Therefore, the estimated assessment revenue for the 1998–99 fiscal period ($12,000) as a percentage of the projected total crop value ($10,320,000) could be .1163 percent.

While assessments impose some additional costs on handlers, the assessment is minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the order. In addition, the Committee's meeting was widely publicized throughout the Southeastern potato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the April 16, 1998, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. 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 Southeastern potato 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 30-day comment period is provided to allow interested persons to submit written comments. Thirty days is deemed appropriate because a final decision on the assessment rate increase needs to be made as close as possible to the end of the 1998 shipping season.

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 Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. Its operating reserve funds are very low and are expected to be exhausted before sufficient assessments can be collected during the very brief, predominately June and July, shipping and assessing period to pay critical expenses; (2) the 1998–99 fiscal period began on June 1, 1998, and the order requires that the rate of assessment for each fiscal period apply to all assessable Irish potatoes handled during such fiscal period; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 953

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 953 is amended as follows:

PART 953—IRISH POTATOES GROWN IN SOUTHEASTERN STATES

1. The authority citation for 7 CFR part 953 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 953.253 is revised to read as follows:

§ 953.253 Assessment rate.

On and after June 1, 1998, an assessment rate of $0.01 per hundredweight is established for Southeastern States potatoes.

Dated: June 12, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–16091 Filed 6–16–98; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 32

RIN 3150–AF76

License Applications for Certain Items Containing Byproduct Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations that govern licensing requirements for persons who incorporate byproduct material into certain items or who initially transfer certain items containing byproduct material. This action is being taken in response to a petition for rulemaking submitted by mb-microtec, Inc. (PRM–32–4), to allow the distribution of timepieces that contain less than 25 mCi of gaseous tritium light sources (GTLS) to be regulated according to the same requirements that regulate timepieces containing tritium paint. This final rule simplifies the licensing process for distribution of certain timepieces containing tritium paint and accommodates the use of a new technology for self-illuminated timepieces.

EFFECTIVE DATE: August 17, 1998.

FOR FURTHER INFORMATION CONTACT: Donald O. Nellis, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555, Telephone (301) 415–6257 (e-mail address don@nrc.gov).

SUPPLEMENTARY INFORMATION:

I. Background
II. Public Comments on the Proposed Rule
III. Response to Public Comments
IV. Agreement State Compatibility
V. Environmental Impact: Categorical Exclusion
VI. Paperwork Reduction Act Statement
VII. Regulatory Analysis
VIII. Regulatory Flexibility Certification
IX. Backfit Analysis
X. Small Business Regulatory Enforcement Fairness Act

I. Background

A petition for rulemaking was received from mb-microtec, Inc. (RPM–32–4), and noticed for public comment on October 29, 1993 (58 FR 53670). This petition requested that those timepieces having GTLS be placed on the same regulatory basis as timepieces with luminous tritium paint. No public comments were received on the notice.

NRC regulations that are relevant to this petition are the following:

1. Under 10 CFR 30.15(a)(1), persons who receive, possess, use, transfer, own, or acquire timepieces containing byproduct material are exempted from NRC's licensing requirements provided that not more than the following quantities of byproduct material are contained in the timepiece or hands or dials:

(I) 25 mCi of tritium per timepiece;

(ii) 5 mCi of tritium per hand;

(iii) 15 mCi of tritium per dial (bezels, when used, shall be considered part of the dial).

Quantity limits for timepieces containing promethium-147 are also included.

2. Broad general requirements in § 32.14(d)(1) are applicable to the method of containment or binding of the byproduct material incorporated into the products specified in 10 CFR 30.15. Specific prototype testing requirements for tritium-painted dials, watch hands, and pointers are also provided in § 32.14(d)(1). No prototype testing procedures are provided for timepieces containing GTLS.

3. An exemption from licensing requirements in § 30.19 is similar to that found in 10 CFR 30.15(a)(1) with respect to self-luminous products containing tritium, krypton-85, or promethium-147; but unlike § 30.15(a)(1), it does not limit the quantity of these radionuclides that may be incorporated into various parts of the product. However, It does require persons who manufacture, process, produce, or initially transfer such products to apply for a specific license under § 32.22.

4. An extensive list of requirements in § 32.22 must be met in order to obtain a specific license to distribute such products, and § 32.23 and § 32.24 provide safety criteria that must be demonstrated prior to issuance of a license to distribute such products.

The petitioner stated that current regulations were overburdensome and counterproductive, and that watch manufacturers do not want to become involved with the present licensing procedures required under § 32.22 concerning GTLS watches.

The NRC believes that the health and safety impact from using timepieces with GTLS would likely be positive because the radiation dose to the public from the use, storage, distribution, etc., of timepieces using GTLS is less than the dose to the public from timepieces containing tritium paint if the same amount of tritium is used in both types of timepieces. This is because the tritium leak rate from timepieces using GTLS is lower than from timepieces using tritium paint because of significantly lower tritium leak rates from sealed glass tubes than from timepieces containing the same amount of tritium as paint. Thus, allowing the exempt distribution of timepieces using GTLS under the same regulatory requirements as those used for timepieces containing tritium paint could result in a lower dose to an individual and a lower collective dose to the public. The distribution of timepieces containing larger quantities of gaseous tritium (up to 200 mCi) has been approved for use under § 32.22, ''Self-luminous products.'' These timepieces have been evaluated against the safety criteria specified in §§ 32.22, 32.23, and 32.24 and have been found acceptable.

The NRC believes that including GTLS in § 32.14(d) to allow their exempt distribution for use under § 30.15 would reduce unnecessary burdens for both the licensees and the NRC. Without the adoption of this alternative, licensees have to manufacture timepieces under the stringent criteria in §§ 32.22, 32.23, and 32.24. The NRC must also review product design against these requirements. Because these stringent requirements are not deemed necessary for smaller quantities of tritium, these burdens could be avoided without affecting public health and safety. Based upon the foregoing, the NRC has concluded that the distribution under § 30.15 and § 32.14 should be allowed.

On September 19, 1997 (62 FR 49173), the NRC published a proposed rule that incorporated the petition in part, by removing the existing specific testing procedures for tritium from the regulations and leaving only a modified first sentence in § 32.14(d)(1):

(1) The method of containment or binding of the byproduct material in the product is such that the radioactive material will be bound and will not become detached from the product under the most severe conditions which are likely to be encountered in normal use and handling.

This modification of § 32.14(d)(1) represented a performance-based approach by removing the existing specific testing procedures from the regulations and was expected to provide increased flexibility in the regulations and the accommodation of future developments in the technology of tritium illuminated timepieces, as well

as other products exempt from the requirements for a license under § 30.15.

II. Public Comments on the Proposed Rule

The comment period on the proposed rule closed December 3, 1997. Three comment letters pertaining to the proposed rule were received, each addressing a different element of the rule. These comments are discussed in the following section.

III. Response to Public Comments

The first commenter approved the changes made in § 32.14(d)(1) but requested, as a step toward international harmonization, that the NRC adopt the International System of Units (SI) in prescribing the quantities of byproduct material incorporated into products distributed to persons exempt from licensing as specified in § 30.15. In addition, the commenter requested that the quantity limit for tritium specified in § 30.15(a)(1)(i), 25 mCi, be changed to read 27 mCi (1 GBq) to correspond to the exempt activity of tritium specified in the IAEA Safety Series No. 115 standard.

NRC practice is to use a dual system in describing units; the quantities are given in the SI system, followed by the quantities in parentheses in conventional units. This system of units is used in this final rule wherever radiation quantities are specified. However, no change in § 30.15 is being made at this time so that the quantity limit will remain as 25 mCi. Regarding the request to change the total exempt activity for timepieces to 27 mCi in place of the 25 mCi now in use, the NRC is currently involved in an overall reevaluation of the exemptions from licensing in 10 CFR Parts 30 and 40, including § 30.15(a)(1)(i), and will consider the issue during that process.

The second commenter stated that the language of § 32.14(d)(1) of the proposed rule appeared to require 100% containment of the tritium in watches using tritium paint. The commenter proposed alternative text that would remove this inconsistency and provide text equally applicable to watches that utilize either tritium paint or GTLS as to other exempt products under § 30.15. This commenter's suggestion has been adopted. Section 32.14(d)(1) has been revised in this final rule. As revised, the rule requires that the tritium be properly contained. The commenter also noted that § 32.14(d)(2) of the proposed rule did not make sense as presented and proposed amendatory language that contains the same concept. The language proposed by this commenter has been adopted in the final rule. Accordingly, the codified text in § 32.14(d)(2) has been modified to refer more correctly to existing prototype testing requirements for automobile lock illuminators.

The third commenter remarked that the wording of the first sentence of the proposed § 32.14(d)(1) was similar to the opening sentence of the existing rule, and that the remainder of the language of § 32.14(d)(1), which stated that the performance standard is satisfied if certain prototype tests (applicable only to tritium paint) are satisfied, has been removed. The commenter noted that the proposed rule also stated that guidance on specific prototype testing procedures would be provided in NUREG–1562, ''Standard Review Plan for Applications for Licenses to Distribute Byproduct Material to Persons Exempt from the Requirements for an NRC License.'' The commenter indicated support for the increased flexibility provided by the proposed rule and for the need for clear and unambiguous means to satisfy stringent performance requirements established in the previous § 32.14(d)(1). The commenter also noted that the relevant modifications to the guidance document have not yet been made and requested that the final promulgation of the rule be coincident with the issuance of appropriate guidance. Also this commenter requested that, because many timepieces are manufactured abroad, the NRC acknowledge explicitly in its guidance that compliance with relevant international standards is sufficient to ensure compliance with the NRC performance standard.

The NRC intends to have the revised guidance document completed by the time this rule becomes effective. Regarding the requirement that timepieces manufactured abroad should meet NRC requirements, those timepieces should fulfill the criteria specified in NUREG—1562 or its equivalent.

IV. Agreement State Compatibility

Under the Atomic Energy Act, certain regulatory functions are reserved to the NRC. Among these are the distribution of products to persons exempt from licensing, as discussed in 10 CFR Part 150. Therefore, this final rule will be an ''NRC'' Category of compatibility with regard to the manufacture and initial distribution of watches and other products for use under an exemption for licensing. NRC Category rules address those regulatory areas which are reserved to the NRC pursuant to the Atomic Energy Act and 10 CFR Part 150.

V. Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

VI. Paperwork Reduction Act Statement

This final rule reduces the burden to applicants for licenses to distribute timepieces by allowing them to file an application under the provisions of § 32.14 rather than under the provisions of § 32.22 that, in practice, also requires that the applicant obtain a registration certificate. The reduction in burden is estimated to be 21 hours per response. Because the application requirements contained in § 32.14 and § 32.22 are not being substantively changed, no Office of Management and Budget (OMB) clearance is required. Part 32 requirements are approved by the OMB approval number 3150–0001.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a currently valid OMB control number.

VII. Regulatory Analysis

The NRC has prepared a regulatory analysis on this final rule. The analysis examines the costs and benefits of the revisions provided by the rule and indicates an annual total cost saving to the industry to be approximately $15,000. This regulatory analysis is available for inspection at the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC.

VIII. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. The NRC has prepared a regulatory analysis that includes consideration of the impact of this final rule on small entities. A copy of this regulatory analysis is available for inspection or copying at the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC. The analysis states that this regulation would currently affect 10 licensees and would result in a cost savings for the industry of approximately $15,000 per year.

IX . Backfit Analysis

The NRC has determined that the backfit rule does not apply to this final rule and, therefore, a Backfit analysis is not required for this final rule because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR Chapter I.

X. Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

List of Subjects in 10 CFR Part 32

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is adopting the following amendments to 10 CFR Part 32.

PART 32—SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

1. The authority citation for Part 32 continues to read as follows:

Authority: Secs. 81, 161, 183, 186, 68 Stat. 935, 948, 953, 954, as amended, (43 U.S.C. 2111, 2201, 2232, 2233); sec.201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

2. In § 32.14, paragraph (d) is revised to read as follows:

§ 32.14 Certain items containing byproduct material; requirements for license to apply or initially transfer.

* * * * *

(d) The Commission determines that:

(1) The byproduct material is properly contained in the product under the most severe conditions that are likely to be encountered in normal use and handling.

(2) For automobile lock illuminators, the product has been subjected to and meets the requirements of the prototype tests prescribed by § 32.40, Schedule A.

Dated at Rockville, Maryland, this 9th day of June, 1998.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 98–16014 Filed 6–16–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 34

Radiographer Certification—Certifying Entities

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of certifying entities.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) staff has completed its evaluation of a request from the American Society for Nondestructive Testing, Inc. (ASNT) to be recognized as a Certifying Entity, i.e., an Independent Certifying Organization. The NRC staff found that ASNT's Industrial Radiography Radiation Safety Personnel (IRRSP) certification program meets the criteria established in the NRC's regulations governing radiographic operations. Therefore, the NRC recognizes ASNT as a Certifying Entity and individuals wishing to act as radiographers who are certified in isotope radiography through the IRRSP program meet the certification requirement specified in the regulations. ASNT joins the following Agreement States as certifying entities: Georgia, Illinois, Iowa, Louisiana, Nevada, North Dakota, and Texas.

FOR FURTHER INFORMATION CONTACT: J. Bruce Carrico, U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, MS T8F5, Washington, DC 20555, telephone (301) 415–7826, e-mail jbc@nrc.gov.

SUPPLEMENTARY INFORMATION: On May 28, 1997 (62 FR 28948), NRC published a final rule in the **Federal Register** that revised the regulations applicable to industrial radiography, 10 CFR Part 34. This overall revision of 10 CFR Part 34 introduced several new requirements. One of these new requirements, specified in 10 CFR 34.43(a)(1), provides that licensees may not permit any individual to act as a radiographer until the individual ''is certified through a radiographer certification program by a certifying entity in accordance with the criteria specified in Appendix A of this part (34).'' This requirement becomes effective June 27, 1999.

As defined in 10 CFR Part 34, ''Certifying Entity means an independent certifying organization meeting the requirements in Appendix A of this part or an Agreement State meeting the requirements in Appendix A, Parts II and III of this part.'' An independent certifying organization is defined as ''* * * an independent organization that meets all of the criteria of Appendix A to this part.'' A parenthetical sentence in 10 CFR 34.43(a)(1) states, ''An independent organization that would like to be recognized as a certifying entity shall submit its request to the Director, Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission * * *'' Part I of Appendix A to Part 34 provides the requirements for an independent certifying organization, and only applies to organizations other than the Agreement States. Parts II and III of Appendix A to Part 34 provide the requirements for certification programs and written examinations for a certifying entity, and includes the Agreement States. 10 CFR Part 34, Appendix A does not impose new requirements on licensees.

To be recognized as an independent certifying organization, the organization should be a national society or association involved in setting national standards of practice for industrial radiography or non-destructive testing. An acceptable certification program would require training in the subjects listed in 10 CFR 34.43(g), completion of a written and practical examination, and require a minimum period of on-the-job experience.

In April 1997, NRC received a submission from ASNT requesting recognition as a certifying entity/independent certifying organization. The submission described ASNT's IRRSP certification program and how the program complies with 10 CFR Part 34, Appendix A criteria. A ''team'' review approach was followed in evaluating the submission. The team or ''working group'' was composed of three NRC staff members, two Agreement State representatives from certifying states, and an Agreement State representative from a non-certifying state. An expert in the NRC's Office of Nuclear Reactor Regulation, Division of Reactor Controls and Human Factors, Human Factors Assessment Branch also assisted the working group in evaluating those portions of the submission applicable to examination development. The working group completed its evaluation of the submission in April 1998.

In a letter dated May 15, 1998, NRC informed ASNT of its finding that ASNT's IRRSP certification program met the criteria established in 10 CFR Part 34, Appendix A, that ASNT was recognized as a Certifying Entity. Individuals wishing to act as radiographers who are certified in isotope radiography through the IRRSP program will meet the certification requirement specified in 10 CFR 34.43(a)(1).

The following Agreement States also administer certification programs as Certifying Entities: Georgia, Illinois, Iowa, Louisiana, Nevada, North Dakota, and Texas. Individuals wishing to act as radiographers who are certified in isotope radiography through one of these state programs will meet the certification requirement specified in 10 CFR 34.43(a)(1).

Dated at Rockville, Maryland this 9th day of June, 1998.

For the Nuclear Regulatory Commission.

Larry W. Camper, Chief, Materials Safety Branch, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98–16135 Filed 6–16–98; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 29

[Docket No. SW004; Special Conditions No. 29–004–SC]

Special Conditions: Sikorsky Aircraft Corporation, Model S76C; Application of Rated 30-Minute Power

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Sikorsky Model S76C helicopter. This helicopter will have a novel or unusual design feature associated with a new rated 30-minute power. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this new rated 30-minute power. These 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: The effective date of these special conditions is June 17, 1998. Comments must be received on or before July 17, 1998.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration (FAA), Office of the Regional Counsel, Attention: Rules Docket No. SW004, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137; or delivered in duplicate to the Office of the Regional Counsel at the above address. Comments must be marked Docket No. SW004. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Scott Horn, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5125, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the approval design and thus delivery of the affected helicopter. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

Interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered. The special conditions 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. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this special condition must include a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. SW004.'' The postcard will be date stamped and returned to the commenter.

Background

On November 19, 1997, Sikorsky Aircraft Corporation applied for a change to Type Certificate (TC) No. H1NE for use of a rated 30-minute power on the Model S76C helicopter. The Sikorsky Model S76C is a transport category A and B rotorcraft powered by two Turbomeca Arriel 2S1 engines with a maximum gross weight of 11,700 pounds.

This new rated 30-minute power is intended for periods of use up to 30 minutes at any time after takeoff during a flight performing search and rescue missions. However, this rating is also suitable for other missions that require increased rotorcraft hovering capability and duration than the current ratings allow. The Sikorsky Model S76C helicopter with the Arriel 2S1 engine installation will have the following power ratings: 30-second One-Engine-Inoperative (OEI), 2-minute OEI, Continuous OEI, 30-minute, Takeoff, and Maximum Continuous ratings.

The current rotorcraft maximum continuous rating is at the same torque and RPM limits as the proposed 30-minute rating. As a result, the FAA has determined that compliance with the structural and drive system requirements of 14 CFR part 29 (part 29) has not been affected by this new rating application. In addition, all the power parameter limits and ranges for the 30-minute power coincide with the existing instrument markings for the takeoff rating. Therefore, these markings, applied to the new 30-minute power, have been found to comply with the part 29 requirements.

The applicable airworthiness requirements do not contain a 30-minute power rating definition and do not contain adequate or appropriate safety standards for the type certification of this new and unusual engine rating. Due to increased N_1 (gas turbine speed) and T_5 (turbine outlet temperature) limits for this new rating, as compared to the existing continuous rating, airworthiness requirements must be developed for powerplant cooling and operational limitations. Additionally, for use of the 30-minute power rating, the engine manufacturer has established a new method to determine the engine overhaul time. The new method accelerates the engine hours time-in-service when the 30-minute rating is used. For the Sikorsky Model S76C helicopter, the pilot is required to record the 30-minute rating usage, since no means of automatically counting or recording is provided. As a result of the additional workload to the pilot, the FAA has determined that a two-pilot crew is necessary to meet the minimum flight crew requirements of part 29.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Sikorsky Aircraft Corporation must show that the Model S76C helicopter with the Arriel 2S1 engine installation meets the applicable provisions of the regulations in effect on the date of the application or the applicable provisions of the regulations as referenced in TC Number H1NE. The regulations incorporated by reference in the TC are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in TC Number H1NE are as follows:

Part 29, effective February 1, 1965, plus Amendments 29–1 through 29–11;

in addition, portions of Amendments 29–12, specifically, §§ 29.67, 29.71, 29.75, 29.141, 29.173, 29.175, 29.931, 29.1189(a)(2), 29.1555(c)(2), 29 1557(c), and portions of Amendment 29–13, specifically § 29.965, and Amendment 29–21. In addition, for the Sikorsky Model S76C (with Arriel 2S1 Engine Configuration): Amendment 29–34 specifically 29.67(a)(1)(i), 29.923(a), (b)(1) and (b)(3), 29.1143(f), 29.1305(a)(24) and (a)(25), 29.1521(i) and (j), and 29.1549(e) and Amendment 36–20 of FAR 36, Appendix H; also Special Condition No. 96–ASW–16. In addition, the certification basis includes certain special conditions, exemptions and later amended sections of the applicable Part that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations for part 29 do not contain adequate or appropriate safety standards for the Sikorsky Model S76C 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 Sikorsky Model S76C must comply with the noise certification requirements of 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, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the TC for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same TC be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The Sikorsky Model S76C will incorporate the following novel or unusual design features: A new rated 30-minute power which will require a special condition for hovering cooling test procedures and powerplant limitations.

Applicability

As discussed above, these special conditions are applicable to the Sikorsky Model S76C. Should Sikorsky Aircraft Corporation apply at a later date for a change to the TC to include another model incorporating the same novel or unusual design feature, the 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 on one model of helicopter. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the helicopter.

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**; however, as the certification date for the Sikorsky Model S76C is imminent, the FAA finds that good cause exists to make these special conditions effective upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Parts 21 and 29

Aircraft, Air transportation, Aviation safety, Rotorcraft, Safety.

The authority citation for these special conditions is as follows:

Authority: 42 U.S.C. 7572; 49 U.S.C. 106(g), 40105, 40113, 44701–44702, 44704, 44709, 44711, 44713, 44715, 45303.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Sikorsky Model S76C helicopters.

1. Section 29.1049 Hovering Cooling Test Procedures

In addition to the requirements of § 29.1049, acceptable hovering cooling provisions must be shown for the following conditions:

(a) At the maximum weight, or at the greatest weight at which the rotorcraft can hover (if less), at sea level, with the power required to hover but not more than 30-minute power, in-ground effect in still air, until at least 5 minutes after the occurrence of the highest temperature recorded or until the expiration of the 30-minute power application period, whichever occurs first; and,

(b) With 30-minute power, maximum weight, and at the altitude resulting in zero rate of climb for this configuration, until at least 5 minutes after the occurrence of the highest temperature recorded or until the expiration of the 30-minute power application period, whichever occurs first.

2. Section 29.1521 Powerplant limitations

In addition to the requirements of § 29.1521 the limitations for rated 30-minute power usage must be established as follows:

Rated 30-Minute Power Operations

The powerplant rated 30-minute power operation must be limited to use for periods not to exceed 30 minutes for hovering operations only and by:

(a) The maximum rotational speed which may not be greater than—

(i) The maximum value determined by the rotor design; or

(ii) The maximum value shown during the type tests;

(b) The maximum allowable turbine outlet gas temperature;

(c) The maximum allowable engine and transmission oil temperatures.

(d) The maximum allowable power or torque for each engine, considering the power input limitations of the transmission with all engines operating; and

(e) The maximum allowable power or torque for each engine considering the power input limitations of the transmission with one-engine-inoperative.

Issued in Fort Worth, Texas, on June 5, 1998.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service, ASW–100.

[FR Doc. 98–16078 Filed 6–16–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–59–AD; Amendment 39–10598; AD 98–13–10]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Model 182S Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Cessna Aircraft Company (Cessna) Model 182S airplanes. This AD requires repetitively inspecting all engine exhaust muffler end plates (four

total) for cracks and replacing any muffler where an end plate is found cracked. The AD also requires fabricating and installing a placard that specifies immediately inspecting all engine exhaust muffler end plates any time the engine backfires upon start-up. This AD is the result of incidents where cracks were found in an engine exhaust muffler end plate on several of the affected airplanes. These cracks were caused by high stresses imposed on the attachment of the exhaust at the area of the firewall. The actions specified by this AD are intended to detect and correct damage to the engine exhaust mufflers caused by such high stress and cracking, which could result in exhaust gases entering the airplane cabin with consequent crew and passenger injury.

DATES: Effective July 8, 1998.

Comments for inclusion in the Rules Docket must be received on or before August 21, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket 98-CE–59-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Information that relates to this AD may be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98-CE–59-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Pendleton, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4143; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA has received reports of incidents where cracks were found in an engine exhaust muffler end plate on several Cessna Model 182S airplanes. These cracks were caused by high stresses imposed on the attachment of the exhaust at the area of the firewall.

The design of the Cessna Model 182S airplanes is such that, during start-up, the engine could backfire and high stresses could then be imposed on the attachment of the exhaust at the area of the firewall. These high stresses cause cracks in the engine exhaust muffler end plates.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to detect and correct damage to the engine exhaust mufflers caused by such high stress and cracking, which could result in exhaust gases entering the airplane cabin with consequent crew and passenger injury.

Explanation of the Provisions of the AD

Since an unsafe condition has been identified that is likely to exist or develop in other Cessna Model 182S airplanes of the same type design, the FAA is issuing an AD. This AD requires repetitively inspecting all engine exhaust muffler end plates (four total) for cracks and replacing any muffler where an end plate is found cracked. The AD also requires fabricating and installing a placard that specifies immediately inspecting all engine exhaust muffler end plates any time the engine backfires upon start-up.

Compliance Time of This AD

The compliance time of the placard requirements of this AD is presented in calendar time instead of hours time-in-service. The chance of the engine backfiring upon start-up is the same for airplanes with 25 hours TIS as it is for airplanes with 100 hours TIS. Therefore, to assure that the engine exhaust muffler end plates are inspected any time the engine backfires upon start-up on all of the affected airplanes, a compliance based upon calendar time is utilized.

Determination of the Effective Date of the AD

Since a situation exists (possible engine exhaust system damage and exhaust gases entering the airplane cabin with consequent crew and passenger injury) that requires the immediate adoption of this regulation, it is found that notice and opportunity for public prior comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–CE–59–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the

Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–13–10 Cessna Aircraft Company: Amendment 39–10598; Docket No. 98–CE–59–AD.

Applicability: Model 182S airplanes, all serial numbers, 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 (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To detect and correct damage to the engine exhaust mufflers caused by high stresses imposed on the attachment of the exhaust at the area of the firewall and cracking, which could result in exhaust gases entering the airplane cabin with consequent crew and passenger injury, accomplish the following:

(a) Within the next 5 days after the effective date of this AD, accomplish the following:

(1) Fabricate a placard that specifies immediately inspecting all engine exhaust muffler end plates when the engine backfires upon start-up, and install this placard on the instrument panel within the pilot's clear view. The placard should utilize letters of at least 0.10-inch in height and contain the following words:

''If the engine backfires upon start-up, prior to further flight, inspect and replace (as necessary) all engine exhaust muffler end plates in accordance with AD 98–13–10''

(2) Insert a copy of this AD into the Limitations Section of the airplane flight manual (AFM).

(b) Within the next 25 hours time-in-service (TIS) after the effective date of this AD and thereafter at intervals not to exceed 25 hours TIS after the previous inspection (including any inspection accomplished after an engine backfire), inspect all engine exhaust muffler end plates (four total) for cracks on the forward (upstream) or aft (downstream) end of each muffler can. Prior to further flight, replace any engine exhaust muffler where an end plate is found cracked. The replacement does not eliminate the repetitive inspection requirement of this AD.

Note 2: Cessna Service Bulletin SB98–78–02, Issued: June 6, 1998, depicts the area to be inspected. The actions of this service bulletin are different from those required by this AD. This AD takes precedence over the actions specified in the service bulletin, and accomplishment of the service bulletin is not considered an alternative method of compliance to the actions of this AD. Copies of this service bulletin may be obtained from the Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277.

(c) Fabricating and installing the placard and inserting this AD into the Limitations Section of the AFM, as required by paragraph (a) of this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

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

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

(f) Information related to this AD may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri.

(g) This amendment becomes effective on July 8, 1998.

Issued in Kansas City, Missouri, on June 10, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–16015 Filed 6–16–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–08–AD; Amendment 39–10596; AD 98–13–08]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Model PC–12 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Pilatus Aircraft Ltd. (Pilatus) Model PC–12 airplanes. This AD requires replacing and re-routing the power return cables on the starter generator and generator 2, inserting a temporary revision to the pilot operating handbook (POH), and installing a placard near the standby magnetic compass. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by this AD are intended to prevent directional deviation on the standby magnetic compass caused by an overload of electrical current in the airplane structure, which could result in flight-path deviation during critical phases of flight in icing conditions and instrument meteorologic conditions (IMC).

DATES: Effective July 31, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 31, 1998.

ADDRESSES: Service information that applies to this AD may be obtained from Pilatus Aircraft Ltd., Marketing Support Department, CH–6370 Stans, Switzerland; telephone: +41 41–6196 233; facsimile: +41 41–6103 351. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–08–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Roman T. Gabrys, Aerospace Engineer, Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Pilatus Model PC–12 airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on April 1, 1998 (63 FR 15795). The NPRM proposed to require replacing and re-routing the power return cables on the starter generator and generator 2; inserting a temporary revision to the POH; and installing a placard near the standby magnetic compass, using at least 1/8-inch letters, with the following words:

''STANDBY COMPASS FOR CORRECT READING CHECK: WINDSHIELD DE–ICE LH & RH HEAVY & COOLING SYSTEM OFF.''

Accomplishment of the proposed action as specified in the NPRM would be in accordance with Pilatus PC XII Service Bulletin No. 24–002, Rev. No. 1, dated September 20, 1996.

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 40 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 12 workhours per airplane to accomplish the cable re-routing and replacement, and that the average labor rate is approximately $60 an hour. Parts will be provided free from the manufacturer upon request. Incorporating the POH revisions and installing a placard may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $28,800, or $720 per airplane.

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final 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, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–13–08 Pilatus Aircraft Ltd.: Amendment 39–10596; Docket No. 97-CE–08-AD.

Applicability: Model PC–12 airplanes, serial numbers 101 through 147, 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 (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

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

To prevent directional deviation on the standby magnetic compass caused by an overload of electrical current in the airplane structure, which could result in flight-path deviation during critical phases of flight in icing conditions and Instrument Meteorologic Conditions (IMC), accomplish the following:

(a) Re-route and replace the starter generator cable and the generator 2 power return cables with new cables of improved design in accordance with the Accomplishment Instructions section in Pilatus PC XII Service Bulletin (SB) No. 24–002, Rev. No. 1, dated September 20, 1996.

(b) Remove the temporary revision titled ''Electrical Cables,'' dated March 7, 1996, from the Pilot Operating Handbook (POH) and insert a temporary revision titled ''Electrical Cables'' Rev. 1, dated July 12, 1996, in accordance with the Accomplishment Instructions section in Pilatus PC XII SB No. 24–002, Rev. No. 1, dated September 20, 1996.

(c) Install a placard with the following words (using at least 1/8-inch letters) near the standby magnetic compass in accordance with the Accomplishment Instructions section in Pilatus PC XII SB No. 24–002, Rev. No. 1, dated September 20, 1996:

''STANDBY COMPASS FOR CORRECT READING CHECK: WINDSHIELD DE-ICE LH & RH HEAVY & COOLING SYSTEM OFF.''

(d) Incorporating the POH revisions and installing a placard, as required by paragraphs (b) and (c) of this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

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

(f) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas

City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

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

(g) Questions or technical information related to Pilatus PC XII SB No. 24–002, Rev. No. 1, dated September 20, 1996, should be directed to Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6370 Stans, Switzerland; telephone: +41 41 6196 233; facsimile: +41 41 6103 351. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(h) The modification, replacement, insertion, and installation required by this AD shall be done in accordance with Pilatus PC XII Service Bulletin No. 24–002, Rev. No. 1, dated September 20, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pilatus Aircraft Ltd., Customer Liaison Manager, CH-6370 Stans, Switzerland. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, 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 Swiss AD No. HB–96–140, dated March 18, 1996, and Swiss AD No. HB 97-001, dated January 1, 1997.

(i) This amendment becomes effective on July 31, 1998.

Issued in Kansas City, Missouri, on June 9, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–16023 Filed 6–16–98; 8:45 am]

BILLING CODE 4910–13–U

FEDERAL TRADE COMMISSION

16 CFR Parts 2 and 4

Delegation of Authority to Respond To Requests for Information

AGENCY: Federal Trade Commission (FTC).

ACTION: Final rules.

SUMMARY: The Commission is revising its rules to authorize the General Counsel's designee to: determine whether information is confidential or should be placed on the public record; respond to requests for nonpublic information by Federal and State agencies; determine which portions of closed meeting transcripts or minutes to make public; determine which portions of compliance reports, prior approval requests and related supplemental materials, will be treated as confidential when confidential treatment is requested at the time of submission; and respond to requests to use nonpublic memoranda as writing samples or for purposes of teaching, lecturing or writing. The General Counsel will designate the Deputy General Counsel or an Assistant General Counsel (or a senior manager in an equivalent level) to make these determinations. The Commission is adopting these changes in order to improve and expedite the process for responding to such requests. The changes will affect internal procedures only and are not intended to influence the outcomes of requests made under the Rules.

The Commission is inserting cross-references to certain confidentiality rules to clarify and make consistent its procedures and is removing language that is thereby made repetitive or is otherwise unnecessary.

EFFECTIVE DATE: These amendments are effective June 17, 1998.

FOR FURTHER INFORMATION CONTACT:

Laura Berger, Attorney, 202–326–2471, Office of the General Counsel, FTC, Sixth Street & Pennsylvania Avenue, NW, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: The rule amendments relate solely to agency practice and thus are not subject to the notice and comment requirements of the Administrative Procedure Act, 5 U.S.C. 553(a)(2), or to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601(2). The Paperwork Reduction Act, 44 U.S.C. 3501–3520, does not apply to these amendments because they do not involve a request for any person to report, keep records, or disclose information, and because the amendment is purely administrative and does not affect persons as defined by the Act. See 5 CFR 1320.3(c), 5 CFR 1320.3(c)(4).

List of Subjects

16 CFR Part 2

Administrative practice and procedure.

16 CFR Part 4

Administrative practice and procedure, Sunshine Act.

For the reasons set forth in the preamble, the Federal Trade Commission amends Title 16, chapter 1, subchapter A, of the Code of Federal Regulations as follows:

PART 2—NONADJUDICATIVE PROCEDURES

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

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46.

2. Section 2.33 is revised to read as follows:

§ 2.33 Compliance procedure.

The Commission may in its discretion require that a proposed agreement containing an order to cease and desist be accompanied by an initial report signed by the respondent setting forth in precise detail the manner in which the respondent will comply with the order when and if entered. Such report will not become part of the public record unless and until the accompanying agreement and order are accepted by the Commission. At the time any such report is submitted a respondent may request confidentiality for any portion thereof with a precise showing of justification therefor as set out in § 4.9(c) and the General Counsel or the General Counsel's designee will dispose of such requests in accordance with that section.

3. Section 2.41(f)(5) is revised to read as follow:

§ 2.41 Reports of compliance.

* * * * *

(f) * * *

(5) Persons submitting information that is subject to public record disclosure under this section may request confidential treatment for that information or portions thereof in accordance with § 4.9(c) and the General Counsel or the General Counsel's designee will dispose of such requests in accordance with that section. Nothing in this section requires that confidentiality requests be resolved prior to, or contemporaneously with, the disposition of the application.

PART 4—MISCELLANEOUS RULES

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

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46.

5. Section 4.9 is amended by revising paragraphs (b)(7)(i), (c)(1) and (c)(3) to read as follows:

§ 4.9 The public record.

* * * * *

(b) * * *

(7) Compliance/Enforcement (16 CFR 2.33, 2.41). (i) Reports of compliance filed pursuant to the rules in this chapter or pursuant to a provision in a Commission order and supplemental

materials filed in connection with these reports, except for reports of compliance, and supplemental materials filed in connection with Commission orders requiring divestitures or establishment of business enterprises of facilities, which are confidential until the last divestiture or establishment of a business enterprise or facility, as required by a particular order, has been finally approved by the Commission, and staff letters to respondents advising them that their compliance reports do not warrant any further action. At the time each such report is submitted the filing party may request confidential treatment in accordance with paragraph (c) of this section and the General Counsel or the General Counsel's designee will pass upon such request in accordance with that paragraph;

* * * * *

(c) Confidentiality and in camera material. (1) Persons submitting material to the Commission described in this section may designate that material or portions of it confidential and request that it be withheld from the public record. All requests for confidential treatment shall be supported by a showing of justification in light of applicable statutes, rules, orders of the Commission or its administrative law judges, orders of the courts, or other relevant authority. The General Counsel or the General Counsel's designee will act upon such request with due regard for legal constraints and the public interest. No such material or portions of material (including documents generated by the Commission or its staff containing or reflecting such material or portions of material) will be placed on the public record until the General Counsel or the General Counsel's designee has ruled on the request for confidential treatment and provided any prior notice to the submitter required by law.

* * * * *

(3) To the extent that any material or portions of material otherwise falling within paragraph (b) of this section contain information that is not required to be made public under § 4.10 of this part, the General Counsel or the General Counsel's designee may determine, with due regard for legal constraints and the public interest, to withhold such materials from the public record.

6. Section 4.11 is amended by revising paragraphs (c), (d), (f) and (g) to read as follows:

§ 4.11 Disclosure requests.

* * * * *

(c) *Requests from Federal and State law enforcement agencies.* Requests from law enforcement agencies of the Federal government for nonpublic records shall be addressed to the liaison officer for the requesting agency, or if there is none, to the General Counsel. Requests from State agencies for nonpublic records shall be addressed to the General Counsel. With respect to requests under this paragraph, the General Counsel, the General Counsel's designee, or the appropriate liaison officer is delegated the authority to dispose of them. Alternatively, the General Counsel may refer such requests to the Commission for determination, except that requests must be referred to the Commission for determination where the Bureau having the material sought and the General Counsel do not agree on the disposition. Prior to granting access under this section to any material submitted to the Commission, the General Counsel, the General Counsel's designee, or the liaison officer will obtain from the requester a certification that such information will be maintained in confidence and will be used only for official law enforcement purposes. The certificate will also describe the nature of the law enforcement activity and the anticipated relevance of the information to that activity. A copy of the certificate will be forwarded to the submitter of the information at the time the request is granted unless the agency requests that the submitter not be notified.

(d) *Requests from Federal and State agencies for purposes other than law enforcement.* Requests from Federal and State agencies for access to nonpublic records for purposes not related to law enforcement should be addressed to the General Counsel. The General Counsel or the General Counsel's designee is delegated the authority to dispose of requests under this paragraph. Disclosure of nonpublic information will be made consistent with sections 6(f) and 21 of the FTC Act. Requests under this section shall be subject to the fee and fee waiver provisions of § 4.8.

* * * * *

(f) Requests by current or former employees to use nonpublic memoranda as writing samples shall be addressed to the General Counsel. The General Counsel or the General Counsel's designee is delegated the authority to dispose of such requests consistent with applicable nondisclosure provisions, including sections 6(f) and 21 of the FTC Act.

(g) Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, Executive order, or regulation. However, an employee shall not use information obtained as a result of his Government employment, except to the extent that such information has been made available to the general public or will be made available on request, or when the General Counsel or the General Counsel's designee gives written authorization for the use of nonpublic information on the basis that the use is in the public interest.

7. Section 4.15 is amended by revising paragraph (c)(3) to read as follows:

§ 4.15 Commission meetings.

* * * * *

(c) * * *

(3) Closed meeting transcripts or minutes required by 5 U.S.C. 552b(f)(1) will be released to the public insofar as they contain information that either is not exempt from disclosure under 5 U.S.C. 552b(c), or, although exempt, should be disclosed in the public interest. The Commission will determine whether to release, in whole or in part, the minutes of its executive sessions to consider oral arguments. With regard to all other closed meetings, the General Counsel or the General Counsel's designee shall determine, in accordance with § 4.9(c), which portions of the transcripts or minutes may be released.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 98–16030 Filed 6–16–98; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

[Docket No. 96N–0007]

Labeling of Drugs for Use in Milk-Producing Animals

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the new animal drug regulations to remove the existing 96-hour withdrawal time limitation, eliminate the requirement to calculate and label on the basis of the number of 12-hour milking periods that have elapsed since treatment, and permit a milk-discard or withdrawal time to be calculated by elapsed hours since treatment. The agency is taking these actions to allow greater flexibility

in the labeling of new animal drugs for use in milk-producing animals. The increased flexibility will make it easier and more economical for sponsors to comply with the regulations. These actions are part of FDA's continuing effort to achieve the objectives set forth in the President's ''National Performance Review'' initiative, which is intended to provide a comprehensive review of all rules to identify those that are obsolete and burdensome and to delete or revise them.

DATES: July 17, 1998.

FOR FURTHER INFORMATION CONTACT: Steven D. Vaughn, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1642.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of April 4, 1996 (61 FR 15003), FDA published a proposed rule to amend the new animal drug regulations to: (1) Remove the existing regulatory limitation regarding a milk-discard or withdrawal time of not more than 96 hours, (2) eliminate the requirement to calculate and label on the basis of the number of 12-hour milking periods that have elapsed since the last treatment, and (3) permit a milk-discard or withdrawal time to be calculated on the basis of hours that have elapsed from the most recent treatment.

The requirements for labeling of new animal drugs intended for use in milk-producing animals at §§ 510.105 and 510.106 (21 CFR 510.105 and 510.106) of the new animal drug regulations provide for specific labeling for antibiotics, antibiotic-containing drugs, and other drugs intended for use in milk-producing animals.

The maximum 96-hour limitation in § 510.105 was based on FDA's perception that 96 hours constituted a maximum practical withdrawal time for the dairy industry. However, FDA now recognizes that a withdrawal time longer than 96 hours may be desirable and practical in certain circumstances. Accordingly, in the proposed rule, FDA proposed to remove the 96-hour limitation to allow the possibility of longer withdrawal times to be considered for milk-producing animals on a case-by-case basis depending on the use and safety of the drug.

Similarly, the 12-hour milking schedule in § 510.106 was established to calculate the number of milkings that occur during the withdrawal period. The 12-hour milking interval was considered to be generally reflective of dairy practice when this regulation was published; however, alternative milking schedules are in common use in the dairy industry today. Accordingly, in the proposed rule, FDA proposed to revise the regulation so that the length of the milking cycle is not specified, eliminating the reference to the milking interval as long as milk is discarded for the assigned number of hours after the latest drug treatment.

No comments were received on the proposed rule.

Because the agency has determined that the underlying rationale in support of the proposed amendment remains sound and because no comments were received, the revisions set forth in the proposed rule are reflected in the final rule. In addition, in the final rule, the agency has deleted the phrase ''(in _____ milkings)'' in § 510.105 to make it consistent with § 510.106 as amended. Also, in the final rule, the agency has added the word ''violative'' before the word ''residues'' in the first sentence of § 510.105(c)(2) and the second sentence of § 510.106 to clarify that labeling statements do not refer to any residues at or below permitted tolerance levels that might be present.

Accordingly, the final rule: (1) Removes the existing regulatory limitation regarding a milk-discard or withdrawal time of not more than 96 hours, (2) eliminates the requirement to calculate and label on the basis of the number of 12-hour milking periods that have elapsed since the last treatment, (3) permits a milk-discard or withdrawal time to be calculated on the basis of hours that have elapsed from the most recent treatment, and makes minor corrections for purposes of consistency and clarification.

These amendments will apply only to future approvals and will not affect currently approved new animal drugs unless a sponsor submits a supplement providing for revised labeling.

As stated in the proposal, these revisions are consistent with the goals of the President's National Performance Review. The agency's actions are part of its continuing effort to achieve the objectives set forth in that initiative, which is intended to provide a comprehensive review of all rules to identify those that are obsolete and burdensome and to delete or revise them.

II. Environmental Impact

FDA has carefully considered the potential environmental effects of this action and has determined under 21 CFR 25.30(k) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. This action revises the labeling requirements for drugs, antibiotics, and antibiotic-containing drugs intended for use in milk-producing animals, but will not cause an increase in the existing level of use or cause a change in the intended uses of the product or its substitutes. Therefore, neither an environmental assessment nor an environmental impact statement is required.

III. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866, under the Regulatory Flexibility Act (5 U.S.C. 601–612), and under the Unfunded Mandates Reform Act (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages, and distributive impacts and equity). The Regulatory Flexibility Act requires agencies to examine the economic impact of a rule on small entities. The Unfunded Mandates Reform Act requires agencies to prepare an assessment of anticipated costs and benefits before enacting any rule that may result in an expenditure in any one year by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 (adjusted annually for inflation).

This amendment to the new animal drug regulations will remove the existing regulatory requirement that mandates a withdrawal time not exceed 96 hours, and will permit withdrawal times to be calculated from the most recent treatment rather than requiring a 12-hour milking schedule. These actions will permit greater flexibility in the labeling of new animal drugs for use in milk-producing animals. These amendments will apply only to future approvals and will not affect currently approved new animal drugs unless a sponsor submits a supplement providing for revised labeling. The only compliance cost estimated for this rule would be for those drugs that are currently being reviewed for approval and are still unapproved on the date the final rule becomes effective. To the extent that any of these drugs exist, their sponsoring companies would incur a very small administrative expense of preparing a supplement to the application to change the warning language.

FDA concludes that this final rule is consistent with the principles set forth in the Executive Order and in the two statutes. In addition, the agency has

determined that this rule is not a significant regulatory action as defined by the Executive Order, so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the rule would clarify FDA policy, the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

Section 202 of the Unfunded Mandates Reform Act requires that agencies prepare an assessment of anticipated costs and benefits before proposing any expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million (adjusted annually for inflation) in any one year. The final rule allowing greater flexibility in the labeling of new animal drugs for use in milk-producing animals is estimated to result in insignificant expenditures of funds by the private sector, and none by State, local, and tribal governments. Because the expenditures are estimated to be insignificant, FDA is not required to perform a cost/benefit analysis according to the Unfunded Mandates Reform Act.

IV. Paperwork Reduction Act of 1995

FDA has determined that this rule contains no collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). FDA concludes that the labeling requirements described in this document are not subject to review by the Office of Management and Budget (OMB) because they do not constitute a ''collection of information'' but rather constitute warning statements that are a ''public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public'' (5 CFR 1320.3(c)(2)). For that portion of the labeling statement required by § 510.105(c)(2) that is not supplied to the manufacturer (the number of hours necessary to avoid residue in milk used for food), the necessary information is already required under a separate regulation (§ 514.1(b)(7)(i)). This information has already been cleared by OMB (OMB Control number 0910–0032).

V. Federalism

FDA has analyzed the final rule in accordance with the principles set forth in Executive Order 12612 and has determined that this final rule does not warrant the preparation of a Federalism Assessment.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

2. Section 510.105 is amended by revising paragraph (c)(2) to read as follows:

§ 510.105 Labeling of drugs for use in milk-producing animals.

* * * * *

(c) * * *

(2) The label should bear the following statement: ''Warning: Milk that has been taken from animals during treatment and for _____ hours after the latest treatment must not be used for food'', the blank being filled in with the figure that the manufacturer has determined by appropriate investigation is needed to insure that the milk will not carry violative residues resulting from use of the preparation. If the use of the preparation as recommended does not result in contamination of the milk, neither of the above warning statements is required.

3. Section 510.106 is revised to read as follows:

§ 510.106 Labeling of antibiotic and antibiotic-containing drugs intended for use in milk-producing animals.

Whenever the labeling of an antibiotic drug included in the regulations in this chapter suggests or recommends its use in milk-producing animals, the label of such drugs shall bear either the statement ''Warning: Not for use in animals producing milk, since this use will result in contamination of the milk'' or the statement ''Warning: Milk that has been taken from animals during treatment and for _____ hours after the latest treatment must not be used for food'', the blank being filled in with the figure that the Commissioner has authorized the manufacturer of the drug to use. The Commissioner shall determine what such figures shall be from information submitted by the manufacturer and which the Commissioner considers is adequate to prove that period of time after the latest treatment that the milk from treated animals will contain no violative residues from use of the preparation. If the Commissioner determines from the information submitted that the use of the antibiotic drug as recommended does not result in its appearance in the milk, the Commissioner may exempt the drug from bearing either of the above warning statements.

Dated: June 9, 1998.

William K. Hubbard

Associate Commissioner for Policy Coordination.

[FR Doc. 98–16063 Filed 6–16–98; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AR–2–1–7393; FRL–6111–3]

Approval and Promulgation of State Implementation Plans; Arkansas; Recodification of Air Quality Control Regulations and Correction of Sulfur Dioxide Enforceability Deficiencies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Removal of direct final rule amendments.

SUMMARY: On April 10, 1998 (63 FR 17680), EPA published a direct final approval and a proposed approval (63 FR 17793), of a revision to the Arkansas State Implementation Plan (SIP) which added Arkansas Department of Pollution Control and Ecology Regulation #19, ''Compilation of Regulations of the Arkansas State Implementation Plan for Air Pollution Control,'' as adopted by the Arkansas Commission on Pollution Control and Ecology on July 24, 1992, and submitted to EPA on September 14, 1992. The direct final action was published without prior proposal because the Agency anticipated no adverse comments. The EPA received adverse comments on the two April 10, 1998, actions. The commenters asked EPA not to consider the regulation as a revision to the Arkansas SIP. In addition, EPA also received a letter from the Governor of Arkansas dated May 8, 1998, requesting that the **Federal Register** approval of the 1992 Regulation #19 be withdrawn and that the 1992 submittal be returned to the State. Therefore, Region 6 is withdrawing its direct final approval action by removing the amendments made by the direct final rule and restoring the regulatory text

that existed prior to the direct final rule, and returning the 1992 Regulation #19 submittal to the State, thereby mooting the proposed approval action. No further action will be taken by EPA on this September 14, 1992, SIP revision submittal. The Arkansas regulations approved by EPA in 1975 and last approved by EPA at 40 CFR 52.170(c)(27) in 1991 will continue to be the Arkansas SIP-approved regulations.

EFFECTIVE DATE: June 17, 1998.

FOR FURTHER INFORMATION CONTACT: Bill Deese, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202, Telephone (214) 665–7253.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule located in the final rules section and the short informational document located in the proposed rules section of the April 10, 1998, **Federal Register**.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: June 8, 1998.

Gregg A. Cooke,

Regional Administrator, Region 6.

For the reasons set out in the preamble 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.

§ 52.170 [Amended]

2. Section 52.170 is amended by removing paragraph (c)(29).

3. Section 52.181 is amended by revising paragraph (a) to read as follows:

§ 52.181 Significant deterioration of air quality.

(a) The plan submitted by the Governor of Arkansas on April 23, 1981 [as adopted by the Arkansas Commission on Pollution Control and Ecology (ACPCE) on April 10, 1981], June 3, 1988 (as revised and adopted by the ACPCE on March 25, 1988), and June 19, 1990 (as revised and adopted by the ACPCE on May 25, 1990), Prevention of Significant Deterioration (PSD) Supplement Arkansas Plan of Implementation For Air Pollution Control, is approved as meeting the requirements of Part C, Clean Air Act for preventing significant deterioration of air quality.

* * * * *

[FR Doc. 98–16080 Filed 6–16–98; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, on its own motion, editorially amends the Table of FM Allotments to specify the actual classes of channels allotted to various communities. The changes in channel classifications have been authorized in response to applications filed by licensees and permittees operating on these channels. This action is taken pursuant to *Revision of Section 73.3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment,* 4 FCC Rcd 2413 (1989), and the *Amendment of the Commission's Rules to permit FM Channel and Class Modifications [Upgrades] by Applications,* 8 FCC Rcd 4735 (1993).

EFFECTIVE DATE: June 17, 1998.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, adopted May 29, 1998, and released June 5, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., 1231 20th Street, NW, Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 285C3 and adding Channel 285C2 at Willcox.

3. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by removing Channel 298A and adding Channel 298C3 at Castana.

4. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by removing Channel 260A and adding Channel 260C3 at Macon.

5. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Channel 295C1 and adding Channel 294C1 at Clinton.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 98–16068 Filed 6–16–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Determination To Retain Endangered Status for the Bruneau Hot Springsnail in Southwestern Idaho Under the Endangered Species Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of determination.

SUMMARY: The U.S. Fish and Wildlife Service, in a court-ordered reconsideration of the 1993 final listing decision, affirms its earlier determination that listing the Bruneau Hot Springsnail (*Pyrgulopsis bruneauensis*) as endangered is appropriate. Federal protection pursuant to the Endangered Species Act of 1973 (Act), as amended, for the Bruneau Hot Springsnail is thus continued. This species occurs only in a complex of flowing thermal springs arising from a single source aquifer along the Bruneau River in Owyhee County, Idaho. Bruneau Hot Springsnails are not known to occur elsewhere and have not been located outside of the thermal plumes of hot springs entering the Bruneau River. The primary threat to this species is the reduction of thermal spring habitats from agricultural-related ground water withdrawal/pumping.

DATES: The effective date of this notice is June 17, 1998.

ADDRESSES: The complete file for this notice is available for inspection, by appointment, during normal business hours at the Snake River Basin Office, U.S. Fish and Wildlife Service, 1387 S. Vinnell Way, Room 368, Boise, Idaho 83709.

FOR FURTHER INFORMATION CONTACT: Robert Ruesink at the above address, 208/378–5243.

SUPPLEMENTARY INFORMATION:

Background

This notice of determination is in response to a June 29, 1995, U.S. Court of Appeals for the Ninth Circuit (Court) decision directing the Service to reconsider the listing of the Bruneau Hot Springsnail (*Idaho Farm Bureau Federation* v. *Babbitt*, 58 F.3d 1392 (1995)). In its ruling, the Court directed the Service to provide the public with ''* * * notice and a period in which to comment on the U.S. Geological Survey's (USGS) * * *'' 1993 report and ''* * * also provide the public with any other new information * * *'' the Service planned to consider. The Court further stated that the public could submit any other information relevant to determining whether the Bruneau Hot Springsnail should continue to be listed as endangered. The following determination is based on a review of all existing information used in the original 1993 listing rule, and new information received since that time, including information contained in written comments received during three public comment periods, totaling 218 days.

Current Status

Boys Malkin first collected the Bruneau Hot Springsnail in thermal springflows at the Indian Bathtub in upper Hot Creek along the Bruneau River in 1952 (Hershler 1990). The following year, W.F. Bar collected additional specimens, which were sent to J.P. Morrison of the U.S. National Museum in Washington, D.C. (now the National Museum of Natural History) (Hershler 1990). Taylor (1982) pursued subsequent field and laboratory studies of this species from 1959 through 1982. Based on these studies, Taylor prepared a brief physiological and biological description of the species and suggested the common name of the Bruneau Hot Spring Snail. In 1990, Robert Hershler formally described the species from type specimens collected from the Indian Bathtub in Hot Creek, naming it *Pyrgulopsis bruneauensis,* with a new common name of Bruneau Hot Springsnail (Hershler 1990).

Adult Bruneau Hot Springsnails have a small, globose to low-conic shell reaching a length of 5.5 millimeters (mm) (0.22 inch (in.)) with 3.75 to 4.25 whorls. Fresh shells are thin, transparent, white-clear, appearing black due to pigmentation (Hershler 1990). In addition to its small size (less than 2.8 mm (0.11 in.) shell height), distinguishing features include a verge (penis) with a small lobe bearing a single distal glandular ridge and elongate, muscular filament. They are dioecious (individuals are either male or female) and lay single round to oval eggs on hard surfaces such as rock substrates or other snail shells (Mladenka 1992).

The species occurs in flowing thermal (hot) springs and seeps with water temperatures ranging from 15.7° Celsius (C) (60.3° Fahrenheit (F)) to 36.9° C (98.4° F) (Mladenka and Minshall 1996). The highest Bruneau Hot Springsnail densities (greater than 1000 individuals per square meter (m^2) (100 per square foot (ft^2)) occur at temperatures ranging from 22.8° C (73° F) to 36.6° C (98° F) (Mladenka and Minshall 1996). Bruneau Hot Springsnails have not been located outside thermal plumes of hot springs entering the Bruneau River. They occur in these habitats on the exposed surfaces of various substrates, including rocks, gravel, sand, mud, algal film and the underside of the water surface (Mladenka 1992). However, during the winter period of cold ambient temperatures and icing, Bruneau Hot Springsnails are most often located on the undersides of outflow substrates, habitats least exposed to cold temperatures (Mladenka 1992). In madicolous habitats (thin sheets of water flowing over rock faces), the species has been found in water depths less than 1 centimeter (cm) (0.39 in.). Current velocity is not considered a significant factor limiting Bruneau Hot Springsnail distribution, since they have been observed to inhabit nearly 100 percent of the available current regimes (Mladenka 1992). In a September 1989 survey of 10 thermal springs in the vicinity of the Hot Creek-Bruneau River confluence, the total number of Bruneau Hot Springsnails per spring ranged from 1 to 17,319 (Mladenka 1992). The species abundance fluctuates seasonally but is generally stable under persistent springflow conditions (Mladenka 1992; Robinson, et al. 1992; Royer and Minshall 1993; Varricchione and Minshall 1995; Varricchione and Minshall 1996; Varricchione and Minshall 1997). Depending on site conditions, abundance is influenced primarily by temperature, spring discharge, and chlorophyll ratios (Mladenka 1992).

Based on the most recent survey in 1996, Bruneau Hot Springsnails were found in 116 of 204 small, flowing thermal springs and seeps along an approximately 8 kilometer (km) (5 mile (mi)) length of the Bruneau River in southwestern Idaho (Mladenka and Minshall 1996). Surveys conducted since 1991 indicate a general decline in the number of occupied sites from a total of 130 occupied springs to the current 116 springs, representing a 10 percent decrease (Mladenka 1992, 1993; Mladenka and Minshall 1996). The majority (n = 86) of occupied springs are located upstream of the confluence of Hot Creek with the Bruneau River (Mladenka and Minshall 1996). In 1996, Bruneau Hot Springsnail occurred in an additional 10 spring sites at the confluence of Hot Creek and 20 sites downstream (Mladenka and Minshall 1996). Since 1991, the total number of thermal springs in the Bruneau River has decreased by approximately 5 percent (from 214 to 204), the number of springs occupied by Bruneau Hot Springsnails has decreased by 10 percent (from 130 to 116), and the total surface area of springs occupied by Bruneau Hot Springsnails has decreased by 13 percent (from 496 to 430.2 m^2 (5338.9 to 4630.7 ft^2)) (Mladenka and Minshall 1996).

Total site area (including all thermal springs and seeps, occupied and unoccupied by Bruneau Hot Springsnails) increased by 4.3 percent from 1991 to 1996 (Mladenka and Minshall 1996). Most of this increase was due to lower flows at one unoccupied spring site, resulting in more exposure of thermal outflow area below Buckaroo Dam, downstream of the majority of the occupied springs (Mladenka and Minshall 1996). Further analysis of the total spring surface area shows that from 1991 through 1996, there was a 32 percent decrease at upper (above the confluence with Hot Creek) occupied spring sites versus a 41 percent increase in lower occupied springs (Mladenka and Minshall 1996). Most of the thermal springs and seeps containing Bruneau Hot Springsnails are small and occur mainly upstream of the confluence of Hot Creek with the Bruneau River. From 1991 to 1996, the number of occupied sites decreased 20 percent (107 to 86) upstream of the confluence of Hot Creek with the Bruneau River, decreased 17 percent (12 to 10) at the confluence, and increased 45 percent (11 to 20) downstream of the confluence. Many of the thermal springs located in the downstream section are unsuitable as habitat for the Bruneau

Hot Springsnail, due to high temperatures (greater than 37° C (98.6° F)). Surveys completed by Mladenka and Minshall in 1993 and 1996 found the size of occupied sites ranged from 0.1 m^2 (1 ft^2) to 120 m^2 (1291.9 ft^2) in 1993 and from 0.02 m^2 (0.22 ft^2) to 84 m^2 (904 ft^2) in 1996 (Mladenka 1993; Mladenka and Minshall 1996).

Bruneau Hot Springsnails prefer areas of locally warm water. Mladenka (1992) found, however, that there is a maximum thermal tolerance limit of 35 °C (95 °F), and that few Bruneau Hot Springsnails occurred in cooler springs, with minimum temperatures to 15.7 °C (60.3 °F). Springs with cooler minimum temperatures are likely warmer in the summer (greater than 20 °C (68 °F)), providing the species opportunities for increased growth and reproduction (Mladenka 1992). Temperature extremes affect both abundance and recruitment of Bruneau Hot Springsnails (Mladenka 1992).

Spring sites occupied by Bruneau Hot Springsnail are located primarily above the high-water mark of the Bruneau River. Some of the Bruneau Hot Springsnail colonies are separated by distances of less than 1 meter (m) (3.28 feet (ft)) (Mladenka and Minshall 1996). The Bureau of Land Management (BLM) measured spring outflow elevations at 12 thermal springs from November 1993 to December 1993 (J. David Brunner, BLM, *in litt.* 1994). Due to time constraints, thermal springs that were measured for elevations represented the upper and lower most springs within the Bruneau River corridor, a few thermal springs in between, and the Indian Bathtub spring. Spring elevations ranged from 803.7 m (2636.9 ft) to 815.7 m (2676.1 ft) (Brunner, *in litt.* 1994). Of the 12 thermal springs measured, 2 were not occupied by Bruneau Hot Springsnail. The Indian Bathtub (the type locality) occurs at an elevation of 814.7 m (2672.9 ft) and the uppermost thermal spring site occurs at 815.7 m (2676.61 ft).

The hot springs and seeps that occur along the Bruneau River are outflows of the Bruneau Valley geothermal aquifer (Berenbrock 1993). Based on studies conducted by Mladenka (1992) and Varricchione and Minshall (1997), seasonal fluctuations in water discharge (flow over rockfaces) and water temperatures occur at some occupied spring sites. Discharge fluctuations correspond with pumping; lower flows in the late spring to early fall when the need for pumping is greatest, and higher flows during late fall to spring when the need for pumping is lowest. Temperatures can affect Bruneau Hot Springsnail recruitment; reproduction usually occurs between 20° and 35 °C (68° and 95 °F), but growth and reproduction is retarded at temperatures cooler than 24 °C (75.2 °F) (Mladenka 1992).

The Indian Bathtub area (now covered with sediment) and most of the thermal springs along the Bruneau River upstream of Hot Creek are on lands administered by the BLM, while most Bruneau Hot Springsnail habitats downstream of the Indian Bathtub and Hot Creek are on private land.

The Indian Bathtub spring and its outflow, Hot Creek, represent the type localities of the Bruneau Hot Springsnail. Taylor (1982) found that the Bruneau Hot Springsnail population and its habitat at the Hot Creek/Indian Bathtub spring site had been reduced by more than 90 percent from 1954 to 1981. Taylor (1982) noted in 1981 that the remaining Bruneau Hot Springsnail population at the Indian Bathtub spring occurred on vertical rock cliffs (rockface sites) protected from flash flood events. Varricchione and Minshall (1997) found that ''The rockface sites are probably more suitable for Bruneau Hot Springsnail success * * *'' because they provide the necessary substrate for reproduction. In 1964, spring discharge at the Indian Bathtub spring was approximately 9,300 liters per minute (L/min) (2,400 gallons per minute (gal/min)). By 1978, discharge had dropped to between 503.8 to 627.8 L/min (130 to 162 gal/min) (Young et al. 1979). By the summer of 1990, discharge was zero during the summer and early fall (Berenbrock 1993). Taylor (1982) speculated that this reduction in rockface seep flows would leave the Bruneau Hot Springsnail vulnerable to the occasional flash-flood events known to occur in the Hot Creek drainage.

Today, water from the Indian Bathtub sinks below the ground surface and reemerges about 300 m (984.3 ft) below the bathtub area (Varricchione and Minshall 1997). In 1991, a flash flood event occurred sending large amounts of sediment into the Hot Creek drainage and resulting in a 50 percent reduction in the size of the Indian Bathtub (a portion of which is now covered by approximately 10 feet of sediment) (Mladenka 1992). Rockface habitat in the immediate vicinity of Indian Bathtub was also severely reduced and covered with sediment during this and other flash flood events (Mladenka 1992). Ongoing population monitoring studies indicate a lack of movement or recruitment of Bruneau Hot Springsnails back to the original Hot Creek/Indian Bathtub sites (Varricchione and Minshall 1997). Varricchione and Minshall (1997) suggest several factors including unsuitable substrate type (primarily silt and sand, with little to no available rockface surfaces), weak migration abilities, fish predation, and a lack of an upstream colonization that may have prevented the Bruneau Hot Springsnails from returning to the upper Hot Creek and Indian Bathtub sites. Visible spring discharge at the Indian Bathtub continues to be low, ranging from 5.9 and 11 liters per second (0.21 and 0.39 cubic feet per second) and is intermittent in most years (Varricchione and Minshall 1997; Derrill J. Cowing, USGS, *in litt.* 1996).

The Bruneau Hot Springsnails appear to be opportunistic grazers feeding upon algae and other periphyton in proportions similar to those found in their habitat (Mladenka 1992). However, Bruneau Hot Springsnail densities are lowest in areas of bright green algal mats, while higher Bruneau Hot Springsnail densities occur where periphyton communities are dominated by diatoms (Mladenka 1992). Diatoms may provide a more nutritious food source than other food types and their presence may explain higher snail densities in such areas (Gregory 1983; Mladenka 1992). Bruneau Hot Springsnails may select for general food quality rather than selecting for individual food items. Mladenka (1992) noted that fluctuations in Bruneau Hot Springsnail abundance corresponded with changes in food quality based on chlorophyll content.

Sexual maturity can occur within 2 months, with a sex ratio approximating 1:1. Reproduction occurs throughout the year except when inhibited by high or low temperatures (Mladenka 1992). Reproduction occurs at temperatures between 24° to 35 °C (75.2° to 95 °F) (Mladenka 1992). At sites affected by high ambient temperatures during summer and early fall months, recruitment corresponds with cooler periods. Sites with cooler ambient temperatures also exhibit recruitment during the summer months. Bruneau Hot Springsnails use ''hard'' surfaces such as rock substrate to deposit their eggs, or they may deposit eggs on other snail's shells when suitable substrates are unavailable (Mladenka 1992).

Mladenka (1992) believed that some natural transfer of Bruneau Hot Springsnails may occur among sites. The mechanisms for dispersal possibly include waterfowl passively carrying Bruneau Hot Springsnails up or down the river corridor and spates (a sudden overflow of water resulting from a downpour of rain or melting of snow) in the Bruneau River that would carry Bruneau Hot Springsnails into other warm spring areas downstream. Thus,

dispersal would favor upstream to downstream genetic exchange (Mladenka 1992).

Common aquatic community associates of the Bruneau Hot Springsnail include three molluscs, *Physella gyrina, Fossaria exigua,* and *Gyraulus vermicularis;* the creeping water bug (*Ambrysus mormon minor*); and the skiff beetle (*Hydroscapha natans*) (Bowler and Olmstead 1991). In addition, Hot Creek and several of the thermal springs along the Bruneau River support populations of exotic guppies, (*Poecilia reticulata* and *Tilapia* sp.). Guppies were apparently originally released into upper Hot Creek at the Indian Bathtub, from which they spread downstream and into nearby thermal springs and seeps along the Bruneau River (Bowler and Olmstead 1991).

The Bruneau study area, delineated by Berenbrock (1993), was purposely limited geographically to focus on the hydrology of the regional geothermal aquifer system where the effects of pumping on thermal springs discharge may be occurring. Specifically, the USGS implemented a study of the geohydrology of the Bruneau area, including ground water recharge, discharge, movement and hydraulic head; and determined the effects of ground water pumping on hydraulic heads and spring flows that could affect the Bruneau Hot Springsnail and its habitat. Thermal spring habitats of the Bruneau Hot Springsnail are formed as a result of water discharging from faults or fractures originating from the underlying, confined volcanic-rock (geothermal) aquifer (Berenbrock 1993). These natural, artesian vents discharge at the ground surface where the ground surface level or elevation is lower than the potentiometric or hydraulic head of the geothermal aquifer. Berenbrock (1993) has developed a conceptual model of the geothermal aquifer system that characterizes the geohydrology of the aquifer system in the Bruneau study area. Using both direct and indirect evidence, the model describes the hydraulic connection between the large aquifer system underlying the Bruneau study area and the series of thermal springflows along the Bruneau River containing Bruneau Hot Springsnails. The 1554 square kilometer (km^2) (600 square mile (mi^2)) Bruneau study area encompasses the Bruneau, Little and Sugar valleys in north-central Owyhee County and is underlain with hydraulically connected sedimentary and volcanic rocks that together form a regional geothermal aquifer.

In general, ground water in the geothermal aquifer originates from natural recharge from precipitation in and around the Jarbidge and Owyhee mountains south of the Bruneau study area (Young and Lewis 1982, Mink 1984). Ground water flows northward from volcanic rocks to sedimentary rocks where it is discharged as either natural springflow, ground water well withdrawals, or leaves the area as underflow (Berenbrock 1993). Natural recharge to the regional geothermal aquifer underlying the 1554 km^2 (600 mi^2) Bruneau area was estimated to be approximately 70,281 cubic dekameters (dam^3) (57,000 acre-feet (ac-ft)) (Berenbrock 1993). Prior to extensive ground water development, approximately 12,453 dam^3 (10,100 ac-ft) was discharged from springflows. The estimated recharge amount is a minimum value because 10 percent of the contributing area was not estimated due to inadequate data being available (Berenbrock 1993).

Ground water withdrawals from wells for domestic and agricultural purposes began during the late 1890's (Berenbrock 1993). From 1890 to 1978, well discharge increased from zero to approximately 50,059.8 dam^3 (49,900 ac-ft) per year. Changes in discharge from thermal springs corresponds with changes in hydraulic head, which fluctuate seasonally and are substantially less during late summer than in the spring (Berenbrock 1993). Water in the volcanic-rock in the northern part of the study area near Hot Creek is confined by the overlying sedimentary rocks, with temperatures at the surface ranging from 15 °C to more than 80 °C (59 to 176 °F) (Young et al. 1979).

Berenbrock (1993) described both the geothermal aquifer as well as a shallow, unconfined cold-water aquifer within the upper layer of sedimentary rock. This ''second'' aquifer system is recharged from the infiltration of precipitation, streamflow, and applied irrigation water. Both Mink (1984) and Berenbrock (1993) indicated that there may be recharge from upward-moving geothermal water into the cold-water aquifer. Mink (1984) also believes that additional recharge to the shallow water aquifer may be occurring through leaks in irrigation wells. Mink (1984) believed that leaks from uncased or poorly cased wells were an additional reduction in water levels in the geothermal aquifer.

Previous Federal Actions

Dr. Dwight Taylor carried out a field survey of the status of the Bruneau Hot Springsnail in 1981 and 1982. His status report, received by the Service on November 3, 1982, was the basis for the placement of this species on the Service's comprehensive notice of review on invertebrate candidate species published in the **Federal Register** (49 FR 21664) on May 22, 1984. A candidate species is a species for which the Service has substantial information on hand to support the biological appropriateness of proposing to list as endangered or threatened. The Service first proposed the Bruneau Hot Springsnail for listing as endangered on August 21, 1985 (50 FR 33803). The comment period on this proposal, which originally closed on October 21, 1985, was extended to December 31, 1985 (50 FR 45443). To accommodate public hearings in Boise and Bruneau, Idaho, the comment period was reopened until February 1, 1986 (50 FR 51894). At the time of the hearings and subsequently, the Idaho Department of Water Resources (IDWR) and others questioned the Service's analysis of available scientific information. In particular, IDWR believed that surveys of available habitat were incomplete and the analysis of human induced impacts, such as pumping, was erroneous. To address these concerns and to solicit additional information, on December 30, 1986, the Service reopened the public comment period until February 6, 1987 (51 FR 47033).

Following the extension of the comment period in which the IDWR proposed additional biological and hydrological studies in the Bruneau-Grandview area, a decision was agreed upon by two former Idaho U.S. Senators and the Service to develop a multi-agency cooperative conservation plan for the Bruneau Hot Springsnail. In 1987, the U.S. Congress appropriated additional monies to the Service to fund these studies. Information developed from these studies was to be used to develop a cooperative conservation (management) plan to conserve and protect the Bruneau Hot Springsnail, precluding the need to list the species under the Act. Three agencies conducted these studies: IDWR, USGS, and Idaho State University (ISU). The IDWR was funded to: (1) prepare a Geographic Information System for the study area to provide a detailed information base from which to derive management decisions, including existing data and data to be developed by USGS and ISU; (2) prepare geological maps to define the bedrock geology and record the location, elevation, flow and temperature of area springflows; and (3) evaluate and analyze Federal and State laws applicable to a conservation plan for Bruneau Hot Springsnails and assess management alternatives open to the IDWR to protect Bruneau Hot Springsnail habitats. The USGS was

funded to develop and implement a three-phase ground water study of the Bruneau River valley and basin. The study focused on describing the hydrology of the regional geothermal aquifer system and associated thermal springs, with an overall goal to determine the cause of declining springflows affecting the Bruneau Hot Springsnail and its habitat. Finally, funds were provided to ISU to study the biological, ecological, and physiological needs of the Bruneau Hot Springsnail.

The Service entered into a short-term conservation easement with Owen Ranches, Inc., landowners of the Bruneau Hot Springsnail's habitat in Indian Bathtub spring. The conservation agreement included fencing, through funds provided by the Service, to regulate livestock use and improve stream conditions. Although the agreement expired in October 1992, the current landowner has honored the terms of the agreement and voluntarily excludes livestock grazing from the Indian Bathtub spring.

On July 6, 1992, the Idaho Conservation League and the Committee for Idaho's High Desert filed a lawsuit over the failure of the Service to make a determination and publish in the **Federal Register** a decision regarding the listing of the Bruneau Hot Springsnail. To respond to the lawsuit, and to ensure the accuracy of any final decision concerning the appropriateness of listing, the Service reopened the public comment period to solicit any new information on October 5, 1992 (57 FR 45762), for a period of 30 days, and on December 18, 1992 (57 FR 60610), for a period of 10 days.

A final rule listing the Bruneau Hot Springsnail as endangered, without critical habitat, was published in the **Federal Register** on January 25, 1993 (58 FR 5938). On February 26, 1993, the Idaho Farm Bureau Federation, Owyhee County Farm Bureau, Idaho Cattle Association, Owyhee County Cattleman's Association and Owyhee County Board Of Commissioners (Plaintiffs), jointly filed a Notice of Intent to challenge the listing. On May 7, 1993, the Plaintiffs filed a Complaint for Declaratory and Injunctive Relief in the U.S. District Court for the District of Idaho to overturn the final listing rule. On December 14, 1993, Senior United States District Court Judge Harold L. Ryan issued a ruling in favor of the Plaintiffs and set aside the final listing rule (Judgment) for the Bruneau Hot Springsnail (Civil No. 93–0168–E–HLR). In the Judgment, Judge Ryan stated that the Service committed ''* * * serious due process violations * * *'' and ''* * * court finds the final rule to be arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law.''

The district court decision was appealed to the United States Court of Appeals for the Ninth Circuit by two intervening conservation groups, the Idaho Conservation League and Committee for Idaho's High Desert. On June 29, 1995, the appellate court overturned the district court decision and reinstated the Bruneau Hot Springsnail to the endangered species list. However, the appellate court concluded that the Service should have made the draft USGS report (i.e., Berenbrock 1992) available for public review, as the Service relied largely on this report to support the final listing rule. The appellate court directed the Service to provide an opportunity for additional public comment on the final USGS report (Berenbrock 1993) and other new information, and to reconsider its original 1993 listing decision.

To comply with the appellate court's direction, the Service published a notice on September 12, 1995 (60 FR 47339), announcing that the USGS report (Berenbrock 1993), and other reports and data pertaining to the listing of the Bruneau Hot Springsnail were available for public comment for 60 days, until November 13, 1995. In response to a request from Susan E. Buxton on behalf of her client (John B. Urquidi, J & J Ranches, Bruneau, Idaho), the Service, in a notice published on November 13, 1995 (60 FR 56976), extended the public comment period until December 15, 1995. Over 400 comments were received from individuals and agencies during this 95-day public comment period.

Public Law 104–6 enacted by Congress on April 10, 1995, placed a moratorium on the expenditure of the Service's listing funds beginning in October 1995 that remained in effect until April 26, 1996, when President Clinton approved the Omnibus Reconciliation Act of 1996. As a result, the Service was unable to comply with the June 1995 court decision and complete a reconsidered listing decision. After the moratorium was lifted, the Service established priorities for completing listing actions based on interim guidance issued on March 11, 1996 (61 FR 9651), final guidance for fiscal year 1996 on May 16, 1996 (61 FR 24722), and final guidance for fiscal year 1997 issued on December 5, 1996 (61 FR 64475). These guidance documents focused the Service's limited listing funding on emergency listing and multi-species final rules. Consequently, the Service took no action on the Bruneau Hot Springsnail during fiscal year 1996. Although listing priorities allowed the Service to take final action on this court decision beginning in fiscal year 1997, it had been over one year since the close of the last public comment period. Therefore, the Service solicited additional comments and made available for public review new information and other data pertaining to the Bruneau Hot Springsnail received since the last comment period. On January 23, 1997 (62 FR 3493), the Service opened a second public comment period for 46 days until March 10, 1997. Because of requests from the High Desert Coalition Inc., Bruneau Valley Coalition and Quey Johns, the Service opened a third public comment period, for an additional 77 days, until June 9, 1997, in a notice published on March 25, 1997 (62 FR 14101). Fifteen comments were received from individuals and agencies during these two additional comment periods in 1997. In total, 416 comments were received between September 1995 and June 1997 during 3 public comment periods.

Summary of Comments and Recommendations

Comments were received from 416 individuals and agencies during the 3 public comment periods from September 1995 to June 1997 (60 FR 47339, 60 FR 56976, 62 FR 3493, 62 FR 14101) for a total of 218 days. Additionally, advance notice of re-opening the comment periods was given to several people by telephone for the January and March 1997 comment periods. Persons notified represented various interested parties in this issue including; Dick Bass, Owyhee County Commissioner; Tim Lowry, Chair of the Owyhee County Land Use Planning Committee (OCLUPC); Cindy Bachman, Chair of the Endangered Species Subcommittee for the OCLUPC; Eric Davis, President of the Bruneau Valley Coalition; and Laird Lucas, Land and Water Fund. Advance notice, including a press release and background information, was also sent by mail, fax and/or phone to Idaho Senators Larry Craig and Dirk Kempthorne, Idaho Representatives Mike Crapo and Helen Chenoweth, Idaho State Senator Laird Noh, and Idaho State Representative Golden Longhaired. Legal notices announcing each of the public comment periods were published in five Idaho newspapers: Idaho Statesman, Boise; Glenns Ferry Pilot, Glenns Ferry; Idaho Press Tribune, Nampa; Owyhee Avalanche, Homedale; and Mountain Home News, Mountain Home. Fifty-three copies of the **Federal Register** notices of public comment periods were

sent to various interested parties, including 7 Federal agencies, the 8-member Idaho Water Resources Board, IDWR, Idaho Department of Fish and Game (IDFG), Idaho Department of Parks and Recreation (IDPR), ISU, the Idaho Congressional delegation, Governor Phillip Batt, State of Idaho elected officials including State Representatives Frances Field and Golden Longhaired and State Senators Laird Noh and R. Clair Wetherell, Elmore and Owyhee County Commissioners and 19 other individuals.

The majority of the comments opposed endangered species status for the Bruneau Hot Springsnail—of the dissenting comments, 349 comment letters were derived from the same source (i.e., a form letter) received during the first re-opened comment period in September 1995 and were considered together as one comment. Comments opposed to endangered species status were received from Idaho Governor Philip Batt, Idaho State Senator Grant Ipsen, IDWR, the Office of the State Treasurer, the Owyhee County Board of Commissioners, OCLUPC, and other user groups. No request for a public hearing was received.

Comments of a similar nature or point of concern are grouped for consideration and response. A summary of these issues and the Service's response to each are discussed below.

Issue 1: Several respondents believe that the range of the Bruneau Hot Springsnail is not completely known. They stated that comprehensive surveys have not been conducted throughout all potentially suitable habitat in the region and one study (Mladenka 1995) surveyed fewer sites than previous surveys. Because it is believed that the Bruneau Hot Springsnail has stabilized (based on studies from 1992 through 1996) or appears to be increasing in certain areas, some respondents stated that the species is not truly endangered. Also, some respondents believe that the fish predation study was inadequate to determine if fish predation is a threat to the Bruneau Hot Springsnail. It is also believed that Bruneau Hot Springsnails are highly adaptable and can easily relocate. For example, a colony is being kept in an aquarium at the BLM, Boise District office indicating that the species may be adaptable to environments outside their thermal spring habitats in the Bruneau River.

Service Response: Snail surveys have been conducted in Idaho and elsewhere since 1994 (Frest, *in litt.* 1994; Frest and Johannes 1995; Robert Hershler, Smithsonian Institution, *in litt.* 1994, 1995). Surveys included regions within the Great Basin, including Utah, Nevada and eastern Idaho, and the Interior Columbia Basin. Thermal springs along the Bruneau River have been re-surveyed specifically for additional Bruneau Hot Springsnail sites in 1993 and 1996 (Mladenka and Minshall 1993, 1996). No other new information has been presented to the Service to substantiate the claim that the Bruneau Hot Springsnail is not endemic to springs along Hot Creek and the Bruneau River drainage. No historic collections of this species have been verified in other areas of the United States. In 1991, Mladenka (Mladenka 1992) described the known range of the Bruneau Hot Springsnail as an 8 km (5 mi) reach of the Bruneau River, above and below the confluence of Hot Creek. Other studies outside the Bruneau River corridor (Terrence J. Frest, DEXIS, *in litt.* 1994; Frest and Johannes 1995; Hershler *in litt.* 1994, 1995) have not located additional sites for the Bruneau Hot Springsnail.

Studies conducted by Mladenka (1992) and Mladenka and Minshall (1993; 1996) indicate a general decline in the total number of thermal springs along the Bruneau River, the number of springs occupied by Bruneau Hot Springsnails and a general decline in densities of Bruneau Hot Springsnails (see **BACKGROUND** section for further discussion). Mladenka and Minshall (1993) found dead Bruneau Hot Springsnails at one previously occupied spring site where flows had recently diminished and nine additional spring sites showed noticeable reductions in discharge. From 1991 to 1996, the total number of springs had been reduced from 214 to 204. The number of springs occupied by Bruneau Hot Springsnails had declined from 130 to 116. Additionally, although Mladenka and Minshall's (1993; 1996) population densities were only estimates, there appears to be a trend in declining densities overall that corresponds to the decline in the number of occupied spring sites.

While two of the three populations of the Bruneau Hot Springsnail monitored since 1991 appear to be stable (Varricchione and Minshall 1997), the Service believes that all remaining habitat for this species is threatened by those factors described in this rule (Factors A and E, Summary of Factors Affecting the Species). Given that all thermal springs along this reach of the Bruneau River arise from a single regional geothermal aquifer (Berenbrock 1993), Bruneau Hot Springsnails and their habitats continue to be threatened by long-term declines in the Bruneau Valley aquifer. The Bruneau Hot Springsnail, endemic to this small geographic area in southwestern Idaho, and its habitat are totally dependent on remaining thermal springflows originating from this single source of ground water. As noted by Varricchione and Minshall (1997), ''Given enough reduction in springflow, Bruneau Hot Springsnail populations (at the two monitored sites) could be reduced to abundances that are too small to remain viable.''

Regarding the comment that Mladenka's 1995 survey study looked at fewer sites than previous surveys, the purpose of the study was to survey the macroinvertebrate assemblages in several thermal springs along the Bruneau River in the vicinity of its confluence with Hot Creek. The Service funded this study to further define the species richness of the thermal springs occupied by the Bruneau Hot Springsnail. Due to the replication of species found in several of the initial hot springs sampled, the Service made a decision that sampling fewer sites would be representative of all thermal springs along the Bruneau River. This study, therefore, was not strictly a Bruneau Hot Springsnail survey.

A study to determine the effects of fish predation on the Bruneau Hot Springsnail was conducted by Varricchione and Minshall (1995a). The study focused on two exotic species of fish, *Gambusia* and *Tilapia*, in the Hot Creek drainage. Hot Creek no longer has a viable population of Bruneau Hot Springsnails (too few in total numbers of individuals), and no Bruneau Hot Springsnails were detected in the diet of these two species of fish (Varricchione and Minshall 1995a). Mladenka (1992) however, found *Gambusia* aggressively preying upon Bruneau Hot Springsnails in a controlled (aquarium) environment. Additionally, a commenter indicated that the time of year that the fish predation study was undertaken was inappropriate since water temperatures may have been too cold and Bruneau Hot Springsnails are less available during winter conditions. The fish predation study was undertaken during the winter months, which for the Hot Creek site is the optimal time for reproduction and recruitment of Bruneau Hot Springsnails. Water temperatures in the summer reach or exceed the thermal maximum temperature due to exposure to higher ambient temperatures (Varricchione and Minshall 1997). During periods of higher temperatures, the species retreats to areas protected from high ambient temperatures among sedges, underneath rocks or under superficial algal mats (Mladenka 1992). Pending further study,

the Service considers the presence of these two exotic fishes a possible threat to Bruneau Hot Springsnails residing in Hot Creek and at other thermal spring sites along the Bruneau River.

Bruneau Hot Springsnails may be limited in their ability to relocate and re-colonize new spring sites. The parameters required for acceptable habitat are specific in nature, i.e. minimum and maximum temperatures of 7.6 and 35.7° C (45 and 96° F) respectively and adequate substrate and spring discharge (Varricchione and Minshall 1997). Mladenka (1992) found that reproduction occurred at temperatures between 20 and 35° C (68 and 95° F), with a noted decline in reproduction (and hence recruitment) at 24° C (75.2° F). Few springs along the Bruneau River meet these requirements. Mladenka (1992) indicated that dispersal likely occurs through spates within the Bruneau River corridor.

Since approximately 1985, the BLM has maintained a population of Bruneau Hot Springsnails in an aquarium. The environment is being artificially maintained using an aquarium heating device and periodic additions of distilled water, with occasional augmentations of water from Hot Creek. Due to the regular maintenance required of this system, the Service does not consider this population a viable and sustainable population under the definition of recovery for endangered species.

Issue 2: Many respondents believe that the Service did not use the best or sufficient scientific information in listing this species. Other comments indicated that few sites have been surveyed for the presence of the Bruneau Hot Springsnail and that the surveys were biased against farming and ranching. Other concerns were that monitoring has not been adequate to assess the status of the species. Many respondents believe that this species is widespread and additional populations exist elsewhere that have not been reported. Several respondents also stated that because Bruneau Hot Springsnail populations are stable or increasing at some sites, listing is not appropriate. One commenter indicated that because monitoring was terminated in 1993, data collected subsequently was not reliable.

Service Response: The Service believes that the decision to retain the Bruneau Hot Springsnail as endangered is based on the best available scientific information. The Service is unaware of any bias on the part of the researchers involved in biological or ground water studies. The Service believes that all research has been conducted in a professional and credible scientific manner.

Ground water studies conducted by the USGS, funded by the Service beginning in 1989, with monitoring of water levels, spring discharge and pumping rates continuing until September 1996. Biological surveys and monitoring for the Bruneau Hot Springsnail, funded by the BLM and the Service, have been ongoing through ISU from 1991 through 1996. Although Bruneau Hot Springsnails have been located at new thermal spring sites, all these sites are within the known range of the species, an 8 km (5 mi) reach of the Bruneau River (Mladenka and Minshall 1993, 1996) and all these thermal springs are subject to similar threats affecting the single source geothermal aquifer providing the necessary springflows. It has been documented that from 1992 to 1996, there has been an overall reduction in the number of thermal springs along the Bruneau River; the number of thermal spring sites occupied by Bruneau Hot Springsnails; and a reduction in the overall densities of Bruneau Hot Springsnails at the known occupied sites (see **BACKGROUND** section and issue #1 for further discussion). As already discussed, thermal springs along the Bruneau River are influenced by activities affecting the condition of a single geothermal aquifer. The decision to continue the listing of the Bruneau Hot Springsnail is appropriate based primarily on continued habitat loss and modification resulting from reduced thermal springflows.

As previously stated in the issue #1 response, snail surveys have been conducted in Idaho and elsewhere since 1994 (Frest, *in litt.* 1994; Frest and Johannes 1995; Hershler, *in litt.* 1994, 1995). These surveys included regions within the Great Basin, including Utah, Nevada and eastern Idaho, and the Interior Columbia Basin. Thermal springs along the Bruneau River have been re-surveyed specifically for additional Bruneau Hot Springsnail sites in 1993 and 1996 (Mladenka and Minshall 1993, 1996). No other new information has been presented to the Service to substantiate the claim that the Bruneau Hot Springsnail is not endemic to springs along Hot Creek and the Bruneau River drainage. No historic collections of this species have been verified in other areas of the United States. The Bruneau Hot Springsnail is part of a small group of thermophile species (requiring high temperatures for normal development), most or all of which are highly endemic (Frest and Johannes 1995). In addition, most taxa in the *Pyrgulopsis* genus are endemic to a single spring or spring groups widely separated from each other geographically (Frest and Johannes 1995).

In regard to the comment about an abrupt halt to monitoring efforts * * * ''In light of Mr. Lobdell's abrupt termination of the 1992 data collection for the (Bruneau Hot Springsnail), reliance on the ISU Stream Ecology Center Studies—all referencing the 1992 data gathering activities—are suspect.'', the Service believes this refers to a brief halt in 1992–1993 data gathering as a result of the 1993 listing of the Bruneau Hot Springsnail, at which time the species was given the full protection of the Act. The Service issues permits to individuals wishing to conduct research to further the recovery of the species. Once the necessary permitting requirements under section 10 of the Act were satisfied, data collection for the 1992–1993 season continued and was completed. The Service is satisfied with the reliability of the data.

Issue 3: Some respondents believed that the Bruneau Hot Springsnail is not native or does not appear to have any ecological significance and therefore should not be listed.

Service Response: Congress directed that, in determining whether a species warrants listing under the Act, the Service may consider only the five factors set forth in section 4(a)(1) of the Act. These factors do not include the ''ecological significance'' of the species; hence, the Service has no authority to decline to list a species on the basis of whether or not the species is considered ecologically significant.

Issue 4: Many respondents believe that the hydrologic studies conducted to date are inconclusive with regard to determining that water withdrawals cause the decline in the geothermal aquifer. Many noted that the 1993 USGS report (Berenbrock 1993) is incorrect or incomplete because it does not account for the effects of climatic (e.g., drought) or geologic factors that may be affecting springflow and well discharge characteristics and Bruneau Hot Springsnail population estimates, even accounting for the significant reductions in pumping in recent years. Recent reports (Cowing, *in litt.* 1996; Karl J. Dreher, IDWR, *in litt.* 1997) indicate that water levels in the aquifer have increased. It was also suggested that studies on the dynamics of the local aquifer system should be subject to independent peer-review. Many respondents believe that the recharge calculation error found in the draft USGS report (Berenbrock 1992) is still unresolved and should be corrected

before further assessment of the aquifer can occur.

Service Response: Berenbrock (1993) indicated that water levels and spring discharge were likely not related to recent climatic (drought) conditions. It has been established that recharge to the aquifer is related to precipitation in the Jarbidge Mountain range (Berenbrock 1993). The effect of this recharge is over several thousand years, as evidenced by the age of the water currently residing in the aquifer. Although the amount of withdrawals has been reduced since 1981, from 61,526.7 dam^3 (49,900 ac-ft) to a low of 40,935.6 dam^3 (33,200 ac-ft) in 1987 (1995 levels were 45,374.4 dam^3 (36,500 ac-ft)), spring discharge and available Bruneau Hot Springsnail habitat have continued to decline (Cowing, *in litt.* 1996). Berenbrock (1993) calculated natural recharge to the geothermal aquifer to be 70,281 dam^3 (57,000 ac-ft) (Berenbrock 1993). This value does not account for the underflow (recharge) drained by the Little Jacks and Logan creeks, which represents 10 percent of the contributing area. Therefore, the natural recharge estimated by Berenbrock (1993) is a minimum value only. Total estimated discharge from springs prior to extensive ground water development was approximately 12,453 dam^3 (10,100 ac-ft). Between 1978 and 1991 total well withdrawals were 673,218 dam^3 (546,000 ac-ft), averaging 51,786 dam^3 (42,000 ac-ft) per year.

The Service concurs with Berenbrock's (1993) conclusions and with the results of the continued monitoring efforts by USGS through September 1996 (Cowing, *in litt.* 1996). The conclusions reached by Berenbrock and the monitoring data demonstrate a relationship between water levels in the aquifer, seasonal variations in water levels, spring discharge, and pumpage rates. Annual pumpage rates are related to climatic conditions in the Bruneau Valley, i.e., well withdrawals increase when spring precipitation is low. Spring discharge exhibits a similar seasonality to water level measurements June through September, reflecting the amount of pumping through the irrigation season (Cowing, *in litt.* 1996). A relation between potentiometric levels and spring discharge has persisted through the drought and into ''normal'' precipitation cycles. As indicated above, although ground water levels may be depleted fairly rapidly by human utilization for agricultural or other uses, the geothermal aquifer recharge typically occurs very slowly and from a source well outside the Bruneau area (see Factor A of the Summary of Factors Affecting the Species section for further discussion). Therefore, although there was a slight increase in water levels at some well monitoring sites in 1996, and a slight increase in spring discharge at some springs monitored at the same time, the general trend for Bruneau Hot Springsnail habitat remains in decline and water levels in the geothermal aquifer are low when compared to historic levels. Of the 19 wells within the Bruneau study area, 11 wells have continued to show slight declines in water levels, and 6 have shown slight increases in water levels (2 wells were difficult to determine from graphs) (Cowing, *in litt.* 1996) . In general, water levels in the geothermal aquifer continue to decline.

A relation between hydraulic head and spring discharge has been established, the Service has not received any new information indicating a change in this relation between total aquifer discharge (including spring discharge, underflow and well withdrawals) and recharge. The question of what levels of pumping can occur without further declines in aquifer water levels and thermal spring flows has not been defined.

The USGS report and document review process consists of a three-step process: (1) local (originating office) review includes review by 2 district (Idaho) colleagues that are experts in the technical information contained in the report, review by the section supervisor and editorial review by an experienced editor; (2) regional USGS review includes another specialist review by a technical expert in the discipline of the report and a second editorial review; and (3) USGS headquarters review involves a third technical reviewer and a third editorial review. The final document is then signed by the Director of the USGS. In the case of Berenbrock (1992), IDWR was provided a copy of the draft document prior to the Service completing the original listing rule. IDWR used the information in preparing their contractual report submitted to the Service entitled ''Analysis of Management Alternatives and Potential Impacts on Ground-Water Development Due to Proposed Endangered Species Classification of The Bruneau Hot Springs Snail'' (IDWR 1992).

The recharge ''error'' referred to by comments relates to a miscalculation of natural recharge using Darcy's equation in the draft 1992 Berenbrock report. The error in natural recharge occurred due to a miscalculation in average hydraulic conductivity (Jerry Hughes, USGS, *in litt.* 1993). The final (1993) version of the Berenbrock report (pages 23 through 26) incorporates the correct information for calculating natural recharge by another method. Therefore, the Service believes that the issue of ''errors'' in the draft report has been resolved.

Issue 5: Some respondents believed that there is no evidence that reducing agricultural or domestic water use will actually benefit Bruneau Hot Springsnail habitat. Other comments suggested that casing deep wells to reduce leakage would contribute to water conservation and reduce or remove the need to list this species. Two respondents referred to the disappearance of ''Deer Water'' in Hot Creek (as an indicator that declining water levels have occurred in the historic past). It was also speculated that stabilization of the aquifer will occur at some point in the future.

Service Response: The Service believes that on-going, unrestricted ground water pumping has contributed to the loss of Bruneau Hot Springsnail thermal spring habitats in the Bruneau River drainage. Protection of the remaining Bruneau Hot Springsnail habitat can only be achieved through cooperative efforts with the State of Idaho and others, which address water levels within the geothermal aquifer and the maintenance of thermal springflows.

It is recognized that the geothermal aquifer in the Bruneau Valley is a complex, multi-layered aquifer, and that water leakage may occur in a stepwise fashion upward between permeable zones through faults, fractures, and wells (Kimball E. Goddard, USGS, *in litt.* 1995; IDWR 1992; Mink 1984; Leland R. Mink, IWRRI, *in litt.* 1995) (see **BACKGROUND** section for further discussion). The ground water reservoir in the aquifer functions as a three-dimensional flow system: (1) water flows northward from the recharge area in the Jarbidge and Owyhee mountains, where it is discharged as springs and as seepage to streams or leaves the area as ground water underflow; (2) in recharge areas there is a downward component of water movement; and (3) in discharge areas there is an upward component (Berenbrock 1993). In 1984, the Idaho Water Resources Research Institute (IWRRI), along with the University of Idaho, proposed an investigation of geothermal wells to determine whether older or uncased wells are losing water to the upper aquifer and determine the feasibility and estimated cost of repairing those wells (Mink and Lockwood 1995). Mink and Lockwood (1995) indicated that Ron Hiddleston (drilling expert in Mountain Home) believed that ''* * * there are very few properly constructed wells in the Bruneau Valley.'' Mink and Lockwood (1995) also found that Merion Kendall

(in 1989) estimated that 77 percent of the wells in the Bruneau area had the potential for interaquifer flow. Mink and Lockwood (1995) concluded that water is moving horizontally out of wells into shallower, more permeable zones. It was not determined what volume of water could be moved from the deeper aquifer (geothermal) to the shallower aquifer (cold-water) system. In 1995, the Service provided $2,500 to IWRRI to evaluate the cross-flow potential of individual wells. It was not until the summer of 1997 that IWRRI was able to obtain permission to investigate a single well. By the close of the public comment period in June 1997, the Service had not received a report from IWRRI on the results of their limited investigation. The Service agrees with others (Goddard 1995; IDWR 1992; Mink 1984, Mink and Lockwood 1995) who believe that leakage from some agricultural wells may be a contributing factor in the loss of water from the geothermal aquifer.

No information has been provided to the Service regarding the specifics of the disappearance of ''Deer Water'' and there has been no reference to ''Deer Water'' in previous studies. Therefore, the Service is unaware of a prehistoric disappearance of ''Deer Water'' on Hot Creek.

Although the Service agrees that ''stabilization'' of the aquifer may occur some time in the future, it is uncertain that ''stabilization'' can occur before there is further loss of thermal spring habitats. A relationship between hydraulic head and spring discharge has been established; the Service has not received any new information indicating a change in this relation between total aquifer discharge (including spring discharge, underflow and well withdrawals) and recharge. The question of what levels of pumping can occur without further declines in aquifer water levels and thermal spring flows has not, to our knowledge, been defined. If water levels in the geothermal aquifer system in the Bruneau area continue to decline, the Service believes that thermal springs will eventually cease to flow and Bruneau Hot Springsnails and their habitat will be eliminated.

Issue 6: Many respondents stated that existing regulatory mechanisms are sufficient to protect this species in lieu of listing. For example, the Bruneau Valley Coalition has developed a habitat conservation plan; the Governor of Idaho stated that ''as soon as the bull trout conservation plan is complete, (he) will turn the State's attention to developing a conservation plan for the (Bruneau Hot Springsnail)'' (Phillip E. Batt, Governor of Idaho, *in litt.* 1995); and the Idaho State Legislature has developed State law to prevent the waste or ''mining'' of ground water (Dreher, *in litt.* 1997). Dreher (*in litt.* 1997) asserted that water withdrawals have never exceeded 61,526.7 dam^3 (49,900 ac-ft), which is below the natural recharge calculated by USGS and therefore, concern for further loss of thermal springs is probably not warranted. Many respondents believe that listing the Bruneau Hot Springsnail would adversely affect local and regional planning efforts that are currently in progress. For example, the IDWR has designated the area as a Ground Water Management Area (GWMA), which should provide protection for the aquifer and ensure adequate flows for the Bruneau Hot Springsnail. IDWR has presented alternatives to listing that would protect Bruneau Hot Springsnail habitat and these alternatives have been incorporated into the Owyhee County Land Use and Management Plan.

Service Response: IDWR can regulate ground water development in the Bruneau area. Through this regulatory authority, IDWR may designate an area as a GWMA if it has been determined that a ground water basin or part thereof may be approaching the conditions of a ''critical ground water area'' (I.C. 42–233a *et seq.*). Under this designation, the Director of IDWR may approve applications for permits only after it is determined that sufficient water is available (I.C. 42–233a *et seq.*). In 1982, the IDWR established the Bruneau-Grandview area as a GWMA (Dreher *in litt.* 1997). Since that time, no new water withdrawal permits have been issued for agricultural use. The Director may also determine whether or not a ground water supply is insufficient to meet demand within a designated water management area and will order those water rights holders on a time priority basis to cease or reduce withdrawal of water until it is determined that there is sufficient ground water (I.C. 42–233a *et. seq.*). The State of Idaho has determined that a level of 61,526.7 dam^3 (49,900 ac-ft) does not constitute ''mining'' of ground water in the Bruneau-Grandview area. This amount of withdrawal was reached in 1981 (Cowing, *in litt.* 1996). Withdrawals have ranged from 56,471 to 40,935.6 dam^3 (45,800 to 33,200 ac-ft), with an average amount of 45,390 dam^3 (36,813 ac-ft) over a 13-year period from 1982 to 1995, excluding 1994 (Cowing, *in litt.* 1996). Although withdrawal rates have remained below the 1981 level, aquifer levels continued to decline through 1994, with only a slight increase in water levels occurring in early 1996. At this time, pumping rates during the late 1996 to early 1997 irrigation season are unknown. Pumping rates have been similar to 1995 levels due to higher precipitation during the 1996 irrigation season. To date, the State of Idaho has not taken any action to implement legislation intended to control existing withdrawals (Dreher *in litt.* 1997).

In 1992, IDWR developed four management alternatives to preclude the listing of the Bruneau Hot Springsnail. Three of the alternatives were included by the Owyhee County Commissioners (OCC) in the Owyhee County Interim Comprehensive Land Use and Management Plan (OCC 1993). The preferred alternative by both IDWR and OCC was Alternative A, to ''Do Nothing.'' In support of Alternative A, IDWR (1992) stated that ''it is not reasonable to assume that all spring flows are declining or that water levels will decline at the same rate as monitored springs and wells.'' IDWR further stated that there are ''no data to support how much of (the) decline (in spring flow) is related to the extended drought in southern Idaho and how much might be related to ground water withdrawals.'' IDWR also asserted that ''with the existing reduced level of ground water withdrawal, due in large part to the Conservation Reserve Program, aquifer water levels would normally be expected to reduce their rate of decline if drought conditions were no longer present.'' IDWR assumed that only those springs with elevations lower than Indian Bathtub are being affected by reduced spring flows and that at some point in the future, when the aquifer stabilizes, these springs also will stabilize. As indicated under issue #4 the Service believes that there is a strong relationship between water levels in the geothermal aquifer, spring discharge and ground water pumping rates, with short-term climatic patterns not a significant factor in the long-term declines that have occurred. Until the trend of declining thermal springflows is reversed, the Bruneau Hot Springsnail will remain endangered because of threats to its habitat.

In 1995, the State of Idaho authorized the creation and supervision of Water Management Districts (WMD) by IDWR (Idaho Code (I.C.) 42–705 *et seq.*). Activities to be performed include monitoring of ground water levels at ground water diversions before and during pumping activities; and immediate reporting to the Director any water diversions that may have been diverted without a water right or in violation of a water right. To date, the Bruneau/Grandview area has not been

designated as a WMD. The Service is aware of only one WMD to be developed for the State of Idaho—for the Eastern Snake River Plain.

The Service recognizes that the water conservation and other measures could be implemented to the benefit of Bruneau Hot Springsnail habitat in this region, and finds that participation in these programs could contribute significantly to reducing some of the short-term threats to the Bruneau Hot Springsnail. However, only the State of Idaho has the regulatory authority to set limits on the development of new wells, impose conservation measures, and require meters on all wells in the Bruneau/Grandview area (IDWR 1992). Other than the restriction mentioned above for new agricultural use wells, no other regulatory measures have been exercised by IDWR. It should be noted that as of June 9, 1997, and the implementation of the Conservation Reserve Program (CRP) and the restriction of no new agricultural use wells, there has not been any significant improvement to water levels in the geothermal aquifer.

In 1995, the Bruneau Valley Coalition developed a proposed ''Habitat Maintenance and Conservation Plan for the Bruneau Hot Springsnail'' (Plan). The Plan proposed two phases of implementation. Phase 1 had four tasks including: (1) collection and analysis of existing data; (2) downhole geophysical testing to identify wells that may have subsurface leakage problems; (3) development of corrective action plans and cost estimates for repair of leaking wells; and (4) identification of additional wells that may be impacting Bruneau Hot Springsnail habitat. Phase 2 included six tasks: (1) implementing corrective actions, such as casing, grouting, sealing and/or abandoning specific wells identified in Phase 1; (2) information and education programs targeting congressional offices, farm and ranch families and other entities to support water conservation programs such as the Conservation Reserve Program; (3) locate private abandoned leaking wells previously unaccessible due to private property access constraints; (4) investigate water transfers, including swapping ground water for early season surface flood water; (5) develop an alternative water supply for the Indian Bathtub spring; and (6) evaluate the feasibility of transplantation sites for new Bruneau Hot Springsnail colonies. On March 3, 1995, the Service met with Jim Yost, representing the Bruneau Valley Coalition, to discuss our comments and suggestions regarding the proposed Plan. In summary, the Service noted that the Plan: (1) was limited to a 6-mile radius from the Indian Bathtub spring and failed to address other critical ground water withdrawal areas; (2) appears to be a ''more studies'' approach rather than corrective actions; (3) does not provide information on the amount of water that would be conserved if a well was repaired or provide an accounting system for monitoring the success of well repairs; and (4) needed to state a goal that reflected the removal of threats to the species or that the aquifer would be maintained at a specific level, measured by water levels within specific wells. Additionally, the Plan makes no commitment on the part of any of the signatory parties to implement specific actions. The Service has not been contacted subsequently and is unaware whether the Bruneau Valley Coalition's Plan has been finalized or approved by any of the affected interested parties.

During the September 1995 public comment period, the Governor of Idaho stated that ''as soon as the bull trout conservation plan is complete, (he) will turn the State's attention to developing a conservation plan for the (Bruneau Hot Springsnail)'' (Phillip E. Batt, Governor of Idaho, *in litt.* 1995). As of June 9, 1997, no conservation plan for the Bruneau Hot Springsnail had been initiated or developed by the Governor's office. On August 11, 1997, the Governor's office invited several agencies and individuals to participate in a Bruneau Hot Springsnail Conservation Committee. Two meetings have been organized by the State to discuss and update the Bruneau Hot Springsnail biological information. Actions to remove the threats to the species have not been discussed. The Service strongly supports this effort and will continue to participate in these efforts by the State.

Issue 7: Many respondents indicated that the Service should consider the following actions for restoration/recovery of the species to preclude listing of the species: transplant the Bruneau Hot Springsnail back to Hot Creek; exchange water rights with BLM-held water rights to benefit the Bruneau Hot Springsnail; substitute surface water for the loss of ground water; mitigate the effects of flash flooding in Hot Creek; develop individual Habitat Conservation Plans. It was also noted that the ban on new wells and rehabilitation of new wells has occurred and therefore additional protection for the Bruneau Hot Springsnail is unnecessary.

Service Response: According to section 2(b) of the Act, ''* * * the purposes of this Act are to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved.'' Although captive propagation and translocation can be valid conservation tools in recovery efforts for some species, the Service maintains that in the case of the Bruneau Hot Springsnail, these measures would not contribute to secure, self-sustaining populations in their natural habitat. Translocation can only occur into native, secure habitats; therefore, the question of adequate thermal springflows must be addressed prior to any translocation efforts. The Service acknowledges that restoring springs flows within the historic range (i.e., Hot Creek) of the Bruneau Hot Springsnail would contribute to recovery of this taxon. Without the assurance of adequate springflows in Hot Creek or at the Indian Bathtub spring, actions to remove sediment from the Indian Bathtub would not provide for improved habitat conditions at that site. Water rights exchange, surface water substitution, development of Habitat Conservation Plans and other actions that may improve habitat suitability for the Bruneau Hot Springsnail will be addressed during during the development of a recovery plan for this species.

The Service has acknowledged that in 1982 IDWR instituted a ban on all new *agricultural* (nondomestic) wells. We are unaware however, of any rehabilitation efforts for leaking of existing wells (see issue #4 for further discussion of well leakage). The persistent trend in decline of the geothermal aquifer continues to be the primary concern for the survival and recovery of the Bruneau Hot Springsnail.

Issue 8: A few comments indicated that funding has been provided for Bruneau Hot Springsnail conservation and that an accounting of that funding should be provided. The Bruneau Valley Coalition questioned what the Service has done specifically to protect the Bruneau Hot Springsnail.

Service Response: The U.S. Congress appropriated money to the Service to fund studies starting in 1987. Information gained from the studies was to be used to develop a cooperative conservation (management) plan to aid in the long-term conservation and protection of the Bruneau Hot Springsnail. To date a conservation plan has not been finalized. The three entities involved in the studies for the cooperative conservation planning efforts included the IDWR, USGS, and ISU. The IDWR was to accomplish three primary tasks through the studies: (1)

prepare a Geographic Information System (GIS) for the study area; (2) prepare geological maps to define the bedrock geology and record the location, elevation, flow and temperature of area springflows; and (3) evaluate and analyze Federal and State laws applicable to development of a conservation plan for the Bruneau Hot Springsnail and assess management alternatives open to IDWR to protect the species habitats. The Service also provided funds for the USGS to develop and implement a three-phase ground water study of the Bruneau River valley and basin. The study focused on the hydrology of the regional geothermal system and surrounding hot springs, with an overall goal to determine the cause of declining springflows affecting the Bruneau Hot Springsnail. Finally, the Service provided funds to the Stream Ecology Center, ISU, to study the biological, ecological, and physiological needs of the Bruneau Hot Springsnail. The Service also entered into a short-term conservation agreement with Owen Ranches, Inc., owners of much of the snail's habitat in Hot Creek and the Indian Bathtub springs. Terms of the agreement included fencing to regulate livestock use. Expiration of this agreement coincided with the completion of the hydrologic studies by USGS.

In 1990 through 1996, subsequent to the funding provided by the Congressional appropriation, the Service has provided funding to USGS, ISU, and IWRRI to continue various monitoring efforts. From September 1994 through September 1996, the Service provided funds to the USGS to conduct the following action items on an annual basis: (1) monthly water-level measurement for 11 wells in the Bruneau area; (2) semi-annual water-level measurement for one well; (3) operation of continuous water-level recorders in 6 wells; (4) monthly discharge measurements for 8 springs; (5) annual ground water pumpage in Sugar, Bruneau, and Little Valleys; and (6) flume construction for spring discharge measurement (first year only). Due to Service-wide funding shortfalls, these funds were unavailable after September 1996.

The Service also provided: funding to IWRRI to develop preliminary information regarding well-leakage (see issue #4 for more detailed information); funding to ISU in 1993 and 1996 to re-survey Bruneau Hot Springsnail habitats along the Bruneau River; and additional funding to ISU in 1994 to conduct a thermal spring invertebrate survey along the Bruneau River.

In addition to the Congressional appropriation and Service funding, the BLM has provided challenge cost-share funding from 1994 through 1997 to ISU to continue biological/ecological studies on the Bruneau Hot Springsnail at three monitoring sites. The BLM also funded the installation of additional fencing around Hot Creek drainage on the west side of the Bruneau River and cadastral surveys (elevational measurements) of selected springs in the Bruneau River. Maintenance of the fencing along the west side of the Bruneau River is being provided by the permittees in the affected allotments. An Environmental Assessment for fencing on the east side of the Bruneau River has been written, but is currently under protest by the Idaho Watershed Project. Until the concerns by this group are resolved, the BLM has provided upland watering for livestock as well as requiring permittees to provide weekly riding in the Bruneau River canyon and removal of any livestock that may stray into the river corridor.

Issue 9: Many respondents were concerned with the effect of the Conservation Reserve Program (CRP) reductions and asked whether the Service has consulted on proposed requirement and eligibility changes in the program. It was also asserted that the Service should encourage more participation in the CRP.

Service Response: As discussed under Factor A, ''Summary of Factors Affecting the Species'', the loss of participation in the CRP could have a serious effect on the continued withdrawal of water from the geothermal aquifer. As further discussed in issues #2, 4, 5 and Factors A and D in ''Summary of Factors Affecting the Species'' of this rule, water withdrawals have an effect on the continuing decline of the geothermal aquifer, and consequently the loss of thermal springs along the Bruneau River. In spite of the enrollment of nearly 6,880 acres of Bruneau area croplands in the CRP since 1981, water levels in the geothermal aquifer continued to decline. The Service believes that total well discharge has declined from a maximum of 61,526.7 dam^3 (49,900 ac-ft) in 1981 to 42,785 dam^3 (34,700 ac-ft) in 1991, in large part due to area farmer participation in the CRP. The Service continues to support the CRP and the Natural Resources Conservation Service (NRCS) in its efforts to promote participation in the program. However, landowner participation in the program is voluntary. If present water management practices continue, or the CRP lands are returned to production, or when drier spring and summer climatic conditions return, all affecting pumping rates and duration, water levels in the aquifer will either continue to decline or eventually stabilize at a lower level resulting in the further loss of Bruneau Hot Springsnail habitat.

In regards to the question of whether or not NRCS has consulted with the Service on the CRP, under section 7 of the Act, NRCS must make the determination whether the agency action is a ''major construction activity'' (50 CFR 402.12 (b)), and if so, the Federal agency must prepare a biological assessment of the action for listed species that occur in the action area (50 CFR 402.12 (j)). If the Federal agency determines that the action will likely adversely affect any listed species, the Federal agency must request formal consultation with the Service (50 CFR 402.12 (k)(1)).

The CRP is administered by the Farm Services Agency (FSA) on the local level. The process for participation in the CRP is as follows: (1) an FSA representative completes an environmental benefits evaluation for the proposed CRP agreement, which includes an evaluation of the potential benefits to listed species; (2) if the proposal is accepted, an FSA representative develops a contract with the landowner; and (3) the FSA representative completes an environmental evaluation checklist, including an evaluation of any potential impacts to listed species. The determination for listed species is reviewed by NRCS for technical assistance and, at the option of NRCS, is sent to the Service for informal consultation. To the Service's knowledge, there has been no request for consultation from NRCS on the new CRP.

Issue 10: A representative of the Southwestern Idaho Desert Racing Association stated that the use of off-road vehicles is not a threat to any sites occupied by the Bruneau Hot Springsnail. Therefore, no restrictions on off-road vehicle use should result from listing.

Service Response: The Service agrees that off-road vehicle use may not currently pose a threat to habitat occupied by the Bruneau Hot Springsnail. Under section 7 of the Act, it is the responsibility of the BLM to determine whether these activities pose a threat to the Bruneau Hot Springsnail or its habitat (see also issue #9). The consultation process would be completed if the Service and the BLM agreed that there was no effect on the listed species.

Issue 11: Some respondents believed that grazing does not currently

adversely impact the survival of the Bruneau Hot Springsnail or its habitat. In fact, grazing may actually improve habitat conditions by reducing overgrown vegetation that would otherwise render habitat unsuitable for the Bruneau Hot Springsnail.

Service Response: The Service agrees that the maintenance of adequate fencing has served to reduce the direct impacts from livestock grazing on this species and its habitat in the Hot Creek drainage and along the west side of the Bruneau River. Livestock grazing on Federal lands within or adjacent to Bruneau Hot Springsnail habitats is authorized by the BLM and would be evaluated by the Service at the request of, and in consultation with, the BLM. The Service does believe, however, that the continued failure by Bruneau Hot Springsnails to return into the upper Hot Creek drainage is not limited by increased vegetative cover as a result of removal of livestock in the Hot Creek drainage. As already noted in the Background section of this notice, recruitment appears to be limited by the continued lack of adequate springflows, preferred substrate surfaces, weak migration abilities, and lack of an upstream colonization source.

Issue 12: One comment expressed the concern that the Service did not provide the materials cited in the **Federal Register** notices of public comment periods outside of Boise.

Service Response: The Service provided copies of all materials cited in the public comment period **Federal Register** notices upon request. The Service has opened three separate comment periods, with the first comment period beginning on September 12, 1995 and the fourth comment period ending on June 9, 1997, for a total of 218 days. Due to requests from several individuals, the Service sent copies of materials to 15 individuals or groups including, but not limited to: the Idaho Farm Bureau Federation; Scott Campbell, representing the Bruneau Valley Coalition; Fred Grant, representing Owyhee County; John Uriquidi; Ted Hoffman; and Frank Sherman, representing IDWR.

Issue 13: Many respondents believe that the rights of private property owners will be violated as a result of restrictions associated with the listing of the Bruneau Hot Springsnail. The comments suggested that the Service should purchase private property considered essential to the Bruneau Hot Springsnail's survival, or should compensate landowners for not being able to fully utilize their property (e.g., through the loss of water rights or grazing leases). Additionally, a takings assessment should be prepared prior to any listing decision.

Service Response: Issuance of this rule will not constitute a taking of private property. This rule does not make a determination about activities that may occur on private property.

Issue 14: Some respondents indicated that the elevations of several springs (greater than 883.9 m (2,900 ft)) are higher than the Indian Bathtub spring elevation. They questioned the connection between these springs, the geothermal aquifer and water loss associated with the Indian Bathtub spring.

Service Response: All thermal springs containing Bruneau Hot Springsnails along the Bruneau River, including the Indian Bathtub spring, arise from a single, regional geothermal aquifer. Spring discharges in the Bruneau Valley are related to the potentiometric levels (the imaginary surface representing a total head of ground water and defined by the level to which water will rise in a well) in the geothermal aquifer. As discussed by Berenbrock (1993), Pence Hot springs has a lower elevation (787.9 m (2,585 ft)) than the Indian Bathtub spring (814.7 m (2,672.9 ft)). Prior to 1966, discharge from the Indian Bathtub spring ranged from about 6,587.5 to 9,687.5 L/min (1,700 to 2,500 gal/min). After 1966, discharge from the Indian Bathtub spring began to decline to the point of its current flow, which essentially ceases seasonally. However, some springs with lower elevations (e.g., Pence Hot Spring), continued to flow at ''normal'' rates through September 1996. The reduction or loss of flow for springs at higher elevations reflects the lower potentiometric surface within the aquifer. Berenbrock (1993) found four cones of depression in the potentiometric surfaces for both the sedimentary and volcanic-rock aquifers, the largest of which occurs in the sedimentary aquifer and reflects a long-term water-level decline due to withdrawals. As the potentiometric surface continues to decline, springs with lower elevations will be affected in the same manner as Indian Bathtub spring. The continued lowering of the potentiometric surface may have resulted in the disappearance of additional springs since 1991. (see issue #1 and Factor A, ''Summary of Factors Affecting the Species'' for further discussion of the loss of springs.)

The Service believes that the confusion regarding spring elevations stems from the spring surveys conducted by the BLM (Brunner, *in litt.* 1994). The Service's understanding of the measurements in the BLM document, is that all the springs measured (12 in total) were between 803.7 and 815.7 m (2636.09 and 2676.61 ft) with the Indian Bathtub spring at an elevation of 814.7 m (2672.89 ft). The measurements that are greater that these 12 springs were not actual springs but refer to reference and control sites used by the BLM for establishing the elevations of the springs (Brunner, *in litt.* 1994). Most of these higher ''elevation'' sites are located at the Bruneau River canyon rim (referred to as ''tie-in'' locations), or these sites represent a bench mark that was established as a control point to the tie-in locations. The elevation of the actual springs is within 1.2 m (4 ft) of Indian Bathtub spring. These springs are downstream of the Hot Creek confluence on the west side of the Bruneau River. Spring elevational measurements were taken at the initial point of spring discharge. Bruneau Hot Springsnails do not necessarily occur at that initial point but are usually found slightly lower on the rockface. This is due to tendency of the outflow to spread over the rockface, providing the wetted area necessary to create suitable habitat for Bruneau Hot Springsnail (see Background section for further details on habitat requirements).

In summary, although recent information indicates a slight increase in water levels at 5 of 16 wells between 1994 and 1996, the total number of thermal springs and Bruneau Hot Springsnail occupied habitats has declined since 1991 along the Bruneau River. The most significant threat, ground water withdrawals, has not been addressed for the species. Opposing comments were based primarily upon concerns that listing of the Bruneau Hot Springsnail would affect the allocation of water and impact agricultural development in the Bruneau Valley. Some opposing comments questioned the adequacy of the Service's data. The Service has continued to gather information regarding the status of the species since publication of the listing rule in 1993. As discussed in the ''Summary of Factors Affecting the Species'' section, the Service concludes that all of the remaining populations of the Bruneau Hot Springsnail continue to be at risk.

Issue 15: Commenters suggested that a National Environmental Policy Act (NEPA) analysis should be prepared prior to listing.

Service Response: For the reasons cited in the NEPA section of this rule, the Service has determined that rules issued pursuant to section 4(a) of the Act do not require the preparation of an

Environmental Assessment or Environmental Impact Statement.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Bruneau Hot Springsnail should continue to be classified as an endangered species. Procedures found at section 4 of the Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. Under the Act, species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). This determination is based on the ''Summary of Factors Affecting the Species'' and on comments received on the rule. These factors and their application to the Bruneau Hot Springsnail (*Pyrgulopsis bruneauensis*) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Agricultural-related ground water withdrawals threaten the continued existence of the Bruneau Hot Springsnail.

Ground water withdrawal and pumping threaten the Bruneau Hot Springsnail through a reduction or loss of thermal spring habitats resulting from the decline of the geothermal aquifer that underlies Bruneau, Little, and Sugar Valleys in north-central Owyhee County, Idaho. Within the past 25 years, discharge from many of the thermal springs along Hot Creek and the Bruneau River has decreased or has been lost, thus further restricting the Bruneau Hot Springsnail habitats (Young et al. 1979; Berenbrock 1993; Mladenka and Minshall 1996).

The Indian Bathtub area and Hot Creek represent the type locality of the Bruneau Hot Springsnail. By 1982, Taylor (1982) found that the Bruneau Hot Springsnail population in the Hot Creek/Indian Bathtub site had been significantly reduced by the reduction in spring discharge. Taylor (1982) noted that the core of the population occurred on vertical rock cliffs (rockface sites) protected from flash flood events. Varricchione and Minshall (1997) also found that ''The rockface sites are probably more suitable for Bruneau Hot Springsnail success . . .'' (page 50). Spring discharge in 1964 was approximately 9,300 L/min (2,400 gal/min), had dropped to between 503.8 to 627.8 L/min (130 to 162 gal/min) (Young et al. 1979), and by the summer of 1990 discharge was zero during the summer and early fall water withdrawal season (Berenbrock 1993). Taylor (1982) speculated that this reduction in rock-face seep flows would leave the species vulnerable to the occasional flash-flood events known to occur in the Hot Creek drainage. Today, water from the Indian Bathtub spring is below the ground surface and reemerges about 300 m (984.3 ft) below the bathtub area (Varricchione and Minshall 1997). Visible spring discharge at the Indian Bathtub continues to be seasonal and low, ranging from 0 to 11 liters per second (0 to .39 cubic feet per second) and is intermittent in most years (Varricchione and Minshall 1997; Cowing, *in litt.* 1996). This loss of discharge translates into a 10 m (35 ft) decline in water levels in the aquifer feeding the Indian Bathtub spring (Berenbrock 1993).

Beginning in the late 1890's, when ground water development for domestic and agricultural purposes began in the area of the geothermal aquifer, an estimated 339,075 dam^3 (275,000 ac-ft) of thermal water discharged from Indian Bathtub spring (Berenbrock 1993). Between 1982 and 1991, only 1,726 dam^3 (1,400 ac-ft) discharged from the spring (Berenbrock 1993). This decline in discharge from the Indian Bathtub spring was noted beginning in the mid-1960's and coincided with the accelerated increase in ground water withdrawal associated with a rapid increase in the amount of lands irrigated with ground water throughout the area. From the late 1890's through 1991, nearly 1,726,200 dam^3 (1,400,000 ac-ft) of water was discharged from flowing and pumped wells completed in the geothermal system (Berenbrock 1993).

According to Berenbrock (1993) the two most apparent effects of pumping stress are declines in hydraulic head and declines in spring discharge. Discharge fluctuations correspond with the pumping season; lower flows in the late spring to early fall and high flows during late fall to spring. Changes in discharge from thermal springs corresponds with changes in hydraulic head, which fluctuate seasonally and are substantially less during late summer than in the spring (Berenbrock 1993).

It should be noted that ground water withdrawals have generally declined over the past 15 to 20 years, primarily due to cropland retired from production through participation in the CRP (Berenbrock 1993). In the last 2 years, the time periods of ground water use during the irrigation seasons have been shorter and occurred later in the spring due to increased precipitation in Bruneau area (Cowing, *in litt.* 1996). However, water levels in the geothermal aquifer have continued to decline, with a possible slight increase in 5 of 16 wells at the completion of the 1995–1996 water withdrawal season (Cowing, *in litt.* 1996), again, due primarily to increased precipitation in 1995–1996 in the Bruneau area and thus less need for ground water withdrawals. The Service is concerned that the number of withdrawals may again increase in the next few years as croplands will again enter production when the current 10-year CRP expires. As of June 9, 1997, there were 24 active CRPs (acreage total is 6,880) in the Bruneau area, 13 of which are due to expire in October 1997 (acreage total is 5,500), 8 will expire in October 1998 (acreage total is approximately 1,000 acres) and the remaining CRPs will expire in October 1999 (Ron Abbott, Farm Service Agency (FSA), *in litt.* 1997). There are approximately 15,822 acres in CRP for all of Owyhee County. (See Factor D for further discussion of the CRP.) If present water management practices continue, or if the CRP lands are returned to production, or when drier spring and summer climatic conditions return, all of which affect pumping rates and duration, water levels in the aquifer will either continue to decline or will eventually stabilize at a lower level, resulting in the further loss of Bruneau Hot Springsnail habitat.

While the decline/loss in springflows at Indian Bathtub spring and several other springs has been documented, springflow data has not been collected in all the remaining 116 springs containing Bruneau Hot Springsnails. Mladenka (1992) believes that prior to the recent decline in water levels in the aquifer and resultant fragmentation of remaining populations, all of the springs and seeps supporting Bruneau Hot Springsnails were connected to allow the natural dispersal and transfer of individuals. The studies conducted by Mladenka (1992) and Mladenka and Minshall (1993, 1996) indicate a general decline in the total number of thermal springs along the Bruneau River, the number of springs occupied by Bruneau Hot Springsnails, and a general decline in densities of Bruneau Hot Springsnails (see Background section for further discussion). In 1993, Mladenka and Minshall found dead Bruneau Hot Springsnails at one previously occupied spring site where flows had recently diminished and nine spring sites showed noticeable reductions in discharge (Mladenka and Minshall 1993). The majority of Bruneau Hot Springsnail occupied thermal springs

are located upstream of the confluence of Hot Creek to the Bruneau River (Mladenka and Minshall 1996). Since 1991, the total number of thermal springs in the referenced section of the Bruneau River has decreased by approximately 5 percent, the number of springs occupied by Bruneau Hot Springsnails has decreased by 10 percent, and the total area occupied by Bruneau Hot Springsnails has decreased by 13 percent (Mladenka and Minshall 1996). Total site area (including all springs and seeps, occupied and unoccupied by Bruneau Hot Springsnails) increased by 4.3 percent from 1991 to 1996 (Mladenka and Minshall 1996). Most of this increase occurred due to lower flows resulting in more surface exposure of a single thermal spring outflow area below Buckaroo Dam, which is downstream of the majority of occupied springs (Mladenka and Minshall 1996). Further analysis of the total spring surface area shows a 32 percent decrease in upper (above the confluence with Hot Creek) occupied springs versus a 41 percent increase in lower occupied springs (Mladenka and Minshall 1996). This corresponds to a 20 percent decrease in the number of occupied sites upstream of the confluence of Hot Creek to the Bruneau River, a 17 percent decrease in the number of occupied sites at the confluence, and a 45 percent increase in the number of occupied sites downstream of the confluence (see Background section for further information). At this time there is no information available indicating how much lower water levels can continue to decline before all thermal springs along the Bruneau River are lost. As potentiometric surfaces in the geothermal aquifer continue to decline, additional spring discharges will be reduced or lost, resulting in the continued loss of Bruneau Hot Springsnail habitat.

In the original 1993 listing it was indicated that impacts had occurred as a result of cattle grazing in Bruneau Hot Springsnail habitats, especially along Hot Creek. These impacts included trampled instream substrates and habitats causing direct Bruneau Hot Springsnail mortality and displacement. Cattle also browsed and removed riparian vegetation, allowing temperatures to reach levels affecting reproduction or to ultimately be lethal to the Bruneau Hot Springsnail. Additionally, livestock grazing in the adjacent watershed, combined with ongoing drought conditions, contributed to an increase in sedimentation in Hot Creek, which eliminated Bruneau Hot Springsnail seep/spring habitats for almost 150 m (492 ft) in the Indian Bathtub/Hot Creek drainage.

The BLM has controlled livestock grazing by installing fencing on the north end of Hot Creek drainage and the west side of the Bruneau River. The BLM also plans to install additional fencing along the east side of the Bruneau River. Both fencing projects, if properly maintained, will protect Bruneau Hot Springsnail habitat from the effects of livestock.

The original 1993 listing stated that recreational access also impacts habitats of the Bruneau Hot Springsnail along the Bruneau River. For example, small dams are sometimes constructed to form thermal pools and improve conditions for bathing. Construction of these pools could impact Bruneau Hot Springsnails through habitat modification as rock substrates are moved, flow is altered and sediments are trapped. These pools can also alter and possibly destroy the madicolous habitats preferred by the Bruneau Hot Springsnail as pool water levels are raised. Most of the springs along the Bruneau River are inaccessible to bathers due to an abundance of poison ivy (Rhus radicans). One or two pools downstream of the confluence of Hot Creek are used by recreational bathers but Bruneau Hot Springsnails have not been verified in those locations. Therefore, recreational use of the thermal springs and outflows is not considered a significant threat.

In summary, the cumulative effects of water withdrawal continue to threaten the increasingly fragmented populations of the Bruneau Hot Springsnail and their thermal habitats.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

There are no commercial uses for this species. In other listing actions, certain mollusc species have become vulnerable to illegal collection for scientific purposes. Because the distribution of the Bruneau Hot Springsnail is restricted and generally well known, collection could become a threat to Bruneau Hot Springsnails.

C. Disease or Predation

There are no known diseases that affect Bruneau Hot Springsnails. Juvenile Bruneau Hot Springsnails (less than 0.7 mm) are vulnerable to a variety of predators (Mladenka 1992). Damselflies (Zygoptera) and dragonflies (Anisoptera) were observed feeding upon Bruneau Hot Springsnails in the wild. The presence of a large wild population of guppies in Hot Creek and several of the other small thermal springs downstream along the west bank of the Bruneau River is a potential threat to the Bruneau Hot Springsnail. Mladenka (1992) observed guppies feeding upon the species in the laboratory. In addition to guppies, a species of *Tilapia* has ascended into and reproduced in Hot Creek (Bowler 1992). The presence of this new potential ''exotic'' predator may constitute a threat to the Bruneau Hot Springsnail by restricting repopulation of the species into Hot Creek (Varricchione and Minshall 1997) and at other thermal spring sites that may be available to the Bruneau Hot Springsnail and the exotic fish species. Both of these exotic fish species can migrate into the Bruneau River corridor, both upstream and downstream of Hot Creek, and to other spring outflows when temperatures in the Bruneau River are suitable (usually during the summer months). Movement of these exotic fish species into other thermal springs occupied by the Bruneau Hot Springsnail might affect their continued survival within individual spring sites.

It should be noted that madicolous habitats support neither of these two exotic fishes or dragonflies, but do harbor numerous damselflies. During his study, Mladenka (1992) observed no birds preying on the Bruneau Hot Springsnails.

In summary, the Service considers the presence of predatory exotic fish species in Hot Creek and the Bruneau River drainage a possible threat to the Bruneau Hot Springsnail, which should be studied further.

D. The Inadequacy of Existing Regulatory Mechanisms

At least three State agencies could potentially assist in the protection of the Bruneau Hot Springsnail. The IDPR has authority under I. C. Section 18–3913, 1967, to protect only plants, with animals not given special protection on Idaho lands. The IDFG, under I. C. Section 36–103, is mandated to preserve, protect, perpetuate, and manage all wildlife. However, these mandates do not extend protection to invertebrate species.

The IDWR regulates water development in the Bruneau area. It is the policy of IDWR to regulate and conserve ground water resources from depletion or ''mining''. In *Baker* v. *Ore-Ida Foods, Inc* 95 Idaho 575, 513 P.2d 627, 635 (1973), the Idaho Supreme Court held that ''Idaho's Ground Water Act clearly prohibits the withdrawal of ground water beyond the average rate of recharge.'' However, any conservation measures imposed by IDWR to manage ground water ''mining'' are only for the

purpose of fulfilling senior water rights and not for the protection of fish and wildlife. At present, there is no specific allocation of either surface or ground water in the Bruneau area for the protection and conservation of fish and wildlife. In 1982, the IDWR established the Bruneau-Grandview GWMA pursuant to provisions of I. C. Section 42–233a ''* * * to identify the area as approaching the conditions of a critical ground water area'' (IDWR 1992). This GWMA designation has allowed the IDWR to continue to receive and hold without action applications for water permits until it can be demonstrated that the proposed withdrawal will not adversely impact other water rights in the GWMA. Due to the continued decline in water levels in the geothermal aquifer, no applications for agriculture withdrawal within the GWMA have been approved since 1982. Without recovery of water levels, IDWR does not anticipate modification of the GWMA designation any time soon. In any event, GWMA designations are intended only to maintain sufficient ground water to fulfill existing water rights and supply the needs of irrigation, and not for the protection and conservation of fish and wildlife.

The Bruneau area is also located entirely within the area of an ongoing water rights adjudication (Snake River Basin Adjudication). A Director's Report, due to the court in 1994, was to clarify existing water rights and water uses and permit IDWR to eliminate water rights that are of record but are no longer utilized. The IDWR also believes the adjudication process will need to be completed prior to the development and implementation of ground water conservation measures on behalf of the Bruneau Hot Springsnail that may affect existing water rights and uses since ''without completing this adjudication process there is no effective way to determine the existence or validity of water rights to serve as the basis for delivery'' (IDWR 1992). As of June 9, 1997, the Director's report, filed with the court, has not included agricultural reports from the Bruneau area.

In 1995, the State of Idaho authorized the creation and supervision of Water Management Districts (WMD) by IDWR (Idaho Code (I.C.) 42–705 *et. seq.*). Among the activities to be performed by a qualified district hydrographer in a WMD is—the monitoring of ground water levels at ground water diversions before the pumping period begins and during the pumping period; and immediate reporting to the Director of the diversion of any water appearing to be diverted without a water right or in violation of a water right. To date, the Bruneau/Grandview area has not been designated as a WMD. The Service is aware of only one WMD that is to be developed for the State of Idaho—for the Eastern Snake River Plain.

Under the Idaho Ground Water Act, IDWR also regulates the construction and maintenance of geothermal (I. C. Section 42–238(4)) and artesian (I. C. Sections 42–1601 and 42–1603) wells so that they operate to conserve ground water resources and prevent unnecessary flow and waste. The IDWR in 1990 identified several artesian wells in the Bruneau area ''* * * leaking water at land surface or potentially wasting water in the subsurface due to inappropriate well construction techniques'' (IDWR 1992). To date no action has been taken to have these leaking wells rehabilitated so that the aquifer pressures can be preserved or increased. In 1995, the Service had provided funding to IWRRI to research the problem of well leakage in the Bruneau Valley. As of June, 1997, only one landowner had volunteered to participate in the research. The results of the research by IWRRI have not yet been submitted to the Service.

In summary, the IDWR has authority to control ground water and can limit the development of new wells in a critical ground water area, impose water conservation measures, and also require meters on existing wells. To date, no action has been taken by IDWR to regulate implementation of water conservation actions or metering and repair of wells. IDWR has stated that ''* * * the Director has no authority under State law to shut down prior vested water rights in order to protect an endangered species'' (IDWR 1992). Therefore, measures taken by IDWR have been inadequate for the protection and recovery of habitats for the Bruneau Hot Springsnail.

The BLM manages the public lands containing Bruneau Hot Springsnails and their habitats along Hot Creek and the Bruneau River. The BLM issues permits for livestock grazing on these lands and grants authorizations that could lead to the drilling of new wells or increased ground water use on BLM lands. In the past, the BLM has shown an interest in conserving the species and has solicited input from the Service regarding impacts that may result from any proposed activities. As discussed in Factor A, the BLM has implemented fencing to protect Bruneau Hot Springsnail habitats from grazing impacts.

The CRP is authorized under the Food Security Act of 1985, as amended, to implement a voluntary program that offers annual rental payments, incentive payments for certain activities, and cost-share assistance to establish approved cover on eligible cropland (U.S. Department of Agriculture (USDA) 1997). This program encourages farmers to plant long-term resource-conserving covers to improve soil, water, and wildlife resources. The duration of the contracts are between 10 and 15 years (USDA 1997). As discussed in Factor A, all of the current lands in CRP will expire by 1999. It is unlikely that all those eligible for the new CRP agreements will participate due to a dramatic drop in the rental rates (from about $50 per acre to about $20 per acre) currently offered through the CRP (Abbott, *in litt.* 1997). Area landowners have indicated that this drop in rental fees will not provide the necessary incentive to continue participating with the CRP.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Sedimentation of Bruneau Hot Springsnail habitats is a threat to this species. Summer floods and mudflows during 1991 and 1992 delivered significant amounts of sand, silt and gravel to upper Hot Creek, and as of July 1992, completely filling the Indian Bathtub with at least 1 m (3 ft) of sediment (Robinson, et al., 1992). Following sediment delivery from a flash flood in October 1992, additional springflows have been completely covered over and Bruneau Hot Springsnail habitat eliminated from approximately 150 m (492 ft) in upper Hot Creek below the Indian Bathtub. While flash floods probably occurred historically, the decreased flushing effects of declining springflows have resulted in the filling in of Bruneau Hot Springsnail habitats at the Indian Bathtub and upper Hot Creek. Sediment deposited by periodic flash floods cannot be flushed by the remaining weak and declining springflows. Measures which could protect Bruneau Hot Springsnail spring/seep habitats in the Indian Bathtub and Hot Creek from the effects of flash flooding have not been implemented. These measures include the construction of small retention dams in the Hot Creek watershed to trap runoff sediment while maintaining thermal seep habitats. Therefore, sedimentation and flooding continue to threaten Bruneau Hot Springsnail habitat.

Determination

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by the Bruneau Hot Springsnail. Based on this

evaluation, the preferred action is to retain the Bruneau Hot Springsnail as an endangered species. The species persists in only a few isolated thermal springs and seeps in Hot Creek and along an 8 km (5 mi) reach of the Bruneau River characterized by temperatures ranging from 15.7 to 35° C (60.3 to 95°). The free-flowing thermal spring and seep environments required by the Bruneau Hot Springsnail have been impacted by and are vulnerable to continued reduction from agricultural-related ground water withdrawal/pumping. The species and its habitat are also vulnerable to habitat modification from the effects of flash floods. The remaining complex of thermally related springs and their immediate outflows are not protected from the threats previously discussed. Existing regulations do not provide adequate protection to prevent further direct or indirect habitat losses. The Bruneau Hot Springsnail is in danger of extinction throughout all or a significant portion of its range, and therefore, fits the definition of endangered as defined in the Act.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Author

The primary author of this rule is Jeri Wood, Snake River Basin Office, U.S. Fish and Wildlife Service, 1387 S. Vinnell Way, Room 386, Boise, Idaho (208/378–5243).

Authority

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

Dated: June 5, 1998.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 98–16099 Filed 6–16–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE97

Endangered and Threatened Wildlife and Plants; Listing of Several Evolutionarily Significant Units of West Coast Steelhead

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) is adding several Evolutionarily Significant Units (ESUs) of west coast steelhead (*Oncorhynchus mykiss*) to the List of Endangered and Threatened Wildlife (List) in accordance with the Endangered Species Act of 1973, as amended (Act). The Southern California and Upper Columbia River Basin ESUs are added as endangered, and the Central California Coast, South-Central California Coast, Snake River Basin, Lower Columbia River, and Central Valley California ESUs are added as threatened. This amendment is based on determinations by the National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Department of Commerce, which has jurisdiction for this species.

DATES: The effective date for listing of the Southern California and Upper Columbia River Basin ESUs as endangered and the Central California Coast, South-Central California Coast, and Snake River Basin ESUs as threatened is October 17, 1997. The effective date for listing of the Lower Columbia River and Central Valley California ESUs as threatened is May 18, 1998.

ADDRESSES: Division of Endangered Species, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Mail Stop 452, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: E. LaVerne Smith, Chief, Division of Endangered Species, at the above address or telephone 703/358–2171.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the Act and Reorganization Plan No. 4 of 1970, NMFS has jurisdiction over west coast steelhead. Under section 4(a)(2) of the Act, NMFS must decide whether a species under its jurisdiction should be classified as endangered or threatened. The Service is responsible for the actual amendment of the List in 50 CFR 17.11(h).

On August 9, 1996, NMFS published a proposed rule to list as endangered or threatened 10 ESUs of west coast steelhead in Washington, Oregon, Idaho, and California (61 FR 41541). On August 18, 1997, NMFS published a final rule listing five of these ESUs: the Southern California and Upper Columbia River Basin ESUs were listed as endangered, and the Central California Coast, South-Central California Coast, and Snake River Basin ESUs were listed as threatened (62 FR 43937).

Also on August 18, 1997, NMFS published a notice announcing that substantial scientific disagreement remained for the remaining five ESUs proposed for listing on August 9, 1996. The notice extended the deadline for a final listing determination for these five ESUs for 6 months to solicit, collect, and analyze additional information from NMFS scientists, co-management scientists, and scientific experts to enable NMFS to make a final listing determination based on the best available data. On March 19, 1998, NMFS published a final rule listing two of these five ESUs, the Lower Columbia River and the Central Valley California ESUs, as threatened (63 FR 13347).

The proposed rules identified above solicited comments from peer reviewers, the public, and all other interested parties. The final rules addressed the comments received in response to the proposed rules. Because NMFS provided public comment periods on the proposed rules, and because this action of the Service to amend the List in accordance with the determinations by NMFS is nondiscretionary, the Service has omitted the notice and public comment procedures of 5 U.S.C. 553(b) for this action.

National Environmental Policy Act

The Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

Accordingly, the Service amends part 17, subchapter B of chapter I, title 50 of

the Code of Federal Regulations, as follows:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend section 17.11(h) by adding the following, in alphabetical order under FISHES, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
FISHES							
*	*	*	*	*	*	*	
Steelhead	*Oncorhynchus mykiss.*	North Pacific Ocean from the Kamchatka Peninsula in Asia to the northern Baja Peninsula.	All naturally spawned populations (and their progeny) in rivers from the Santa Maria R., San Luis Obispo County, CA (inclusive) to Malibu Cr., Los Angeles County, CA (inclusive).	E	*638*	NA	NA
Do	.....do	.....do	All naturally spawned populations (and their progeny) in the Upper Columbia R. Basin upstream from the Yakima R., WA, to the U.S./Canada border, and also including the Wells Hatchery stock.	E	*638*	NA	NA
Do	.....do	.....do	All naturally spawned populations (and their progeny) in streams from the Russian R. to Aptos Cr., Santa Cruz County, CA (inclusive), and the drainages of San Francisco and San Pablo Bays eastward to the Napa R. (inclusive), Napa County, CA, excluding the Sacramento-San Joaquin R. Basin of the Central Valley of CA.	T	*638*	NA	NA
Do	.....do	.....do	All naturally spawned populations (and their progeny) in streams from the Pajaro R. (inclusive), located in Santa Cruz County, CA, to (but not including) the Santa Maria R.	T	*638*	NA	NA

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Do	...do	...do	All naturally spawned populations (and their progeny) in streams in the Snake R. Basin of southeast WA, northeast OR, and ID.	T	*638*	NA	NA
Do	...do	...do	All naturally spawned populations (and their progeny) in streams and tributaries to the Columbia R. between the Cowlitz and Wind Rivers, WA, inclusive, and the Willamette and Hood Rivers, OR, inclusive, excluding the Upper Willamette River Basin above Willamette Falls and excluding the Little and Big White Salmon Rivers in WA.	T	*638*	NA	NA
Do	...do	...do	All naturally spawned populations (and their progeny) in the Sacramento and San Joaquin Rivers and their tributaries, excluding San Francisco and San Pablo Bays and their tributaries.	T	*638*	NA	NA
*	*	*	*	*	*	*	

Dated: May 11, 1998.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 98–16110 Filed 6–16–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 980318066–8066–01; I.D. 061198B]

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Commercial Cod Harvest

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

ACTION: Reduction of cod landing limit.

SUMMARY: NMFS issues this notification to announce that the Administrator, Northeast Region, NMFS (Regional Administrator), has projected that 892 metric tons (mt) of the target total allowable catch (TAC) for the Gulf of Maine (GOM) cod stock will be harvested as of 2400 hrs, local time, June 24, 1998, and that vessels fishing under a non-exempt multispecies days-at-sea (DAS) may not possess more than 400 lb (181.4 kg) of cod per DAS for any trip ending on or after 0001 hrs, local time, June 25, 1998.

DATES: Effective 0001 hrs, local time, June 25, 1998.

FOR FURTHER INFORMATION CONTACT: Susan A. Murphy, Fishery Policy Analyst, 978–281–9252.

SUPPLEMENTARY INFORMATION: Regulations implementing Framework Adjustment 25 (63 FR 15326, March 31, 1998) became effective May 1, 1998. To ensure that GOM cod landings remain within the target TAC of 1,783 mt established for the 1998 fishing year, Framework 25 provides a mechanism to reduce the 700–lb (317.5–kg) per DAS landing limit to as low as 400–lb (181.4–kg) per DAS, based on the rate of catch and the risk of exceeding the target TAC. Section 648.86(b)(1)(i) specifies that this mechanism is triggered when the Regional Administrator has projected that 892 mt will be harvested. Further, this section stipulates that NMFS will publish notification in the

Federal Register informing the public of the date of the reduction.

Based on the available information, the Regional Administrator has projected that 892 mt will be reached on 2400 hrs, local time, June 24, 1998. Given the ratio rate at which this trigger amount was reached, the Regional Administrator has determined that the landing limit must be reduced to the lowest authorized level. Therefore, the cod landing limit, pursuant to § 648.86(b)(1)(i), has been reduced to 400 lb (181.4 kg) per DAS, except as provided under § 648.86(b)(1)(ii) and (b)(2) for any trip ending on or after 0001 hrs, local time, June 25, 1998.

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12286.

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

Dated: June 11, 1998.

Gary Matlock,

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

[FR Doc. 98–16027 Filed 6–12–98; 9:51 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 63, No. 116
Wednesday, June 17, 1998

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

OFFICE OF MANAGEMENT AND BUDGET

5 CFR Part 1315

RIN 0348–AB47

Prompt Payment

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Proposed rule.

SUMMARY: This document requests comment on proposed regulations which will revise and replace Office of Management and Budget (OMB) Circular No. A–125, ''Prompt Payment.'' This proposal is being made to reflect requirements of the Debt Collection Improvement Act of 1996 as well as an increasingly electronic commercial financial systems environment; to promote the use of government credit cards and accelerated payment methods; to clarify and simplify current language; and to announce a new toll-free number and internet website for Prompt Payment Act information. The prompt payment implementing regulations are provided in a uncodified format for comment purposes. These regulations will be codified at the final rule stage in 5 CFR Part 1315, unless pending legislation transfers the authority for issuing these regulations to the Department of the Treasury. In that case, they will be codified in Title 31 of the Code of Federal Regulations.

DATES: Comments must be received by August 17, 1998. The prompt payment regulations are proposed to be effective 30 days after final publication of the final rule. For payments under contracts or purchase orders solicited on or after July 26, 1996, the requirement to collect banking information, for purposes of making an EFT payment pursuant to 31 U.S.C. 3332, as amended, is proposed to be effective 30 days after publication of the final rule. For payments under contracts or purchase orders solicited before July 26, 1996, the requirement to collect banking information is proposed to be effective January 2, 1999.

ADDRESSES: All comments should be addressed to Cynthia L. Johnson, Director, Cash Management Policy and Planning Division, Financial Management Service, U.S. Department of the Treasury, Room 420, 401 14th Street S.W., Washington, D.C. 20227.

Copies of the current and proposed circulars and other information are available from the Prompt Pay website at http://www.fms.treas.gov/prompt/index.html or from the Treasury Department, Financial Management Service website at the following address: http://www.fms.treas.gov/. Copies of the current and proposed circulars are also available from the Executive Office of the President's Publications Office, Room 2200 New Executive Office Building, 725 17th Street NW, Washington, D.C. 20503, phone (202) 395–7332, and via fax-on-demand at (202) 395–9068.

FOR FURTHER INFORMATION CONTACT: Martha Thomas-Mitchell, Financial Program Specialist on (202) 874–6757; Diana Shevlin, Financial Program Specialist on (202) 874–7032; Sally Phillips, Senior Financial Program Specialist on (202) 874–6749; or, Cynthia Johnson, Director, Cash Management Policy and Planning Division on (202) 874–6657.

SUPPLEMENTARY INFORMATION:

I. Introduction

In 1982, Congress enacted the Prompt Payment Act (''Act''; Pub. L. 97–177) to require Federal agencies to pay their bills on a timely basis, to pay interest penalties when payments are made late, and to take discounts only when payments are made by the discount date. The Act, as amended, is found at 31 U.S.C. Chapter 39. To implement the Act, and pursuant to 31 U.S.C. 3903(a), OMB issued Circular A–125 (''Prompt Payment'') in August 1982 (47 FR 37321, August 25, 1982). In response to changes to the Act that Congress made in the Prompt Payment Act Amendments of 1988 (Pub. L. 100–496), OMB revised Circular A–125 in December 1989 (54 FR 52700, December 21, 1989).

The increased use of electronic commerce, in the Federal government and in the private sector, including electronic financial systems and electronic funds transfer, require that Circular A–125 be updated in light of current practices. The use of electronic commerce is a priority in the current administration. In a memorandum to agencies dated October 26, 1993, President Clinton emphasized the need for and importance of electronic commerce as a means for streamlining government and saving taxpayer dollars. 3 CFR 791 (1993 Comp.). The National Performance Review (NPR), headed by Vice President Al Gore, recommended examining government practices to streamline regulations and processes and, in particular, called for an ''all electronic Treasury.'' The president's directive and the NPR recommendations resulted in the establishment of an inter-agency workgroup to revise the current circular to reflect the changing commercial environment while streamlining the Federal payment function through the increased use of electronic commerce. The Department of Treasury's Financial Management Service (''FMS'') led the revision effort on behalf of the Office of Management and Budget. (Under proposed legislation pending in Congress, responsibility for regulations and reporting under the Act would be transferred from OMB to the Treasury Department.)

II. Proposed Revisions to Circular A–125

In this proposed revision to the circular, its provisions have been reorganized. For example, in most cases the requirements for certain types of payment have been consolidated in the section on that payment. Thus, whereas determining the payment due date for discounts and determining whether to take a discount are discussed separately in the current circular (see Sections 4.i. and 4.m.), they are found together in the proposed circular in Section 6 entitled ''Discounts.'' In addition, several provisions have been added to the revised circular. For example, the revised circular is expanded (see Section 5) to include options for making payments before 30 days if doing so is in the best interests of the government and promotes electronic payments. The circular has also been revised to clarify and simplify current language. Finally, the circular announces a new toll-free number, 1–800–266–9667, for questions about Prompt Pay policy, reporting requirements and previous and current Prompt Pay interest rates. The circular

also announces a Prompt Pay website at http://www.fms.treas.gov/prompt/index.html. The website will contain, among other things, rate information, frequently asked questions, copies of current circulars and links to other related websites. The website may also be accessed through FMS' website at http://www.fms.treas.gov/.

The following describes how the Circular has been reorganized, and it explains the more significant changes and clarifications.

A. Proposed Revisions Implementing the Debt Collection Improvement Act

On April 26, 1996, the president signed into law the Debt Collection Improvement Act of 1996 (''DCIA''; Pub. L. 104–134) requiring that, in the first phase, all new Federal payments, including vendor payments, be made electronically on or after July 26, 1996. Treasury Department regulations implementing this phase of the DCIA (31 CFR 208, Management of Federal Agency Disbursements, Interim Rule) define a new Federal vendor payment as one which must be paid by EFT if ''the payment is made under a contract or purchase order resulting from a solicitation issued on or after July 26, 1996.'' All vendor payments must be made electronically after January 1, 1999. Treasury Department regulations implementing this phase of the DCIA are scheduled to be published in the summer of 1998.

The revised circular (Section 8.b(8)) requires the collection of banking information in order to make an EFT payment as required by the DCIA unless the payment is waived under 31 C.F.R. Part 208. The circular (Section 8.b.(7)) also requires the collection of the Taxpayer Identifying Number (TIN). The TIN is required under DCIA for debt collection and under the Internal Revenue Code for vendor income reporting. *See* 31 U.S.C. 7701(c); 26 U.S.C. 6109. The Treasury Department requires each agency to prepare a TIN implementation plan to document agency strategies for achieving compliance with the TIN provisions of the DCIA, and to identify barriers to collecting and providing TINs.

B. Other Proposed Revisions

1. The ''Definitions'' section (Section 1 of the current circular) has been moved to the end of the regulation (Section 18). In addition, the term ''contractor'' has been replaced with the term ''vendor,'' and the terms ''paying office'' and ''billing office'' have been changed to ''designated agency office.''

2. The ''Application'' section (Section 2 of the current circular) has been redesignated Section 1. The section includes one additional exception to the Prompt Payment Act requirements. This exception is for payments related to certain specified emergencies and military operations (Section 1.b(2)).

3. The ''Responsibilities'' section (Section 3 of the current circular) has been redesignated Section 2. Specific guidance on establishing a quality control program (Section 3.e. of the current circular) has been replaced with general guidance on implementing a quality control process (Section 2.b.). Quality Control (QC) systems are required by OMB Circular A–123, ''Management Accountability and Control.''

In addition, Section 2.c of the revised circular provides standards for agencies' financial management systems to ensure that they are in compliance with OMB Circular A–127, ''Financial Management Systems.''

4. The ''Standards for Prompt Payment'' section (Section 4 of the current circular) has been redesignated Section 3 and retitled ''Prompt Payment Standards and Required Notice to Vendors.'' Several changes have been made to this section.

The revised circular (Section 3.b) clarifies when an invoice is deemed to be received for invoices that are mailed or received electronically, or when a delivery ticket serves as the invoice.

The revised circular (Section 3.c(3)) provides that agencies may use computer-related media in place of paper documents to expedite payment transactions, as long as there are adequate safeguards and controls to ensure the integrity of the data.

''Starting the Payment Period'' (Section 3.f.) has been reorganized to include all discussion related to calculating the start of the payment period. Section 3.f. combines the discussions found in the current circular ''Receipt of invoice'' (Section 1.n.) and ''Starting the Payment Period'' (Section 4.d.). This provision also includes the addition of an acceptance document or delivery ticket as the basis for starting the payment period.

''Determining the payment due date'' (Section 3.g(1)) has been expanded to include payments due when discounts are taken and when accelerated payment methods are used.

''Mixed invoices for commodities'' (Section 3.g(2)D) now includes the provision that the entire invoice may be paid on the due date for the commodity with the earliest due date, if it is considered in the best interests of the agency.

Guidance on notification for an improper invoice (Section 4.b(3) of the current circular) has been moved to the section on ''Review of Invoice'' (Section 3.c(2)).

5. Section 4 of the proposed regulation, ''Accelerated Payment Methods,'' has been added. It includes a provision which allows agencies to make payments for invoices under $2,500 after matching documents. This section also provides for early payment for small, disadvantaged businesses, and for payments related to emergencies and disasters, as well as for military deployments.

6. Section 5 of the proposed regulation, ''Fast Payment,'' replaces Section 12 of the current circular. The section on ''Fast Payment'' requires that payment be made within 15 days of receipt of a proper invoice without evidence that goods or services have been received. References to Federal Acquisition Regulation (FAR) clauses for Fast Payment are included.

7. Section 6 of the proposed regulation, ''Discounts,'' has been added and consolidates the requirements related to discounts. The reference to the discount formula found in the Treasury Financial Manual has been updated.

8. Section 7 of the proposed regulation, ''Rebates,'' has been added to the circular. The section instructs agencies to determine credit card payment dates based on an analysis of the total costs and total benefits to the Federal government as a whole. When calculating costs and benefits, agencies are expected to include the cost to the government of paying early. This cost is the interest the government would have earned, at the Current Value of Funds rate, for each day that payment was not made. Agencies may also factor in the benefits, from streamlining or other efficiencies, to the agency of paying early. Treasury will publish a rebate formula in the Treasury Financial Manual (TFM) which can be used to determine when a credit card invoice should be paid. The Current Value of Funds rate is available by the toll-free number and internet website listed above.

9. The ''Required Documentation'' section (Section 5 of the current circular) has been redesignated Section 8.

Agencies are required (Section 8.a.(8)) to stipulate that banking information must be submitted no later than the first request for payment in order to make payments electronically as required by the Debt Collection Improvement Act of 1996, except in situations addressed in the waiver provisions for 31 CFR Part 208. Agencies will use the appropriate

Federal Acquisition Regulation electronic funds transfer contract clause.

In order for an invoice to be a proper invoice, banking information and TINs are required to be collected on the invoice unless previously collected in another manner (Section 8.b(7)–(8)). This requirement ensures that payment will be made by EFT, unless waived by the Secretary of the Treasury in 31 CFR 208. This requirement also ensures compliance with collecting TINs. This requirement gives agencies flexibility in determining how banking information and TINs will be collected. Agencies are encouraged to collect this information at the earliest possible date, including as a condition of awarding a contract. The Central Contractor Registry (CCR) requires this information as a condition of awarding a contract. The CCR is a mandatory contractor enrollment system for the Department of Defense. Although not mandatory for civilian agencies, some civilian agencies are voluntarily using the CCR.

10. Section 6 of the current circular, ''Required notices to vendors,'' has been removed. The notice of interest penalties is discussed in Section 9, ''Late payment interest penalties.'' The notice of defective invoice is discussed in Section 3.c, ''Review of Invoice.''

11. The ''Late Payment Interest Penalties'' section (Section 7 of the current circular) has been redesignated Section 9. Several changes have been made to this section.

Agencies are exempt from paying late interest penalties if banking information supplied by the vendor is incorrect and/or incomplete (Section 9.a(8)).

In the notice to vendors on late payment interest penalties, the contract number is optional (Section 9.b(3)). However, the invoice number or other agreed upon transaction reference number is required to assist the vendor in reconciling the payment.

Interest penalties are not required when an EFT payment is not credited to the vendor's account by the payment due date because of the failure of the Federal Reserve or the vendor's bank to do so (Section 9.c(4)).

12. The ''Additional Penalties'' section (Section 8 of the current circular) has been redesignated Section 10. The maximum allowable additional penalty is $5,000 (Section 10.b).

13. Section 11 of the proposed regulation, ''Payments under Government Credit Card,'' has been added and allows agencies to pay credit card invoices under $2,500 without matching documents and without applying the discount formula in I TFM 6–8040.40. Undisputed items must be paid on time.

14. Section 9 of the current circular, ''Interest Penalties Due Farm Producers,'' has been redesignated Section 12 and retitled ''Payment to Farm Producers.'' The section has been reorganized to follow the same format as other sections. The list of loan and closing dates for payments made under various agricultural programs has been removed because these programs periodically change. Accordingly, Section 12 refers the reader to the current Farm Bill (7 U.S.C. 1421 *et seq.*) which lists loan and closing dates for payments made under current Farm Bill programs.

15. Section 10 of the current circular, ''Interest Penalties under Construction Contracts,'' has been redesignated Section 13 and retitled ''Payments under Construction Contracts.'' The section has been reorganized to follow the same format as other sections. In addition, the discussion in current circular 5.d. related to required documentation for construction contracts is moved to this section.

16. Section 11 of the current circular, ''Grant Recipients,'' has been redesignated Section 14.

17. As noted above, Section 12 of the current circular, ''Payment without evidence that supplies have been received,'' has been replaced by Section 5.

18. The ''Relationship to other laws'' section (Section 13 of the current circular) has been redesignated Section 15.

19. The ''Reporting Requirements'' section (Section 14 of the current circular) has been redesignated Section 16, and its reporting requirements have been reduced. Information concerning the relative frequency and frequency distribution of penalties (see Section 14.b(3)–(4) of the current circular) is no longer required. An ''other'' category has been added to the provision requiring reasons why interest penalties were incurred (Section 16.a(2)E).

20. The ''Inquiries'' section (Section 16 of the current circular) has been redesignated Section 17. As noted above, this section announces a new toll-free number, 1–800–266–9667, for questions about Prompt Pay policy, reporting requirements and previous and current Prompt Pay interest rates. This section also announces a Prompt Pay website at http://www.fms.treas.gov/prompt/index.html. The website will contain, among other things, rate information, frequently asked questions, copies of current circulars and links to other related websites. The website may also be accessed through FMS'' website at http://www.fms.treas.gov/.

21. As noted above, the ''Definitions'' section has been moved from Section 1 of the current circular to Section 18 of the proposed regulation.

22. The ''Effective Dates'' section (Section 15 of the current circular) has been redesignated Section 19. Except as otherwise provided in Section 19, the proposed regulation is effective 30 days after final publication.

Finally, OMB seeks comment on how the Federal government can address the problem of one Federal agency making a late payment to another Federal agency for goods or services. Interagency payments have historically been problematic for the Federal government because some Federal agencies make late payments to other Federal agencies for goods and services, and because there is not one standard method available to make these payments. These late payments sometimes result in costs to agencies in collecting overdue amounts. OMB seeks comment on the nature and magnitude of this problem, and requests recommendations on how the problem could be addressed (e.g., through a provision in the interagency agreements themselves, the application of some existing provision of law, or the enactment of new legal remedies).

Regulatory Flexibility Act, Unfunded Mandates Reform Act, and Executive Orders 12866 and 12875

Pursuant to 31 U.S.C. 3903(a), the provisions of the proposed revision and replacement of Circular A–125 constitute regulations. For purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the proposed regulations will not have a significant economic effect on a substantial number of small entities; the regulations implement the Prompt Payment Act, which requires Federal agencies to pay their bills on a timely basis, to pay interest penalties when payments are made late, and to take discounts only when payments are made by the discount date. For purposes of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), as well as Executive Orders No. 12866 and 12875, the proposed regulations will not significantly or uniquely affect small governments, and will not result in increased expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more.

OMB requests comments on the proposed revisions discussed above, as well on all other parts of the revised circular.

List of Subjects in 5 CFR Part 1315

Administrative practice and procedure, Government contracts, Penalties.

Jacob J. Lew,

Acting Director.

OMB proposes that Circular A–125 be revised to read as follows:

Attachment—OMB Circular No. A–125

(Revised)

To: The Heads of Executive Departments and Establishments

Subject: Prompt Payment

Purpose. Circular A–125 (2nd Revision) prescribes policy for the Executive departments and agencies in paying for goods and services pursuant to the Prompt Payment Act of 1982 as amended. It is the intent of this Circular and implementing regulations that the Federal Government pay commercial obligations accurately and timely using financial cash management tools.

Background. The Prompt Payment Act was enacted as P.L. 97–177 on May 21, 1982, and amended on October 17, 1988, as P.L. 100–496. The Prompt Payment Act (the Act), as amended, requires Executive departments and agencies to pay commercial obligations within specific discrete time periods and to pay interest penalties when those time constraints are not met. Circular A–125 also provides policy direction for payment of entitlements due under the current Farm Bill.

Policy. Agencies are to maintain payment practices consistent with this Circular and the implementing procedures attached to the Circular. Agencies must make payments for commercial obligations on properly submitted invoices on payment due dates set by the attached implementing procedures. Unless otherwise specified in this Circular or agency regulations, payments cannot be made until proper invoices have been received for goods or services that have been received and accepted by the agency and contract terms have been satisfactorily performed or fulfilled. Payments under certain accelerated payment methods may be made before the specified due date. Payments made later than the payment due date or later than the discount due date if a discount is taken, may be subject to interest penalties and possibly additional penalties. Valid interest penalties will be paid by the agency automatically and additional penalties will be paid after receiving a written request from the vendor. These penalties will be paid from funds available for the administration of the program for which the penalty was incurred. Agency implementation must be consistent with sound cash management practices, related Treasury regulations (Treasury Financial Manual, I TFM 6–8000, section 8040), and the Federal Acquisition Regulation (48 CFR subpart 32.9 and FAR Clause 52.232) or appropriate agency regulations.

The Debt Collection Improvement Act of 1996 requires all Federal agencies to make payments electronically after January 1, 1999, except for Internal Revenue Service tax refunds and except as waived in 31 CFR Part 208. The Act also requires the collection of the Taxpayer Identifying Number (TIN) for purposes of debt collection. This circular requires that banking information for purposes of making electronic payments and the TIN be on an invoice unless this information has been previously provided to the agency through other procedures.

Requirements and Responsibilities. The specific requirements and responsibilities of Executive departments and agencies are set forth in the implementing regulations.

Inquiries. Questions about this circular and inquiries about payments practices or concerning problems of Executive agencies should be directed to the Financial Management Service, Department of the Treasury, Telephone: 1–800–266–9667. The circular, agency guidance, answers to frequently asked questions and other general information is available on the Internet at http://www.fms.treas.gov/prompt/index.html. It is also available in printed form upon request to the above telephone number.

Effective date. Unless otherwise specified, this circular is effective 30 days after final publication.

Sunset Review Date. Three years from the date of issuance of this circular, there will be an independent policy review to ascertain its effectiveness.

Jacob J. Lew,

Acting Director.

Note: The following prompt payment implementing regulations are provided in a uncodified format for comment purposes. These regulations will be codified at the final rule stage in 5 CFR Part 1315, unless pending legislation transfers the authority for issuing these regulations to the Department of the Treasury. In that case, they will be codified in Title 31 of the Code of Federal Regulations.

Prompt Payment Implementing Regulations

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1. Application

a. Procurement contracts. This regulation applies to contracts for the procurement of goods or services awarded by:

(1) All Executive branch agencies except:

A. The Tennessee Valley Authority, which is subject to the Prompt Payment Act, but is not covered by this regulation, and

B. Agencies specifically exempted under 5 U.S.C. 551(1).

(2) The United States Postal Service, except for the reporting requirements. The Postmaster General is responsible for issuing implementing procurement regulations, solicitation provisions, and contract clauses for the United States Postal Service, and

(3) The Commodity Credit Corporation pursuant to:

A. Section 4(h) of the Act of June 29, 1948 (15 U.S.C. 714b(h)) relating to the procurement of property and services, and

B. Payments to producers on a farm under the current Farm Bill (7 U.S.C. 1421 *et seq.*).

b. Vendor payments. All Executive branch vendor payments and payments to those defined as contractors or vendors (see section 18.j.) are subject to the Prompt Payment Act with the following exceptions:

(1) Contract Financing Payments, as defined in section 18.h.; and

(2) Payments related to emergencies (as defined in the Disaster Relief Act of 1974, P.L. 93–288, as amended (42 U.S.C. 5121 *et seq.*)) and military operations (as defined in 10 U.S.C. 101(a)(13)).

c. Utility payments. All utility payments, including payments for telephone service, are subject to the Act except those under 1.b.(2). Where state or local authorities regulate late payment rates, those rates (e.g., tariffs) shall take precedence; however, any interest paid is reportable. In the absence of state or local prescribed late charges or terms, agencies will apply this regulation.

2. Responsibilities

Each agency head is responsible for the following:

a. Issuing internal procedures. Issuing procedures will include provisions for monitoring the causes of late payments and any interest penalties incurred, taking necessary corrective action, reporting in accordance with section 16, and handling inquiries.

b. Internal control systems. Ensuring that effective internal control systems are established and maintained as required by OMB Circular A–123, ''Management Accountability and Control.'' Administrative activities required for payments to vendors under this regulation are subject to Quality Control (QC) validation. QC processes will be used to confirm that controls are effective and that processes are efficient. Each agency head is responsible for establishing a QC program in order to quantify payment performance and qualify corrective actions, aid cash-management decision making, and estimate payment performance if actual data is unavailable.

c. Financial management systems. Ensuring that financial management systems comply with OMB Circular A–127, ''Financial Management Systems.'' Agency financial systems shall provide standardized information and electronic data exchange to the central management agency. Systems shall provide complete, timely, reliable, useful and consistent financial management information.

Payment capabilities should provide accurate and useful management reports on payments, and produce accurate and timely reports as required by the Prompt Payment Act.

d. Reviews. Ensuring that Inspectors General and internal auditors review payments performance and systems accuracy, consistent with the Chief Financial Officers (CFO) Act requirements.

e. Timely payments and interest penalties. Ensuring timely payments and payment of interest penalties where required.

3. Prompt Payment Standards and Required Notices to Vendors

Agency business practices shall conform to the following standards:

a. Required documentation. Agencies will maintain paper or electronic documentation as required in section 8.

b. Receipt of invoice. For the purposes of determining a payment due date and the date on which interest will begin to accrue, an invoice shall be deemed to be received:

(1) For invoices that are mailed, on:

A. The date a proper invoice is actually received and annotated by the contractually designated office, or;

B. The date placed on the invoice by the vendor, when the agency fails to annotate the invoice with a receipt date at the time of receipt (such invoice must be a proper invoice);

(2) For invoices electronically transmitted, at the time the transmission is received by the designated agency office; and,

(3) On the date of delivery, when contractually stipulated that the delivery ticket may serve as an invoice.

c. Review of invoice. Agencies will use the following procedures in reviewing invoices:

(1) Each invoice will be reviewed by the appropriate office within 7 days after receipt to determine whether the invoice is a proper invoice as defined in section 8.b. of this regulation;

(2) When an invoice is determined improper, the agency shall return the invoice to the vendor within 7 days of receipt (refer also 3.g.(3) regarding vendor notification and determining the payment due date.) The agency will identify all defects that prevent payment and specify all reasons why the invoice is not proper and why it is being returned. This notification to the vendor shall include a request for a corrected invoice, to be clearly marked as such;

(3) Computer-related media which produce tangible recordings of information in lieu of ''written'' or ''original'' paper document equivalents should be used by agencies to expedite payment transactions, as long as there are adequate safeguards and controls to ensure the integrity of the data, rather than delaying processes by requiring ''original'' paper documents.

d. Receipt of goods and services. Agencies will ensure that receipt is properly recorded at the time of delivery of goods or completion of services.

e. Acceptance. Agencies will ensure that acceptance is executed as promptly as possible. Commercial items and services should not be subject to extended acceptance periods. Acceptance reports will be forwarded to the designated agency office by the fifth working day after delivery. Unless other arrangements are made, acceptance reports will be stamped or otherwise annotated with the receipt date in the designated agency office.

f. Starting the payment period. The period available to an agency to make timely payment of an invoice without incurring an interest penalty shall begin on the later of:

(1) Date of receipt (as defined in 3.b.(1)) of a proper invoice (as defined in section 8.b.), except where no invoice is required (e.g. recurring payments (see definition at section 18.cc.); or,

(2) Date of receipt and acceptance of goods or services. In this case, the payment period starts when either:

A. The agency has actually accepted the goods or services but no later than the seventh day after the receipt of goods or services, or;

B. When a longer acceptance period is contractually stipulated, the agency has actually accepted the goods or services but no later than the last day of the extended acceptance period;

(3) Date of delivery where an agency has contractually designated the use of the acceptance document or delivery ticket as the basis for payment.

g. Determining the payment due date.

(1) Unless otherwise specified, the payment is due either:

A. 30 days after the start of the payment period as specified in section 3.f.;

B. On the date(s) specified in the contract;

C. In accordance with discount terms when discounts are offered and taken (see section 6), or;

D. In accordance with Accelerated Payment Methods (see section 4).

(2) Certain commodity payments.

A. For meat, meat food products, as defined in Section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, any perishable egg product, fresh or frozen fish as defined in the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)), payment will be made no later than the seventh day after delivery.

B. For perishable agricultural commodities, as defined in Section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), payment will be made no later than the 10th day after delivery, unless another payment date is specified in the contract.

C. For dairy products (as defined in section 111(e) of the Dairy Production Stabilization Act of 1983, 7 U.S.C. 4502(e)), and including, at a minimum, liquid milk, cheese, certain processed cheese products, butter, yogurt, and ice cream, edible fats or oils, and food products prepared from edible fats or oils (including, at a minimum, mayonnaise, salad dressings and other similar products), payment will be made no later than 10 days after the date on which a proper invoice, for the amount due, has been received by the agency acquiring the above listed products. Nothing in the Act permits limitation to refrigerated products. When questions

arise about the coverage of a specific product, prevailing industry practices should be followed in specifying a contractual payment due date.

D. Mixed invoices for commodities. When an invoice is received for items with different payment periods, agencies:

i. May pay the entire invoice on the due date for the commodity with the earliest due date, if it is considered in the best interests of the agency. That payment is to be considered as on time for reporting purposes;

ii. May make split payments by the due date applicable to each category;

iii. Should pay in accordance with the contractual payment provisions (which may not exceed the statutory mandated periods specified in section 3.g.(2), and;

iv. Will not require vendors to submit multiple invoices for payment of individual orders by the agency.

(3) Notification of Improper Invoice.

When an agency fails to make notification of an improper invoice within seven days according to 3.c.(2) of these guidelines (three days for meat and meat food, fish and seafood products; and five days for perishable agricultural commodities, dairy products, edible fats or oils and food products prepared from edible fats or oils), the number of days allowed for payment of the corrected proper invoice will be reduced by the number of days between the seventh day, or as specified above in this paragraph, and the day notification was transmitted to the vendor. Calculation of interest penalties, if any, will be based on an adjusted due date reflecting the reduced number of days allowable for payment;

h. Payment date. Payment will be considered to be made on the settlement date for an electronic funds transfer (EFT) payment or the date of the check for a check payment. On a weekend, federal holiday, or after normal working hours, payments falling due may be made on the following business day without incurring late payment interest penalties.

i. Late payment. When payments are made after the due date, interest will be paid automatically in accordance with the procedures in sections 9 through 13 of this regulation.

j. Timely payment. Unless using an accelerated payment method (see section 4), an agency shall make payments no more than seven days prior to the payment due date, but as close to the due date as possible, unless the agency head or designee has determined, on a case-by-case basis for specific payments, that earlier payment is necessary. This authority must be used cautiously, weighing the benefits of making a payment early against the good stewardship inherent in effective cash management practices.

k. Payments for partial deliveries. Agencies shall pay for partial delivery of supplies or partial performance of services after acceptance, unless specifically prohibited by the contract. Payment is contingent upon submission of a proper invoice if required by the contract.

4. Accelerated Payment Methods

a. A single invoice under $2,500. Payments may be made as soon as the contract, proper invoice, receipt and acceptance documents are matched notwithstanding statutory authority to do otherwise. These payments are to be considered on time for Prompt Pay reporting purposes. Vendors shall be entitled to interest penalties if invoice payments are made after the payment due date.

b. Small Disadvantaged Business Concern (as defined in the FAR subpart 19.001). Agencies may pay small, disadvantaged business concerns as quickly as possible, when all proper documentation, including acceptance, is received in the payment office and before the payment due date. Such payments are to be considered on time for Prompt Pay reporting purposes, and are not subject to payment restrictions stated elsewhere in this regulation. Vendors shall be entitled to interest penalties if invoice payments are made after the payment due date.

c. Payments related to emergencies and disasters (as defined in the Robert T. Stafford Disaster Relief Act and Emergency Assistance, P.L. 93–288, as amended (42 U.S.C. 5 121 et seq.)) and military deployment. Payments may be made as soon as the contract, proper invoice, receipt and acceptance documents or any other agreement are matched. These payments are to be considered on time for Prompt Pay reporting purposes. Vendors shall be entitled to interest penalties if invoice payments are made after the payment due date.

5. Fast Payment

Payment shall be made within 15 days of receipt of a proper invoice without evidence that goods or services have been received. The following standards shall be followed:

a. Criteria. The criteria in using this procedure are defined in Federal Acquisition Regulations (FAR) Part 13, Subpart 13.3 ''Fast Payment Procedure'' and in the 1988 Amendment to the Prompt Pay Act, Section 11(b)(1);

b. FAR clause 52.213.1. Payments must be supported by valid contracts having proper FAR clause 52.213.1, Fast Payment Procedure;

c. Invoice requirements. Invoices paid under ''Fast Payment'' procedures must meet the requirements of an invoice as outlined in section 8.b. of this regulation, and be properly identified on the invoices and in the agency financial system for subsequent statistical sampling to ensure that goods are received;

d. Obligating documents. Invoices must be properly matched with the obligating documents prior to authorizing the payment;

e. Certification. A vendor's certification that goods have been shipped may be used as a basis for authorizing the payment;

f. Internal controls. Agencies must establish a system to ensure internal controls are in place to validate that goods are received and accepted;

g. Receiving reports. Unless otherwise specified in agency procedures, the contracting office shall ensure that receiving reports and payment documents are matched and that steps are taken to correct discrepancies and collect any amounts owed for non-performance, and;

h. Inspection and Acceptance. Unless otherwise specified in agency procedures, the receiving entity shall promptly inspect and accept goods acquired under these procedures and notify the purchasing office of the acceptance as quickly as possible.

6. Discounts

Agencies shall follow these guidelines in taking discounts and determining the payment due dates when discounts are taken:

a. Economically justified discounts. If an agency is offered a discount by a vendor, whether stipulated in the contract or offered on an invoice, an agency may take the discount if payment is made within the specified discount period. Discounts will be taken whenever economically justified (see I TFM 6–8040.40) but only after acceptance has occurred. These payments will be considered on time for reporting purposes.

b. Discounts taken after the deadline. If an agency takes the discount after the deadline and does not repay it before the payment due date, the agency shall pay an interest penalty on any amount remaining unpaid as prescribed in section 9.a.(6).

c. Payment date. When a discount is taken, payment will be made as close as possible to, but no later than, the discount date.

d. Start date. The period for taking the discount is calculated from the date

placed on the proper invoice by the vendor. If there is no invoice date on the invoice by the vendor, the discount period will begin on the date a proper invoice is actually received and date stamped or otherwise annotated by the designated agency office.

7. Rebates

Agencies shall determine credit card payment dates based on an analysis of the total costs and total benefits to the Federal government as a whole. When calculating costs and benefits, agencies are expected to include the cost to the government of paying early. This cost is the interest the government would have earned, at the Current Value of Funds rate, for each day that payment was not made. Agencies may also factor in the benefits, from streamlining or other efficiencies, to the agency of paying early.

8. Required Documentation

Agencies are required to ensure the following payment documentation is established to support payment of invoices and interest penalties:

a. For a contract:

(1) Payment due date(s) as defined in 3.g.;

(2) A notation in the contract that partial payments are prohibited, if applicable;

(3) For construction contracts, specific payment due dates for approved progress payments or milestone payments for completed phases, increments, or segments of the project;

(4) If applicable, a statement that the special payment provisions of the Packers and Stockyard Act of 1921 (7 U.S.C. 182 (3)), or the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), or Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)) shall apply;

(5) Where considered appropriate by the agency head, the specified acceptance period following delivery to inspect and/or test goods furnished or to evaluate services per formed is stated;

(6) Name (where practicable), title, telephone number, and complete mailing address of officials of the Government's designated agency office, and of the vendor receiving the payments;

(7) Reference to requirements under the Prompt Payment Act, including the payment of interest penalties on late invoice payments (including progress payments under construction contracts);

(8) Stipulation that banking information must be submitted no later than the first request for payment as required by the Debt Collection Improvement Act of 1996, except in situations addressed in the waiver provisions for 31 CFR Part 208. Agencies will use the appropriate Federal Acquisition Regulation contract clause;

(9) If using Fast Payment, the proper FAR clause stipulating Fast Payment is required.

b. For a proper invoice:

(1) Name of vendor;

(2) Invoice date;

(3) Government contract number, or other authorization for delivery of goods or services;

(4) Vendor invoice number/account number;

(5) Description, price, and quantity of goods and services rendered;

(6) Shipping and payment terms (unless mutually agreed that this information is only required in the contract);

(7) Taxpayer Identification Number (TIN), unless otherwise previously provided to the agency in accordance with agency procedures;

(8) Banking Information, unless otherwise previously provided to the agency in accordance with agency procedures, or except in situations addressed in waiver provisions included in 31 CFR Part 208;

(9) Contact name (where practicable), title and telephone number;

(10) Other substantiating documentation or information required by the contract.

c. For receiving reports, delivery tickets, and evaluated receipts:

(1) Name of vendor;

(2) Contract or other authorization number;

(3) Description of goods;

(4) Quantities received, if applicable;

(5) Date(s) goods were delivered;

(6) Date(s) goods were accepted;

(7) Signature (or electronic alternative when supported by appropriate internal controls), printed name, telephone number, mailing address of the receiving official, and any additional information required by the agency, and;

(8) All requirements under section 8.c. (1)–(7), when a delivery ticket is used as an invoice.

9. Late Payment Interest Penalties

a. Application and Calculation. Agencies will use the following procedures in calculating interest due on late payments:

(1) Interest will be calculated and will accrue daily from the day after the payment due date at the interest rate applicable on the day after the due date (refer also to 3.g. Determining the payment due date);

(2) Adjustments will be made for errors in calculating interest;

(3) When an interest penalty is owed and not paid, interest will accrue on the unpaid principal and accrued interest until paid, except as described in paragraph (5) below;

(4) For up to one year, interest penalties remaining unpaid at the end of any 30 day period will be capitalized (i.e., added to the principal), and subsequent interest penalty amounts will be computed and accrue on the total of principal plus capitalized interest until paid;

(5) Interest penalties under the Prompt Payment Act will not continue to accrue:

A. After the filing of a claim for such penalties under the Contract Disputes Act of 1978 (41 U.S.C. 601 *et seq.*), or;

B. For more than one year.

(6) When an agency takes a discount after the discount date and does not repay it before the payment due date, the interest payment will be calculated on the amount of the discount taken, for the period beginning the day after the prompt payment due date through the payment date;

(7) Interest penalties of less than one dollar need not be paid;

(8) If the banking information supplied by the vendor is incorrect and/or incomplete, the invoice received will be returned as an improper invoice and the agency is exempt from the accrual of interest as defined in section 3.c (2) until such information is received or until a proper invoice is submitted;

(9) Interest calculations are to be based on a 360 day year, and;

(10) The applicable interest rate may be obtained by calling the Department of Treasury's Financial Management Service (FMS) voice information system at 1–800–266–9667.

b. Payment. Agencies will meet the following requirements in paying interest penalties:

(1) Interest may be paid only after acceptance has occurred except when title of the goods passes to the government;

(2) Late payment interest penalties shall be paid without regard to whether the vendor has requested payment of such penalty, and shall be accompanied by a notice stating the amount of the interest penalty, the number of days late and the rate used. Agencies should pay interest together with the underlying principal payment;

(3) The invoice number or other agreed upon transaction reference number assigned by the vendor should be included in the notice to assist the vendor in reconciling the payment. Additionally, it is optional as to whether or not an agency includes the

contract number in the notice to the vendor;

(4) The temporary unavailability of funds does not relieve an agency from the obligation to pay these interest penalties or the additional penalties required under section 10, and;

(5) Agencies shall pay any late payment interest penalties (including any additional penalties required under section 10) under this regulation from the funds available for the administration of the program for which the penalty was incurred. The Prompt Payment Act does not authorize the appropriation of additional amounts to pay penalties.

c. Penalties not due. Interest penalties are not required:

(1) When payment is delayed because of a dispute between a Federal agency and a vendor over the amount of the payment or other issues concerning compliance with the terms of a contract. Claims concerning disputes, and any interest that may be payable with respect to the period, while the dispute is being settled, will be resolved in accordance with the provisions in the Contract Disputes Act of 1978, (41 U.S.C. 601 *et seq.*), except for interest payments required under 31 U.S.C. 3902(h)(2).

(2) When payments are made solely for financing purposes or in advance, except for interest payment required under 31 U.S.C. 3902(h)(2).

(3) For a period when amounts are withheld temporarily in accordance with the contract.

(4) When an EFT payment is not credited to the vendor's account by the payment due date because of the failure of the Federal Reserve or the vendor's bank to do so.

10. Additional Penalties

a. Vendor entitlements . A vendor shall be entitled to an additional penalty payment when the vendor is owed a late payment interest penalty by an agency, if it:

(1) Receives a payment dated after the payment due date which does not include the interest penalty also due to the vendor;

(2) Is not paid the interest penalty by the agency within 10 days after the actual payment date and;

(3) Makes a written request, no later than 40 days after the payment date, that the agency pay such an additional penalty. The vendor request must include the following:

A. Specific assertion that late payment interest is due for a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required, and;

B. A copy of the invoice on which late payment interest was due but not paid and a statement that the principal has been received, and the date of receipt. No additional data are required;

Confirmation that the request is postmarked. To be valid the request must be postmarked, received by facsimile, or by electronic mail, by the 40th day after payment was made. If there is no postmark, the request will be valid if it is received and annotated with the date of receipt by the agency by the 40th day.

b. Maximum penalty. The additional penalty shall be equal to one hundred (100) percent of the original late payment interest penalty but must not exceed $5,000.

c. Minimum penalty. Regardless of the amount of the late payment interest penalty, the additional penalty paid shall not be less than $25.

d. Penalty basis. The penalty is based on individual invoices if paid separately.

e. Utility payments. The additional penalty does not apply to the payment of utility bills where late payment penalties for these bills are determined through the tariff rate-setting process.

11. Payments Under Government Credit Card

Payment standards under government credit cards:

a. Payment date. All credit card invoices under $2,500 may be paid at any time, but not later than 30 days after the receipt of a proper invoice. Matching documents is not required. The payment due date for invoices over $2,500 shall be 30 days after receipt of a proper invoice or the date specified in the contract unless it benefits the agency and the government (applying discount formula in I TFM 6–8040.40) to take a rebate offered for early payment. I TFM 4–4535.10 permits payment of the bill in full prior to verification that goods or services were received.

b. Disputed line items. Disputed line items do not render the entire invoice an improper invoice for compliance with this circular. Any undisputed items must be paid in accordance with section 11.a.

12. Payments to Farm Producers

In case of a payment to which producers on a farm are entitled under the terms of an agreement entered into under the current Farm Bill (7 U.S.C. 1421 *et seq.*):

a. Payment Standards. Payments to farm producers under such agreements shall be made as close as possible to the required payment or loan closing date.

b. Interest penalties. An interest penalty shall be paid to the producers if the payment has not been made by the required payment or loan closing date. The interest penalty shall be paid:

(1) On the amount of payment or loan due;

(2) For the period beginning on the first day beginning after the required payment or loan closing date and ending on the date the amount is paid or loaned, and;

(3) Out of funds available under section 8 of the Act of June 29, 1948 (15 U.S.C. 714f).

c. Contract Disputes Act of 1978. Provisions relating to the Contract Disputes Act of 1978 (41 U.S.C. 601 *et seq.*) in section 9.a.(5)A and section 16a. do not apply.

13. Payments Under Construction Contracts

a. Payment Standards. Agencies shall follow these standards when making progress payments under construction contracts:

(1) An agency may approve a request for progress payment if the application meets the requirements specified in the section b below;

(2) The certification by the prime vendor as defined in section 13.b.(2) is not to be construed as final acceptance of the subcontractor's performance;

(3) The agency shall return any such payment request which is defective to the vendor within seven days after receipt, with a statement identifying the defect(s), or if the notification is done electronically, it is not necessary to return the improper invoice;

(4) A vendor is obligated to pay interest to the Government on unearned amounts in its possession from:

A. The eighth day after receipt of funds from the agency until the date the vendor notifies the agency that the performance deficiency has been corrected, or the date the vendor reduces the amount of any subsequent payment request by an amount equal to the unearned amount in its possession, when the vendor discovers that all or a portion of a payment received from the agency constitutes a payment for the vendor's performance that fails to conform to the specifications, terms, and conditions of its contract with the agency, under 31 U.S.C. 3905(a), or;

B. The eighth day after the receipt of funds from the agency until the date the performance deficiency of a subcontractor is corrected, or the date the vendor reduces the amount of any subsequent payment request by an amount equal to the unearned amount

in its possession, when the vendor discovers that all or a portion of a payment received from the agency would constitute a payment for the subcontractor's performance that fails to conform to the subcontract agreement and may be withheld, under 31 U.S.C. 3905(e).

(5) Interest payment on unearned amounts to the government under 31 U.S.C. 3905(a)(2) or 3905(e)(6), shall:

A. Be computed on the basis of the average bond equivalent rates of 91-day Treasury bills auctioned at the most recent auction of such bills prior to the date the vendor received the unearned amount;

B. Be deducted from the next available payment to the vendor, and;

C. Revert to the Treasury.

b. Required Documentation:

(1) Substantiation of the amount(s) requested shall include:

A. An itemization of the amounts requested related to the various elements of work specified in the contract;

B. A listing of the amount included for work performed by each subcontractor under the contract;

C. A listing of the total amount for each subcontract under the contract;

D. A listing of the amounts previously paid to each subcontractor under the contract, and;

E. Additional supporting data and detail in a form required by the contracting officer.

(2) Certification by the prime vendor is required, to the best of the vendor's knowledge and belief, that:

A. The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

B. Payments to subcontractors and suppliers have been made from previous payments received under the contract, and timely payments will be made from the proceeds of the payment covered by the certification, in accordance with their subcontract agreements and the requirements of Chapter 39, title 31, U.S.C., and;

C. The application does not include any amounts which the prime vendor intends to withhold or retain from a subcontractor or supplier, in accordance with the terms and conditions of their subcontract.

c. Interest Penalties. Agencies will pay interest on:

(1) A progress payment request (including a monthly percentage-of-completion progress payment or milestone payments for completed phases, increments, or segments of any project) that is approved as payable by the agency pursuant to section b. above, and remains unpaid for:

A. A period of more than 14 days after receipt of the payment request by the designated agency office, or;

B. A longer period specified in the solicitation and/or contract if required, to afford the Government a practicable opportunity to adequately inspect the work and to determine the adequacy of the vendor's performance under the contract.

(2) Any amounts that the agency has retained pursuant to a prime contract clause providing for retaining a percentage of progress payments otherwise due to a vendor and that are approved for release to the vendor, if such retained amounts are not paid to the vendor by a date specified in the contract, or, in the absence of such a specified date, by the 30th day after final acceptance;

(3) Final payments, based on completion and acceptance of all work (including any retained amounts), and payments for partial performances that have been accepted by the agency, if such payments are made after the later of:

A. The 30th day after the date on which the designated agency office receives a proper invoice, or;

B. The 30th day after agency acceptance of the completed work or services. Acceptance shall be deemed to have occurred on the effective date of contract settlement on a final invoice where the payment amount is subject to contract settlement actions. For the purpose of computing interest penalties, acceptance shall be deemed to have occurred on the seventh day after work or services have been completed in accordance with the terms of the contract.

14. Grant Recipients

Recipients of Federal assistance may pay interest penalties if so specified in their contracts with contractors. However, obligations to pay such interest penalties will not be obligations of the United States. Federal funds may not be used for this purpose, nor may interest penalties be used to meet matching requirements of federally assisted programs.

15. Relationship to Other Laws

a. Contract Disputes Act of 1978 (41 U.S.C. 605).

(1) A claim for an interest penalty (including the additional penalty for non-payment of interest if the vendor has complied with the requirements of section 9 of this regulation) not paid under this regulation may be filed under section 6 of the Contract Disputes Act.

(2) An interest penalty under this regulation does not continue to accrue after a claim for a penalty is filed under the Contract Disputes Act or for more than one year. This does not prevent an interest penalty from accruing under section 13 of the Contract Disputes Act after a penalty stops accruing under this regulation. Such penalty may accrue on an unpaid contract payment and on the unpaid penalty under this regulation.

(3) This regulation does not require an interest penalty on a payment that is not made because of a dispute between the head of an agency and a vendor over the amount of payment or compliance with the contract. A claim related to such a dispute and interest payable for the period during which the dispute is being resolved is subject to the Contract Disputes Act.

b. Small Business Act (15 U.S.C. 644(k)). This Act has been amended to require that any agency with an Office of Small and Disadvantaged Business Utilization must assist small business concerns to obtain payments, late payment interest penalties, additional penalties, or information due to the concerns.

16. Reporting Requirements

a. Content. Agency reports shall contain the following information for the prior fiscal year:

(1) Invoices subject to the Prompt Payment Act:

A. Dollar amount of invoices

B. Number of invoices

(2) Invoices paid after due date:

A. Dollar amount of invoices

B. Number of invoices

C. Percent of Invoices paid late. The percentage of invoices paid late is computed in the following manner: [(2)B/(1)B]

D. Dollar amount of late payment interest and other penalties paid

E. Reasons why interest or other late payment penalties were incurred. Rank from highest to lowest, according to frequency of occurrence.

i. Delay in agency's receipt of:

a. Receiving report

b. Purchase order or contract

c. Other

ii. Delay or error by designated agency office in:

a. Taking discount

b. Notifying vendor of improper invoice

c. Computer or other system processing

d. Other

F. Interest and other late payment penalties which were due but not paid:

i. Interest amount

ii. Number

(3) Invoices paid eight days or more before due date, except where cash discounts were taken, an accelerated

payment method was used, or payments were made early to earn rebates; or invoices where early payment is determined on a case-by-case basis to be necessary:

A. Dollar amount of invoices

B. Number of invoices

C. Percent of early payments made [(3)B/(1)B]

(4) Progress Made. Describe specific achievements and problems during the fiscal year in implementing the provisions of the Prompt Payment Act and OMB Circular A–125. Include a description of any agency experience in determining the most appropriate timing for release of payment authorization so that invoices are paid as close as possible to the due date without exceeding it.

b. Certification. Agency annual reports to FMS must be certified by the agency Chief Financial Officer (or equivalent).

c. Submission. Federal agencies subject to the Chief Financial Officers Act of 1990 and the United States Information Agency are required to submit an annual Prompt Payment Report to the Commissioner, Financial Management Service (FMS), Department of the Treasury, by the 60th day after the end of each fiscal year.

17. Inquiries

a. Regulation. Inquiries concerning this regulation may be directed in writing to the Department of the Treasury, Financial Management Service (FMS), Cash Management Directorate, 401 14th Street, S.W. Washington, D.C. 20227, or by calling 1–800–266–9667.

b. Applicable interest rate. The rate is published semiannually in the **Federal Register** on or about January 1 and July 1. The rate also may be obtained from the Department of Treasury's Financial Management Service (FMS) at 1–800–266–9667. This information is also available at the FMS Prompt Pay Web Site at http://www.fms.treas.gov/prompt/index.html.

c. Agency payments. Questions concerning delinquent payments should be directed to the designated agency office. Questions about disagreements over payment amount or timing should be directed to the contracting officer for resolution. Small business concerns may obtain additional assistance on payment issues by contacting the agency's Office of Small and Disadvantaged Business Utilization.

18. Definitions

For the purposes of this regulation, the following definitions apply:

a. Accelerated Payment—a payment made prior to the due date and considered on time for prompt payment reporting purposes (see discussion in section 4).

b. Acceptance—an acknowledgment by the Government that goods received and services rendered conform with the contract requirements. Acceptance also applies to partial deliveries.

c. Agency—as defined in Section 551(1) of Title 5, United States Code, includes each authority of the United States Government, whether or not it is within or subject to review by another agency, excluding the Congress, the United States courts, governments of territories or possessions, the District of Columbia government, courts martial, military commissions, and military authority exercised in the field in time of war or in occupied territory. Agency also includes any entity (1) that is operated exclusively as an instrumentality of such an agency for the purpose of administering one or more programs of that agency, and (2) that is so identified for this purpose by the head of such agency. The term agency includes military post and base exchanges and commissaries.

d. Applicable interest rate—the interest rate established by the Secretary of the Treasury for interest payments under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) which is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority (e.g., tariffs). The rate established under the Contract Disputes Act is referred to as the ''Renegotiation Board Interest Rate,'' the ''Contract Disputes Act Interest Rate,'' and the ''Prompt Payment Act Interest Rate,'' and is published semiannually in the **Federal Register** on or about January 1 and July 1.

e. Automated Clearing House (ACH)—a network that performs interbank clearing of electronic debit and credit entries for participating financial institutions.

f. Banking Information—information necessary to facilitate an EFT payment, including the vendor's bank account number, and their bank's routing number.

g. Contract—any enforceable agreement, including rental and lease agreements, purchase orders, delivery orders (including obligations under Federal Supply Schedule contracts), requirements-type (open-ended) service contracts, and blanket purchases agreements between an agency and a vendor for the acquisition of goods or services and agreements entered into under the Agricultural Act of 1949 (7 U.S.C. 1421 *et seq*). Contracts must meet the requirements of Section 8.a. of this regulation.

h. Contract Financing Payments—authorized disbursement of monies prior to acceptance of goods or services including advance payments, progress payments based on cost, progress payments (other than under construction contracts) based on a percentage or stage of completion, payments on performance-based contracts and interim payments on cost-type contracts. Contract financing payments do not include invoice payments, payments for partial deliveries, or lease and rental payments.

i. Contracting Office—any entity issuing a contract or purchase order or issuing a contract modification or termination.

j. Contractor (see Vendor).

k. Day—a calendar day including weekend and holiday, unless otherwise indicated.

l. Delivery Ticket—vendor document supplied at the time of delivery which indicates the items delivered, can serve as a proper invoice based on contractual agreement.

m. Designated Agency Office—the office designated by the purchase order, agreement, or contract to first receive invoices. This office can be contractually designated as the receiving entity. This office may be different from the office actually issuing the payment.

n. Discount—an invoice payment reduction offered by the vendor for early payment.

o. Discount date—the date by which a specified invoice payment reduction, or a discount, can be taken.

p. Due date—the date on which Federal payment should be made. Determination of such dates is discussed in Section 3.g. of this regulation.

q. Electronic Commerce (EC)—the end to end electronic exchange of business information using electronic data interchange (EDI), electronic mail, electronic bulletin boards, electronic funds transfer (EFT) and similar technologies.

r. Electronic Data Interchange (EDI)—the computer to computer exchange of routine business information in a standard format. The standard formats are developed and maintained by the Accredited Standards Committee (ASC) of the American National Standards Institute.

s. Electronic Funds Transfer—A system using electronic means to transfer payment data and funds from an originator to a recipient's account at a receiving financial institution.

t. Emergency Payment—emergency includes hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mud slide, snowstorm, drought, fire, explosion, or other catastrophe which requires Federal emergency assistance to supplement State and local efforts to save lives and property, and ensure public health and safety.

u. Evaluated Receipts—contractually designated use of the acceptance document and the contract as the basis for payment without requiring a separate invoice.

v. Fast Payment—under the Federal Acquisition Regulation (FAR) 13.3, the Fast Payment procedure allows payment under limited conditions to a vendor prior to the Government's verification that supplies have been received and accepted.

w. Federal Acquisition Regulation (FAR)—the regulation that governs most Federal acquisition and related payment issues. Agencies may also have supplements prescribing unique agency policies.

x. Government Credit Card—internationally accepted credit card available to all Federal agencies under a General Services Administration contract for the purpose of making simplified acquisitions of up to $100,000.

y. Invoice—a bill, written document or electronic transmission, provided by a vendor requesting payment for property received or services rendered. A proper invoice must meet the requirements of section 8.b of this regulation. The term invoice can include receiving reports and delivery tickets contractually designated as invoices.

z. Payment Date—the date on which a check for payment is dated or the date of an electronic fund transfer (EFT) payment (settlement date).

aa. Receiving Office—the entity which physically receives the goods or services, may be separate from the accepting entity.

bb. Receiving Report—written or electronic evidence of receipt of goods or services by a Government official. Receiving reports must meet the requirements of section 5.g. of this regulation.

cc. Recurring Payments—Fixed Amounts—payments for services of a recurring nature, such as rents, building maintenance, transportation services, parking, leases, and maintenance for equipment, pagers and cellular phones, etc., which are performed under agency-vendor agreements providing for payments of definite amounts at fixed periodic intervals.

dd. Taxpayer Identification Number (TIN)—nine digit Employer Identification Number or Social Security Number as defined in section 6109 of the Internal Revenue Code of 1986 (26 U.S.C. 6109).

ee. Utilities and Telephones—contractual or non-contractual purchase of electricity, water, sewage services, telephone services, and natural gas. Utilities can be regulated, unregulated, or under contract.

ff. Vendor—any person, organization, or business concern engaged in a profession, trade, or business and any not-for-profit entity operating as a vendor (including State and local governments and foreign entities and foreign governments, but excluding Federal entities).

19. Effective Dates

This regulation will be effective 30 days after final publication. For payments under contracts or purchase orders solicited on or after July 26, 1996, the requirement to collect banking information, for purposes of making an EFT payment pursuant to 31 U.S.C. 3332, as amended, will be effective 30 days after final publication. For payments under contracts or purchase orders solicited before July 26, 1996, the requirement to collect banking information is effective January 2, 1999.

[FR Doc. 98–15397 Filed 6–16–98; 8:45 am]
BILLING CODE 3110–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

[Docket No. FV98–981–1 PR]

Almonds Grown in California; Revision of Requirements Regarding Quality Control Program

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule invites comments on a revision to the administrative rules and regulations of the California almond marketing order (order) pertaining to the quality control program. The order regulates the handling of almonds grown in California, and is administered locally by the Almond Board of California (Board). Under the terms of the order, handlers are required to obtain inspection on almonds received from growers to determine the percent of inedible almonds in each lot of any variety. Handlers are then required to dispose of a quantity of almonds in excess of 1 percent of the weight of almonds reported as inedible to accepted users of such product. Accepted users are approved annually by the Board. This rule would clarify conditions upon which accepted users' status may be denied or revoked by the Board. This rule would help to ensure that inedible almonds are removed from human consumption channels, thereby maintaining the integrity of the quality control provisions of the order.

DATES: Comments must be received by July 17, 1998.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 205–6632. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Martin Engeler, Assistant Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (209) 487–5901, Fax: (209) 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) 690–3919, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Order No. 981, as amended (7 CFR part 981), regulating the handling of almonds 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. This rule is not intended to

have retroactive effect. 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. A 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 date of the entry of the ruling.

This proposal invites comments on revisions to the administrative rules and regulations pertaining to a quality control program under the California almond order. The proposal was recommended unanimously by the Board, and would clarify conditions under which the Board could deny or revoke the status of accepted users of inedible almonds.

Section 981.42 of the order provides authority for a quality control program. Section 981.42(a) requires handlers to obtain incoming inspection on almonds received from growers to determine the percent of inedible kernels in each lot of any variety. Handlers are required to report such inedible determination for each lot received to the Board. Section 981.42(a) also provides authority for the Board, with the approval of the Secretary, to establish rules and regulations necessary and incidental to the administration of the order's quality control provisions.

Section 981.442 of the order's administrative rules and regulations specifies that the weight of inedible kernels in each lot of any variety of almonds in excess of 1 percent of the kernel weight received by a handler shall constitute such handler's inedible disposition obligation. Handlers are required to deliver inedible kernels accumulated in the course of processing to Board-approved accepted users of such product in order to satisfy the disposition obligation. Accepted users then dispose of inedible kernels to non-human consumption outlets. Because inedible kernels are considered unfit for human consumption, requiring handlers to meet this obligation helps to ensure that each handler's outgoing shipments of almonds are relatively free of almonds with serious damage, and the number of kernels with minor damage should be minimal.

Accepted users of inedible almonds file an application with the Board specifying certain terms and conditions with which they will voluntarily abide. The application also indicates they will dispose of the inedible almonds received from handlers in one or more of the following manners: crushing into oil, manufacturing into animal feed, or feeding directly to animals. The Board staff reviews and approves accepted user applications on an annual basis.

Section 981.442(a)(7) of the rules and regulations lists eligibility criteria for accepted users. These criteria are applied by the Board when reviewing and approving accepted users. However, the regulations do not specifically address when the Board may deny or revoke accepted user status. Situations have occurred in the past wherein accepted users have failed to completely meet these conditions, and the Board could not be assured the inedible almonds were being disposed of in non-human consumption outlets.

The Board met on March 25, 1998, and unanimously recommended adding language to § 981.442(a)(7) of the administrative rules and regulations stating that an accepted user's status may be denied or revoked if the eligibility requirements are not met or if the terms and conditions agreed to in the accepted user application are not met. The Board recommended that this change be made prior to August 1, 1998, so that it could be made effective at the beginning of the crop year, and to coincide with the approval cycle for accepted user applications.

This change would provide a clear foundation of understanding between the Board, handlers, and accepted users. The proposal would assist in maintaining the integrity of the Board's quality control program by providing clear authority to deny or revoke accepted user status. This would help to ensure inedible almonds are properly disposed of in non-human consumption outlets, which is in the interest of producers, handlers, and consumers.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action 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 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 97 handlers of California almonds who are subject to regulation under the order and approximately 7,000 almond producers in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000.

Currently, about 58 percent of the handlers ship under $5,000,000 worth of almonds and 42 percent ship over $5,000,000 worth on an annual basis. In addition, based on acreage, production, and grower prices reported by the National Agricultural Statistics Service, and the total number of almond growers, the average annual grower revenue is approximately $156,000. In view of the foregoing, it can be concluded that the majority of handlers and producers of California almonds may be classified as small entities.

There are currently 23 accepted users of inedible almonds approved by the Board. Accepted users may enter into a voluntary agreement with the Board to function as an outlet to which handlers can ship inedible almonds to satisfy an order obligation. While data concerning these entities is limited, based on a review of the quantity of inedible almonds delivered to each entity, it is believed that the majority may be classified as small entities.

This proposal invites comments on revisions to the quality control provisions of the administrative rules and regulations issued under the California almond order. Under the terms of the order, handlers are required to obtain inspection on almonds received from growers to determine the percent of inedible almonds in each lot of any variety. Handlers are then required to dispose of a quantity of almonds in excess of one percent of the weight of almonds reported as inedible to accepted users of such product. Accepted users are approved annually by the Board.

Section 981.442(a)(7) of the order's administrative rules and regulations provides criteria which accepted users must meet. This rule would revise this section to specify that an accepted

user's status may be denied or revoked if the criteria are not met. This rule would help maintain the integrity of the Board's quality control program.

This proposed change is not expected to impact handlers, other than to clarify to them that accepted user's status may be denied or revoked. Handlers are provided a listing of approved accepted users so they know who they can deliver inedible material to and receive credit against their obligation. In the event an application for accepted user status is denied or an accepted user's status is revoked, handlers would be notified by Board staff and provided an updated listing.

This rule would only impact applicants for accepted user status, or accepted users in the sense that it would clarify that accepted user status may be denied or revoked if the terms and conditions set forth in the rules and regulations and the accepted user application are not met. Accepted users are approved entities to which handlers may deliver inedible almonds and receive credit against their inedible disposition obligation. Accepted users voluntarily agree to meet certain terms and conditions so the Board may be assured that inedible almonds do not enter human consumption channels. If these dealers in inedible almonds do not agree to the terms and conditions, they are not approved by the Board. However, they may still operate in the business, although handlers do not receive credit against their inedible disposition obligation if they deliver product to such non-approved entities. Situations have occurred in the past wherein accepted users have failed to completely meet these conditions, and the Board could not be assured the inedible almonds were being disposed of in non-human consumption outlets.

One alternative to the proposal would be to maintain the regulatory language as it currently exists, in which case there would be no clarification. Another alternative would be to specify at length all possible reasons for denying or revoking an accepted user's status. The first alternative fails to address the issue, and the second would require unnecessary lengthy additions to regulatory language, and may be incomplete.

This proposed rule would not impose any additional reporting or recordkeeping requirements on either small or large almond 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.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements that are contained in this rule have been approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0071.

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

In addition, the Board's meeting was widely publicized throughout the almond industry and all interested persons were invited to attend the meeting and participate in Board deliberations. Like all Board meetings, the March 25, 1998, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. The Board itself is composed of ten members, of which five are producers and five are handlers.

Also, the Board has a number of appointed committees to review certain issues and make recommendations to the Board. The Board's Quality Control Committee met on February 25, 1998, and discussed this issue. That meeting was also a public meeting and both large and small entities were able to participate and express their views. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A 30-day comment period is provided to allow interested persons to respond to this proposal. Thirty days is deemed appropriate because this rule would need to be in effect prior to the 1998–99 crop year, which begins August 1, 1998. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is proposed to be amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 981.442 is amended by adding a new paragraph (a)(7)(iv) to read as follows:

§ 981.442 Quality Control.

(a) * * *

(7) * * *

(iv) The Board may deny or revoke accepted user status at any time if the applicant or accepted user fails to meet the terms and conditions of § 981.442, or if the applicant or accepted user fails to meet the terms and conditions set forth in the accepted user application (ABC Form 34).

* * * * *

Dated: June 11, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–16011 Filed 6–16–98; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL ELECTION COMMISSION

11 CFR Parts 9003 and 9033

[Notice 1998–11]

Electronic Filing of Reports by Publicly Financed Presidential Primary and General Election Candidates

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Election Commission requests comments on proposed changes to its regulations to address the electronic filing of reports by publicly financed Presidential primary and general election candidates. The proposed rules would specify that if Presidential candidates and their authorized committees have computerized their campaign finance records, they must agree to participate in the Commission's recently established electronic filing program as a condition of voluntarily accepting federal funding. These regulations would implement the provisions of the Presidential Election Campaign Fund Act (''Fund Act'') and the Presidential Primary Matching Payment Account Act (''Matching Payment Act''), which establish eligibility requirements for Presidential candidates seeking public financing, as well as Public Law 104–97, which amended the reporting provisions of the Federal Election Campaign Act of 1971 (''FECA''). No final decisions have been made by the Commission on the proposed revisions in this Notice. Further information is provided in the supplementary information which follows.

DATES: Comments must be received on or before July 17, 1998.

ADDRESSES: All comments should be addressed to Ms. Susan E. Propper, Assistant General Counsel, and must be submitted in either written or electronic form. Written comments should be sent

to the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. Faxed comments should be sent to (202) 219–3923, with printed copy follow up. Electronic mail comments should be sent to elecfiling@fec.gov. Commenters sending comments by electronic mail should include their full name and postal service address within the text of their comments. Electronic comments that do not contain the full name, electronic mail address and postal service address of the commenter will not be considered.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, or Ms. Rosemary C. Smith, Senior Attorney, at (202) 694–1650 or toll free (800) 424–9530.

SUPPLEMENTARY INFORMATION: Recently, the Federal Election Commission implemented a system permitting political committees and other persons to file reports of campaign finance activity via computer diskettes and direct transmission of electronic data. *See* Explanation and Justification of 11 CFR 104.18, 61 FR 42371 (Aug. 15, 1996). The Commission was required to make the electronic filing option available for all ''report[s], designation[s], or statement[s] required by this Act to be filed with the Commission.'' Public Law 104–79, 109 Stat. 791 (1995), (adding 2 U.S.C. 434(a)(11)). While the Commission encourages all political committees and other persons to file their reports electronically, no committee or person is required to do so. Under Public Law 104–79, participation in the Commission's electronic filing program is voluntary. The goals of the new system include enhancement of on-line access to reports on file with the Commission, reduction of paper filing and manual processing, and increased efficiency and cost-effective methods of operation for the filers and for the Commission.

With the advent of the first Presidential election cycle since the implementation of the new electronic filing system, the question has arisen as to whether it would be advisable to modify the Commission's regulations at 11 CFR 9003.1 and 9033.1 to provide that certain Presidential committees must agree to file their campaign finance reports electronically as a condition of receiving public funding. Currently, the authorized committees of presidential candidates, like other political committees, have the option of submitting electronic reports should they wish to do so. *See* 11 CFR 104.18. The proposed changes to the candidate agreement regulations which follow would establish electronic filing as an additional prerequisite for the receipt of public funding. Please, note, however, this new language would only apply to those primary and general election candidate committees that decide to rely upon a computer system to maintain and use their campaign finance data. Thus, the draft rules would not burden campaign committees with new requirements if they are not computerized.

Electronic filing of Presidential committees' reports is intended to save a substantial amount of time and Commission resources that would otherwise be devoted to inputting these reports into the FEC's database. Although the number of political committees affected by the requirement would be relatively small, their reports can be voluminous given the substantial number of contributions and expenditures listed in each report. Thus, these proposed changes to the candidate agreement rules are expected to speed the reporting of campaign finance information and enhance public disclosure.

Previously, the Commission issued technical specifications for reports filed electronically in its Electronic Filing Specification Requirements (EFSR), which is available free of charge. The EFSR contains technical specifications, including file requirements, for reports filed by Presidential campaign committees. However, the electronic filing software available from the FEC at no charge will not generate the forms used by Presidential committees. The Commission's Data System Development Division would work with committees to assist them in generating the proper output. Any additional costs entailed may be treated and paid for like any other compliance cost pursuant to 11 CFR 9003.3(a)(2)(i)(B) and (F) and 9035.1(c)(1) if incurred after January 1, 1999. The Commission notes that there are a number of differences between the specifications contained in the EFSR and those found in the Computerized Magnetic Media Requirements (CMMR) used by publicly financed committees to submit financial data for the Commission's audit. These differences are necessitated, in part, by the different purposes for which each of these databases are used. Nevertheless, comments are requested as to ways in which these two standards could be better synchronized.

The proposed revisions to the candidate agreement regulations do not require electronic filing for statements of candidacy or statements of organization. While Presidential candidates and their authorized committees may file these statements electronically, if they wish, these forms have not been included in the free software available from the FEC. Also please note that the candidate agreements, themselves, would not be submitted in electronic form under the changes to 11 CFR 9003.1 and 9033.1 which follow.

Congress intended the new system of electronic filing to be voluntary. 141 Cong. Rec. H 12140–41 (daily ed. Nov. 13, 1995) (statements of Reps. Thomas, Hoyer, Fazio and Livingston). The Commission believes that a candidate's agreement to file campaign finance reports electronically in exchange for public funding is a voluntary decision materially indistinguishable from the candidate's voluntary decision to abide by the spending limits in exchange for federal funds. For this reason, it appears that the Commission has the authority to promulgate the regulation set forth below. Nevertheless, commenters are encouraged to express their views on whether the rules set out in this notice are within the scope of the Commission's authority under the Fund Act, the Matching Payment Act, the FECA, and Public Law 104–79.

The Commission welcomes comments on the foregoing proposed amendments to the candidate agreement regulations. Other aspects of the public financing process will be addressed separately in a forthcoming Notice of Proposed Rulemaking. No final decision has been made by the Commission concerning the proposals contained in this notice.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

These proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. The basis for this certification is that very few small entities will be affected by these proposed rules, and the cost is not expected to be significant. Further, any small entities affected have voluntarily chosen to receive public funding and to comply with the requirements of the Presidential Election Campaign Fund Act or the Presidential Primary Matching Payment Account Act.

List of Subjects in 11 CFR Parts 9003 and 9033

Campaign funds, Elections, Political candidates.

For the reasons set out in the preamble, it is proposed to amend Subchapters E and F of Chapter I of Title 11 of the *Code of Federal Regulations* as follows:

PART 9003—ELIGIBILITY FOR PAYMENTS

1. The authority citation for part 9003 would continue to read as follows:

Authority: 26 U.S.C. 9003 and 9009(b).

2. In § 9003.1, paragraph (b) introductory text is republished and new paragraph (b)(11) would be added to read as follows:

§ 9003.1 Candidate and committee agreements.

* * * * *

(b) *Conditions.* The candidates shall:

* * * * *

(11) Agree that they and their authorized committee(s) shall file all reports with the Commission in an electronic format that meets the requirements of 11 CFR 104.18 if the candidate or the candidate's authorized committee(s) maintain or use computerized information containing any of the information described in 11 CFR 104.3.

PART 9033—ELIGIBILITY FOR PAYMENTS

3. The authority citation for Part 9033 would continue to read as follows:

Authority: 26 U.S.C. 9003(e), 9033 and 9039(b).

4. In section 9033.1, paragraph (b) introductory text is republished and new paragraph (b)(13) would be added to read as follows:

§ 9033.1 Candidate and committee agreements.

* * * * *

(b) *Conditions.* The candidate shall agree that:

* * * * *

(13) The candidate and the candidate's authorized committee(s) will file all reports with the Commission in an electronic format that meets the requirements of 11 CFR 104.18 if the candidate or the candidate's authorized committee(s) maintain or use computerized information containing any of the information described in 11 CFR 104.3.

Dated: June 11, 1998.

Joan D. Aikens,

Chairman, Federal Election Commission.

[FR Doc. 98–16006 Filed 6–16–98; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–52–AD]

RIN 2120–AA64

Airworthiness Directives; Schempp-Hirth K.G. Models Standard-Cirrus, Nimbus-2, JANUS, and Mini-Nimbus HS–7 Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Schempp-Hirth K.G. (Schempp-Hirth) Models Standard-Cirrus, Nimbus-2, JANUS, and Mini-Nimbus HS–7 sailplanes. The proposed AD would require installing a safety device for the tailplane locking hook. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by the proposed AD are intended to prevent the locking hook on the tailplane attachment bracket from disengaging, which could result in the horizontal tailplane coming loose from the fin with possible loss of longitudinal control of the sailplane.

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

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–52–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Schempp-Hirth Flugzeugbau GmbH, Postbox 14 43, D–73222 Kirchheim unter Teck, Federal Republic of Germany. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–CE–52–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–52–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on certain Schempp-Hirth Models Standard-Cirrus, Nimbus-2, JANUS, and Mini-Nimbus HS–7 sailplanes. The LBA reports instances where the locking hook on the tailplane attachment bracket disengaged to the point that the horizontal tailplane was no longer securely attached to the fin.

This condition, if not corrected, could result in the horizontal tailplane coming loose from the fin with possible loss of longitudinal control of the sailplane.

Relevant Service Information

Schempp-Hirth has issued Technical Note No. 278–36, 286–33, 295–26, 328–11, 798–3, dated November 11, 1994,

which specifies installing a safety device for the tailplane locking hook. The procedures for accomplishing this installation are included with the Appendix to Technical Note No. 278–36, 286–33, 295–26, 328–11, 798–3, dated November 11, 1994.

The LBA classified this service information as mandatory and issued German AD 95–015, dated December 15, 1994, in order to assure the continued airworthiness of these sailplanes in Germany.

The FAA's Determination

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

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

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Schempp-Hirth Models Standard-Cirrus, Nimbus-2, JANUS, and Mini-Nimbus HS–7 sailplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require installing a safety device for the tailplane locking hook. Accomplishment of the proposed action would be required in accordance with Schempp-Hirth Appendix to Technical Note No. 278–36, 286–33, 295–26, 328–11, 798–3, dated November 11, 1994.

Compliance Time of the Proposed AD

Although the unsafe condition identified in this proposed AD occurs during flight and is a direct result of sailplane operation, the FAA has no way of determining how much time will elapse before the tailplane is not securely attached to the fin. For example, the condition could exist on a sailplane with 200 hours time-in-service (TIS), but could be developing on a sailplane with 50 hours TIS and not actually exist on this sailplane until 300 hours TIS. For this reason, the FAA has determined that a compliance based on calendar time should be utilized in the proposed AD in order to assure that the unsafe condition is addressed on all sailplanes in a reasonable time period.

Differences Between the Technical Note, German AD, and This Proposed AD

Both Schempp-Hirth Technical Note No. 278–36, 286–33, 295–26, 328–11, 798–3, dated November 11, 1994, and German AD 95–015, dated December 15, 1994, apply to the Model Nimbus-2M sailplanes. This sailplane model is not type certificated for operation in the United States and therefore is not covered by the applicability of the proposed AD.

The Model Nimbus-2M sailplanes could be operating in the United States with an experimental certificate. The FAA is including a NOTE in the proposed AD to recommend that any person operating a Model Nimbus-2M sailplane in the United States with an experimental certificate accomplish the actions specified in the technical note.

Cost Impact

The FAA estimates that 90 sailplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 3 workhours per sailplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $35 per sailplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $19,350, or $215 per sailplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Schempp-Hirth K.G.: Docket No. 98–CE–52–AD.

Applicability: The following sailplane models and serial numbers, certificated in any category:

Models	Serial numbers
Standard Cirrus.	573, 586, 593, 595, 597 through 599, 601 through 701.
Nimbus-2	86, 93, and 96 through 131.
JANUS	1 through 55, and 59.
Mini-Nimbus HS–7.	1 through 60, and 65.

Note 1: Both Schempp-Hirth Technical Note No. 278–36, 286–33, 295–26, 328–11, 798–3, dated November 11, 1994, and German AD 95–015, dated December 15, 1994, apply to the Model Nimbus-2M sailplanes. This sailplane model is not type certificated for operation in the United States, and therefore is not covered by the applicability of this AD. The Model Nimbus-2M sailplanes could be operating in the United States with an experimental certificate. The FAA recommends that any person operating a Model Nimbus-2M sailplane in the United States with an experimental certificate accomplish the actions specified in the technical note.

Note 2: This AD applies to each sailplane 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 sailplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not

been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 6 calendar months after the effective date of this AD, unless already accomplished.

To prevent the locking hook on the tailplane attachment bracket from disengaging, which could result in the horizontal tailplane coming loose from the fin with possible loss of longitudinal control of the sailplane, accomplish the following:

(a) Install a safety device for the tailplane locking hook in accordance with Schempp-Hirth Appendix to Technical Note No. 278–36, 286–33, 295–26, 328–11, 798–3, dated November 11, 1994.

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

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

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

(d) Questions or technical information related to the service information referenced in this document should be directed to Schempp-Hirth Flugzeugbau GmbH, Postbox 14 43, D–73222 Kirchheim unter Teck, Federal Republic of Germany. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 4: The subject of this AD is addressed in German AD 95–015, dated December 15, 1994.

Issued in Kansas City, Missouri, on June 9, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–16016 Filed 6–16–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–47–AD]

RIN 2120–AA64

Airworthiness Directives; Mooney Aircraft Corporation Models M20J, M20K, M20M, and M20R Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Mooney Aircraft Corporation (Mooney) Models M20J, M20K, M20M, and M20R airplanes. The proposed AD would require grinding the surface of the main landing gear (MLG) leg bracket, inspecting this area for cracks, and replacing any cracked MLG leg bracket. The proposed AD is the result of the manufacturing of several of the MLG leg brackets using laser pattern cutting. The brackets, when manufactured using this process, develop minor cracks at the bends, which could propagate over time. The actions specified by the proposed AD are intended to prevent failure of the MLG side brace bolt caused by cracking of the MLG leg bracket, which could result in MLG collapse with consequent loss of control of the airplane during taxi, takeoff, or landing operations.

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

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–47–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Mooney Aircraft Corporation, Louis Schreiner Field, Kerrville, Texas 78028. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Bob D. May, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5156; facsimile: (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–CE–47–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–47–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received a report that the design service life of the part number (P/N) 510010 MLG leg bracket on certain Mooney Models M20J, M20K, M20M, and M20R airplanes may not be achieved. Eleven of these brackets were produced using a laser pattern cutting process. The brackets, when manufactured using this process, develop minor cracks at the bends, which could propagate over time.

The P/N 510010 bracket supports the MLG side brace bolt. Failure of the MLG side brace bolt would cause the MLG to collapse with consequent loss of control of the airplane during taxi, takeoff, or landing operations.

Relevant Service Information

Mooney has issued Service Bulletin M20–265, dated 1April 13, 1998, which specifies procedures for grinding the surface of the MLG leg bracket, P/N 510010, and inspecting this area for cracks.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, including the referenced service information, the FAA has determined that AD action should be taken to prevent failure of the MLG side brace bolt caused by cracking of the MLG leg

bracket. This could result in MLG collapse with consequent loss of control of the airplane during taxi, takeoff, or landing operations.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Mooney Models M20J, M20K, M20M, and M20R airplanes of the same type design, the FAA is proposing AD action. The proposed AD would require grinding the surface of the MLG leg bracket, P/N 510010; inspecting this area for cracks; and replacing any cracked MLG leg bracket.

Accomplishment of the surface grinding and inspection would be required in accordance with Mooney Service Bulletin M20–265, dated April 13, 1998.

Replacement of any cracked MLG leg bracket, if required, would be accomplished in accordance with the applicable maintenance manual.

Cost Impact

The FAA estimates that 11 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 8 workhours per airplane to accomplish the proposed actions, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $5,280, or $480 per airplane. These figures are based on the presumption that no affected airplane owner/operator has accomplished the proposed actions. These figures do not account for the cost of any necessary replacement if any MLG leg bracket is found cracked. The FAA has no way of determining how many MLG leg brackets may be found cracked during the proposed inspection.

Mooney will provide warranty credit for up to 8 workhours that are necessary to comply with the requirements of the proposed AD. Details are provided in Mooney Service Bulletin M20–265, dated April 13, 1998.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Mooney Aircraft Corporation: Docket No. 98–CE–47–AD.

Applicability: The following airplane models and serial numbers, certificated in any category:

Models	Serial Numbers
M20J	24–3415 and 24–3416.
M20K	25–2018 through 25–2021.
M20M	27–0241.
M20R	29–0135 through 29–0138.

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 (d) 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 in the body of this AD, unless already accomplished.

To prevent failure of the main landing gear (MLG) side brace bolt caused by cracking of the MLG leg bracket, which could result in MLG collapse with consequent loss of control of the airplane during taxi, takeoff, or landing operations, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, accomplish the following in accordance with the INSTRUCTIONS section of Mooney Service Bulletin M20–265, dated April 13, 1998:

(1) Grind the surface of the MLG leg bracket, part number (P/N) 510010.

(2) Inspect the area of the P/N 510010 MLG leg bracket for cracks.

(b) Prior to further flight after the inspection required by paragraph (a)(2) of this AD, replace any cracked P/N 510010 MLG leg bracket with a new P/N 510010 MLG leg bracket. Accomplish this replacement in accordance with the applicable maintenance manual.

(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.

(d) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Fort Worth Airplane Certification Office (ACO), 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth ACO.

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

(e) All persons affected by this directive may obtain copies of the document referred to herein upon request to Mooney Aircraft Corporation, Louis Schreiner Field, Kerrville, Texas 78028; or may examine this document at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on June 10, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–16025 Filed 6–16–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–32–AD]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Jetstream Model 3101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain British Aerospace Jetstream Model 3101 airplanes. The proposed AD would require replacing the elevator trim servo motor with a new motor of improved design and inspecting the cable tension and electrical operation of the elevator and trim tab for proper operation and making any necessary adjustments. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom. The actions specified by the proposed AD are intended to prevent the elevator trim servo motor drive gear assembly from remaining engaged when the autopilot is disengaged, which could result in the pilot having to manually overpower the elevator trim control and possibly lose directional control of the airplane during critical phases of flight.

DATES: Comments must be received on or before July 24, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–32–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland; telephone: (01292) 479888; facsimile: (01292) 479703. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. S.M. Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, Aircraft Certification Service, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–CE–32–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–32–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Civil Airworthiness Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on certain British Aerospace Jetstream Model 3101 airplanes that are equipped with an autopilot. The CAA reports that an elevator trim servo motor in the autopilot failed on a Jetstream Model 3101 airplane, causing the pilot to use extreme force to manually rotate the elevator trim control handwheel. The investigation showed that the leaf spring in the solenoid assembly of the elevator trim servo motor fractured. This fracture caused the servo motor drive gear assembly to remain engaged, even with the solenoid de-energized and the autopilot disengaged. This condition occurs from residual magnetism in the solenoid core, which keeps the armature depressed.

These conditions, if not corrected, could result in loss of directional control of the airplane during critical phases of flight.

Relevant Service Information

British Aerospace has issued Jetstream Service Bulletin 22–A–JA 860413, dated April 16, 1986, which specifies procedures for replacing the elevator trim servo motor; and Jetstream Alert Service Bulletin 22–A–JA 851231, dated April 9, 1986, which specifies procedures for inspecting the cable tension and electrical operation of the elevator trim, along with testing and adjusting, if necessary, the friction and the electric trim manual override loads after the installation of the new elevator trim servo motor.

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

The FAA's Determination

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

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

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other British Aerospace Jetstream Model 3101 airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require replacing the elevator trim servo motor with one of improved design, inspecting the cable tension and electrical operation, testing the friction and the

electric trim manual override loads after the new motor is installed, and making any necessary adjustments. Accomplishment of the proposed modification would be in accordance with the service bulletins previously referenced.

Cost Impact

The FAA estimates that 25 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 6 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. The manufacturer will provide parts at no cost to the owner/operator. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $9,000, or $360 per airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

British Aerospace: Docket No. 98-CE–32-AD.

Applicability: Jetstream Model 3101 airplanes, certificated in any category, with the following serial numbers, that are equipped with an autopilot:

Serial Numbers

601	603	604	606	607	609
610	612	614	616	620	621
622	626	629	634	637	641
645	648	649	655	665	686
690					

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 (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

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

To prevent the elevator trim servo motor drive gear assembly from remaining engaged when the autopilot is disengaged, which could result in the pilot having to manually overpower the elevator trim control, and possibly lose directional control of the airplane during critical phases of flight, accomplish the following:

(a) Replace the elevator trim servo motor with a new elevator trim servo motor of improved design at fuselage station (F.S.) 421, aft of the rear bulkhead, in accordance with the ACCOMPLISHMENT INSTRUCTIONS section in JETSTREAM Alert Service Bulletin (SB) 22-A-JA 860413, ORIGINAL ISSUE: April 16, 1986.

(b) Inspect the cable tension, system friction, and electric trim manual override and make any necessary adjustments in accordance with the ACCOMPLISHMENT INSTRUCTIONS section in JETSTREAM SB No. 22-A-JA 851231, ORIGINAL ISSUE: April 9, 1986.

(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.

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

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

(e) Questions or technical information related to British Aerospace Jetstream Service Bulletin 22-A-JA 851231, dated April 9, 1986, and Jetstream Alert Service Bulletin 22-A-JA 860413, dated April 16, 1986, should be directed to British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland; telephone: (01292) 479888; facsimile: (01292) 479703. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 3: The subject of this AD is addressed in British Aerospace Jetstream Service Bulletin 22-A-JA 851231, dated April 9, 1986, and British Aerospace Jetstream Service Bulletin 22-A-JA 860413, dated April 16, 1998. These service bulletins are classified as mandatory by the United Kingdom Civil Aviation Authority (CAA).

Issued in Kansas City, Missouri, on June 9, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–16024 Filed 6–16–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–36–AD]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model L–1011–385 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 Lockheed Model L–1011–385 series airplanes. This proposal would require the replacement of the flap position indicator with an improved flap position indicator. This proposal is prompted by a report indicating that an airplane landed at an excessive sink rate and sustained substantial structural

damage when the leading edge slats failed to extend for landing and the flightcrew failed to increase airspeed in response, due to inadequate annunciation of the slat failure. The actions specified by the proposed AD are intended to prevent such inadequate annunciation, which could result in the flightcrew being unaware when the leading edge slats fail to extend properly; such failure could result in reduced stall margins, and consequent reduced controllability of the airplane.

DATES: Comments must be received by August 3, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–36–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Lockheed Aeronautical Systems Support Company (LASSC), Field Support Department, Dept. 693, Zone 0755, 2251 Lake Park Drive, Smyrna, Georgia 30080. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Thomas Peters, Program Manager, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30337–2748; telephone (770) 703–6063; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–36–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. 98–NM–36–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report indicating that the flightcrew of a Lockheed Model L–1011–385 series airplane failed to notice that the leading edge slats did not extend during approach for landing. As a result, the approach speed was not adjusted to compensate for this abnormal configuration. The airplane landed at an excessive sink rate and sustained substantial structural damage. The cause has been attributed to the existing design of the flap and slat display system, which does not provide adequate annunciation to the flightcrew when the leading edge slats have failed to extend. The existing flap position indicator of the flap and slat display system does not provide a conspicuous warning should the leading edge slats fail to extend or retract properly during flap operation. This condition, if not corrected, could result in the flightcrew being unaware when the leading edge slats fail to extend properly; such failure could result in reduced stall margins, and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Lockheed Service Bulletin 093–27–128, Revision 2, dated December 1, 1997, which describes procedures for replacement of the flap position indicator with an improved flap position indicator. 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 action specified in the service bulletin described previously.

Cost Impact

There are approximately 164 airplanes of the affected design in the worldwide fleet. The FAA estimates that 89 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed replacement, and that the average labor rate is $60 per work hour. Required parts would cost approximately $25,000 per airplane. Based on these figures, the cost impact of the replacement proposed by this AD on U.S. operators is estimated to be $2,235,680, or $25,120 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this 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:

Lockheed: Docket 98–NM–36–AD.

Applicability: Model L–1011–385–1, –14, and –15 series airplanes, as listed in Lockheed Service Bulletin 093–27–128, Revision 2, dated December 1, 1997; 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 (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 inadequate annunciation to the flightcrew of leading edge slat failures, which could result in reduced stall margins, and consequent reduced controllability of the airplane, accomplish the following:

(a) Within 18 months after the effective date of this AD, replace the flap position indicator with a new, improved flap position indicator, in accordance with Lockheed Service Bulletin 093–27–128, Revision 2, dated December 1, 1997.

Note 2: Replacement of the flap position indicator accomplished prior to the effective date of this AD, in accordance with Lockheed Service Bulletin 093–27–128, dated November 8, 1976, or Revision 1, dated January 17, 1977, is considered acceptable for compliance with paragraph (a) of this AD.

(b) As of the effective date of this AD, no person shall install a flap position indicator, part number 672563–111 or 672563–115, on any airplane.

(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, Atlanta 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, Atlanta ACO.

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

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

Issued in Renton, Washington, on June 9, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–16022 Filed 6–16–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–AWP–26]

Proposed Establishment of Class E Airspace; Willits, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a Class E airspace area at Willits, CA. Additional controlled airspace extending upward from 700 feet or more about the surface of the earth is needed to contain aircraft executing the Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 16 and GPS RWY 34 SIAP at Ells Field-Willits Municipal Airport. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Ells Field-Willits Municipal Airport, Willits, CA.

DATES: Comments must be received on or before July 27, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP–520, Docket No. 96–AWP–26, Air Traffic Division, 15000 Aviation Boulevard, Lawndale, California, 90261.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California, 90261.

An informal docket may also be examined during normal business at the Office of the Manager, Airspace Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Larry Tonish, Airspace Specialist, Airspace Branch, AWP–520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 725–6531.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–AWP–26.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Airspace Branch, Air Traffic Division, 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace Branch, 15000 Aviation Boulevard, Lawndale, California 90261. Communications must identify the notice number of this NPRM. Persons

interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 by establishing a Class E airspace area at Willits, CA. Additional controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing the GPS RWY 16 SIAP and GPS RWY 34 SIAP at Ells Field-Willits Municipal Airport. The intended effect of this proposal is to provide adequate controlled airspace for IFR operations at Ells Field-Willits Municipal Airport, Willits, CA. Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.09E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward form 700 feet or more above the surface of the earth.

* * * * *

AWP CA E5 Willits, CA [New]

(Lat. 39°27′03″N, long, 123°22′12″W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Ells Field-Willits Municipal Airport and that Airspace bounded by a line beginning at lat. 39°28′00″N, long. 123°30′15″W; to lat. 39°44′30″N, long. 123°40′15″W; to lat. 39°49′45″N, long. 123°26′30″W; to lat. 39°33′15″N, long. 123°18′00″W, then counterclockwise along the 6.3-mile radius of the Globe-San Carlos Regional Airport, to the point of beginning.

* * * * *

Issued in Los Angeles, California, on June 1, 1998.

Michael Lammes,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 98–16079 Filed 6–16–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

[ND–035–FOR, Amendment No. XXV]

North Dakota Regulatory Program

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

ACTION: Proposed rule; reopening and extension of public comment period and opportunity for public hearing on proposed amendment.

SUMMARY Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of additional explanatory information pertaining to a previously proposed amendment to the North Dakota regulatory program (hereinafter, the ''North Dakota program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The additional explanatory information for North Dakota's proposed rules pertain to changes to provisions on vegetation success standards for final bond release. The amendment is intended to revise the North Dakota program to improve operational efficiency.

DATES: Written comments must be received by 4:00 p.m., m.d.t., July 2, 1998. If requested, a public hearing on the proposed amendment will be held on July 13, 1998. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.d.t., on July 2, 1998.

ADDRESSES: Written comments should be mailed or hand delivered to Guy Padgett, Field Office Director, at the address listed below.

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

Guy Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East B. Street, Federal Building, Room 2128, Casper, Wyoming 82601–1918

James R. Deutsch, Director, Reclamation Division, Public Service Commission of North Dakota, State Capitol—600 E. Boulevard, Bismarck, North Dakota 58505–0480, Telephone: (701) 328–2400.

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: (307) 261–6550; Internet address: gpadgett@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the North Dakota Program

On December 15, 1980, the Secretary of the Interior conditionally approved the North Dakota program. General background information on the North Dakota program, including the Secretary's findings, the disposition of comments, and conditions of approval of the North Dakota program can be found in the December 15, 1980 **Federal Register** (45 FR 82214). Subsequent actions concerning North Dakota's program and program amendments can be found at 30 CFR 934.15, 934.16, and 934.30.

II. Proposed Amendment

By letter dated August 29, 1997, North Dakota submitted a proposed amendment to its program pursuant to SMCRA, Amendment number XXV, administrative record No. ND–Z–01, 30 U.S.C. 1201 *et seq.*). North Dakota submitted the proposed amendment at its own initiative. The provisions of the

North Dakota Administrative Code (NDAC) that North Dakota proposed to revise were: NDAC 69–05.2–13–01, concerning its Coal Production and Reclamation Fee Report; NDAC 65–05.2–22–07, concerning reclamation success standards for woodlands and shelter belts; and the addition of NDAC 69–05.2–28, concerning inspections of inactive mines.

OSM announced receipt of the proposed amendment in the September 17, 1997, **Federal Register** (62 FR 48807), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. ND–Z–03). Because no one requested a public hearing or meeting, none was held. The public comment period ended at 4:00 p.m. on October 17, 1997.

During its review of the amendment, OSM identified concerns relating to the provisions of NDAC 69–05.2–22–07.4.1, the timeframe for proving reclamation success. OSM notified North Dakota of the concerns in a telephone conversation of March 2, 1998 (administrative record No. ND–Z–09). North Dakota responded in a letter dated April 23, 1998, by submitting additional explanatory information (administrative record No. ND–Z–10).

North Dakota submitted additional explanatory information for NDAC 69–05.2–22–07.4.1, concerning the timeframe for proving reclamation success. North Dakota explains that an operator may demonstrate that the applicable standards have been achieved for three out of five consecutive years starting no sooner than the eighth year of the responsibility period, as an alternative to meeting revegetation success standards for the last two consecutive growing seasons of the responsibility period. This alternative does not pertain to success standards for prime farmlands.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed North Dakota program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. 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 North Dakota program.

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

IV. Procedural Determinations

1. Executive Order 12866

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

2. Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that 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 the Federal regulations at 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.

3. National Environmental Policy Act

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

4. Paperwork Reduction Act

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

5. 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 that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

6. 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 Subject in 30 CFR Part 934

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 9, 1998.

Richard J. Seibel,

Regional Director, Western Regional Coordinating Center.

[FR Doc. 98–16128 Filed 6–16–98; 8:45 am]

BILLING CODE 4310–05–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105–60

RIN 3090–AG16

Public Availability of Agency Records and Informational Materials

AGENCY: Office of Management and Workplace Programs, GSA.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) proposes to revise its regulations which implement the Freedom of Information Act (FOIA), to incorporate the requirements of the Electronic Freedom of Information Act Amendments of 1996, 5 U.S.C. 552, as amended by Public Law 104–231.

DATES: Comments must be received by July 17, 1998.

ADDRESSES: Comments should be submitted to the Freedom of Information Officer (CAI), General Services Administration, 1800 F Street, NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Mary Cunningham, GSA Freedom of Information Act (FOIA) Officer (202–501–3415); or Helen C. Maus, Office of General Counsel (202–501–1460).

SUPPLEMENTARY INFORMATION: This rule was not submitted to the Office of Management and Budget pursuant to Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, because it is not a significant regulatory action as defined in Executive Order 12866. The Paperwork Reduction Act does not apply because the rule does not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. § 3501, *et seq.*

The principles of Executive Order 12988 of February 5, 1996, Civil Justice Reform, have been incorporated where applicable.

The Administrator certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. § § 601–612. Pursuant to 5 U.S.C. § 605(b), this rule is therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

Comprehensive Summary

I. Implementation of the FOIA. These regulations implement the FOIA which codified Pub. L. 89–487 and amended section 3 of the Administrative Procedure Act, formerly 5 U.S.C. 1002 (1964 ed.). These regulations also implement Pub. L. 93–502, popularly known as the Freedom of Information Act Amendments of 1974, as amended by Pub. L. 99–570, the Freedom of Information Reform Act of 1986; the Electronic Freedom of Information Act Amendments of 1996, 5 U.S.C. 552, as amended by Public Law 104–213; and Executive Order 12600, Predisclosure Notification Procedures for Confidential Commercial Information, of June 23, 1987.

The revisions also update organizational references.

For the reasons set out in the preamble, 41 CFR Part 105–60 is proposed to be revised to read as follows:

PART 105–60—PUBLIC AVAILABILITY OF AGENCY RECORDS AND INFORMATIONAL MATERIALS

Sec.

105–60.000 Scope of part.

Subpart 105–60.1—General Provisions

105–60.101 Purpose
105–60.102 Application.
105–60.103 Policy.
105–60.103–1 Availability of records.
105–60.103–2 Applying exemptions.
105–60.104 Records of other agencies.

Subpart 105–60.2—Publication of General Agency Information and Rules in the Federal Register

105–60.201 Published information and rules.
105–60.202 Published materials available for sale to the public.

Subpart 105–60.3—Availability of Opinions, Orders, Policies, Interpretations, Manuals, and Instructions

105–60.301 General.
105–60.302 Available materials.
105–60.303 Rules for public inspection and copying.
105–60.304 Public Information Handbook and Index.
105–60.305 Fees.
105–60.305–1 Definitions.
105–60.305–2 Scope of subpart.
105–60.305–3 GSA records available without charge.
105–60.305–4 GSA records available at a fee.
105–60.305–5 Searches.
105–60.305–6 Reviews.
105–60.305–7 Assurance of payment.
105–60.305–8 Prepayment of fees.
105–60.305–9 Form of payment.
105–60.305–10 Fee schedule.
105–60.305–11 Fees for authenticated and attested copies.
105–60.305–12 Administrative actions to improve assessment and collection of fees.
105–60.305–13 Waiver of fee.

Subpart 105–60.4—Described Records

105–60.401 General
105–60.402 Procedures for making records available.
105–60.402–1 Submission of requests.
105–60.402–2 Response to initial requests.
105–60.403 Appeal within GSA.
105–60.404 Extension of time limits.
105–60.405 Processing requests for confidential commercial information.

Subpart 105–60.5—Exemptions

105–60.501 Categories of records exempt from disclosure under the FOIA.

Subpart 105–60.6—Production or Disclosure by Present or Former General Services Administration Employees in Response to Subpoenas or Similar Demands in Judicial or Administrative Proceedings

105–60.601 Purpose of scope of subpart.
105–60.602 Definitions.
105–60.603 Acceptance of service of a subpoena duces tecum or other legal demand on behalf of the General Services Administration.
105–60.604 Production or disclosure prohibited unless approved by the Appropriate Authority.
105–60.605 Procedure in the event of a demand for production or disclosure.
105–60.606 Procedure where response to demand is required prior to receiving instructions.
105–60.607 Procedure in the event of an adverse ruling.
105–60.608 Fees, expenses, and costs.

Authority: 5 U.S.C. 301 and 552; 40 U.S.C. 486(c).

§ 105–60.000 Scope of part.

(a) This part sets forth policies and procedures of the General Services Administration (GSA) regarding public access to records documenting:

(1) Agency organization, functions, decisionmaking channels, and rules and regulations of general applicability;

(2) Agency final options and orders, including policy statements and staff manuals;

(3) Operational and other appropriate agency records; and

(4) Agency proceedings.

(b) This part also covers exemptions from disclosure of these records; procedures for the public to inspect or obtain copies of GSA records; and instructions to current and former GSA employees on the response to a subpoena or other legal demand for material or information received or generated in the performance of official duty or because of the person's official status.

(c) Any policies and procedures in any GSA internal or external directive inconsistent with the policies and procedures set forth in this part are superseded to the extent of that inconsistency.

Subpart 105–60.1—General Provisions

§ 105–60.101 Purpose.

This part 105–60 implements the provisions of the Freedom of Information Act (FOIA), as amended, 5 U.S.C. 552. The regulations in this part also implement Executive Order 12600, Predisclosure Notification Procedures for Confidential Commercial Information, of June 23, 1987 (3 CFR, 1987 Comp., p. 235). This part prescribes procedures by which the public may inspect and obtain copies of GSA records under the FOIA, including administrative procedures which must be exhausted before a requester invokes the jurisdiction of an appropriate United States District Court for GSA's failure to respond to a proper request within the statutory time limits, for a denial of agency records or challenge to the adequacy of a search, or for a denial of a fee waiver.

§ 105–60.102 Application.

This part applies to all records and informational materials generated, maintained, and controlled by GSA that come within the scope of 5 U.S.C. 552.

§ 105–60.103 Policy.

§ 105–60.103–1 Availability of records.

The policies of GSA with regard to the availability of records to the public are:

(a) GSA records are available to the greatest extent possible in keeping with

the spirit and intent of the FOIA. GSA will disclose information in any existing GSA record, with noted exceptions, regardless of the form or format of the record. GSA will provide the record in the form or format requested if the record is reproducible by the agency in that form or format without significant expenditure of resources. GSA will make reasonable efforts to maintain its records in forms or formats that are reproducible for purposes of this section.

(d) The person making the request does not need to demonstrate an interest in the records or justify the request.

(c) The FOIA does not give the public the right to demand that GSA compile a record that does not already exist. For example, FOIA does not require GSA to collect and compile information from multiple sources to create a new record. GSA may compile records or perform minor reprogramming to extract records from a database or system when doing so will not significantly interfere with the operation of the automated system in question or involve a significant expenditure of resources.

(b) Similarly, FOIA does not require GSA to reconstruct records that have been destroyed in compliance with disposition schedules approved by the Archivist of the United States. However, GSA will not destroy records after a member of the public has requested access to them and will process the request even if destruction would otherwise be authorized.

(e) If the record requested is not complete at the time of the request, GSA may, at its discretion, inform the requester that the complete record will be provided when it is available, with no additional request required, if the record is not exempt from disclosure.

(f) Requests must be addressed to the office identified in § 105–60.402–1.

(g) Fees for locating and duplicating records are listed in § 105–60.305–10.

§ 105–60.103–2 Applying exemptions.

GSA may deny a request for a GSA record if it falls within an exemption under the FOIA outlined in subpart 105–60.5 of this part. Except when a record is classified or when disclosure would violate any Federal statute, the authority to withhold a record from disclosure is permissive rather than mandatory. GSA will not withhold a record unless there is a compelling reason to do so; i.e., disclosure will likely cause harm to a Governmental or private interest. In the absence of a compelling reason, GSA will disclose a record even if it otherwise is subject to exemption. GSA will cite the compelling reason(s) to requesters when any record is denied under FOIA.

§ 105–60.104 Records of other agencies.

If GSA receives a request for access to records that are known to be the primary responsibility of another agency, GSA will refer the request to the agency concerned for appropriate action. For example, GSA will refer requests to the appropriate agency in cases in which GSA does not have sufficient knowledge of the action or matter that is the subject of the requested records to determine whether the records must be released or may be withheld under one of the exemptions listed in subpart 105–60.5. If GSA does not have the requested records, the agency will attempt to determine whether the requested records exist at another agency and, if possible, will forward the request to that agency. GSA will inform the requester that GSA has forwarded the request to another agency.

Subpart 105–60.2—Publication of General Agency Information and Rules in the Federal Register

§ 105–60.201 Published information and rules.

In accordance with 5 U.S.C. 552(a)(1), GSA publishes in the **Federal Register**, for the guidance of the public, the following general information concerning GSA:

(a) Description of the organization of the Central Office and regional offices and the established places at which, the employees from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(b) Statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(c) Rules of procedure, descriptions of forms available or the places where forms may be obtained, and instructions on the scope and contents of all papers, reports, or examinations;

(d) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by GSA; and

(e) Each amendment, revision, or repeal of the materials described in this section.

§ 105–60.202 Published materials available for sale to the public.

(a) Substantive rules of general applicability adopted by GSA as authorized by law that this agency publishes in the **Federal Register** and which are available for sale to the public by the Superintendent of Documents at pre-established prices are: The General Services Administration Acquisition Regulation (48 CFR Ch. 5), the Federal Acquisition Regulation (48 CFR Ch. 1), the Federal Property Management Regulations (41 CFR Ch. 101), and The Federal Travel Regulation (41 CFR Ch. 301–304).

(b) GSA also provides technical information, including manuals and handbooks, to other Federal entities, e.g., the National Technical Information Service, with separate statutory authority to make information available to the public at pre-established fees.

(c) Requests for information available through the sources in paragraph (a) and (b) of this section will be referred to those sources.

Subpart 105–60.3—Availability of Opinions, Orders, Policies, Interpretations, Manuals, and Instructions

§ 105–60.301 General.

GSA makes available to the public the materials described under 5 U.S.C. 552(a)(2), which are listed in § 105–60.302 through an extensive electronic home page, http://www.gsa.gov/. A public handbook listing those materials as described in § 105–60.304 is available at GSA's Central Office in Washington, DC, and at the website at http://www.gsa.gov/staff/c/ca/publ.htm. Members of the public who do not have the means to access this information electronically, and who are not located in the Washington, DC area, may contact the Freedom of Information Act office in any of the regional offices listed in this regulation. These offices will make arrangements for members of the public to access the information at a computer located at the FOIA office. Reasonable copying services are provided at the fees specified in § 105–60.305.

§ 105–60.302 Available materials.

GSA materials available under this subpart 105–60.3 are as follows:

(a) Final opinions, including concurring and dissenting opinions and orders, made in the adjudication of cases.

(b) Those statements and policy and interpretations that have been adopted by GSA and are not published in the **Federal Register**.

(c) Administrative staff manuals and instructions to staff affecting a member of the public unless these materials are promptly published and copies offered for sale.

§ 105–60.303 Rules for public inspection and copying.

(a) Locations. Selected areas containing the materials available for public inspection and copying, described in this section 105–60.302, are located in the following places:

Central Office (GSA Headquarters)
General Services Administration, Washington, DC, Telephone: 202–501–2262, FAX: 202–501–2727, Email: gsa.foia@gsa.gov, 1800 F Street, NW (CAI), Washington, DC 20405
Office of the Inspector General
FOIA Officer, Office of Inspector General (J), General Services Administration, 1800 F Street NW., Room 5324, Washington, DC 20405
New England Region
General Services Administration (1AB)
(Comprised of the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont), Thomas P. O'Neill, Jr., Federal Building, 10 Causeway Street, Boston, MA 02222, Telephone: 617–565–8100, FAX: 617–565–8101
Northeast and Caribbean Region
(Comprised of the States of New Jersey, New York, the Commonwealth of Puerto Rico, and the Virgin Islands), General Services Administration (2AR), 26 Federal Plaza, New York, NY 10278, Telephone: 212–264–1234, FAX: 212–264–2760
Mid-Atlantic Region
(Comprised of the States of Delaware, Maryland, Pennsylvania, Virginia, and West Virginia, excluding the Washington, DC metropolitan area)
General Services Administration (3ADS), 100 Penn Square East, Philadelphia, PA 19107, Telephone: 215–656–5530, FAX: 215–656–5590
Southeast Sunbelt Region
(Comprised of the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee)
General Services Administration (4E), 401 West Peachtree Street, Atlanta, GA 30365, Telephone: 404–331–5103, FAX: 404–331–1813
Great Lakes Region
(Comprised of the States of Illinois, Indiana, Ohio, Minnesota, Michigan, and Wisconsin)
General Services Administration (5ADB), 230 South Dearborn Street, Chicago, IL 60604, Telephone: 312–353–5383, FAX: 312–353–5385
Heartland Region
(Comprised of the States of Iowa, Kansas, Missouri, and Nebraska)
General Services Administration (6ADB), 1500 East Bannister Road, Kansas City, MO 64131, Telephone: 816–926–7203, FAX: 816–823–1167
Greater Southwest Region
(Comprised of the States of Arkansas, Louisiana, New Mexico, Texas, and Oklahoma)
General Services Administration (7ADQ), 819 Taylor Street, Fort Worth, TX 76102, Telephone: 817–978–3902, FAX: 817–978–4867
Rock Mountain Region
(Comprised of the States of Colorado, North Dakota, South Dakota, Montana, Utah, and Wyoming)
Business Service Center, General Services Administration (8PB–B), Building 41, Denver Federal Center, Denver, CO 80225, Telephone: 303–236–7408, FAX: 303–236–7403
Pacific Rim Region
(Comprised of the States of Hawaii, California, Nevada, Arizona, Guam, and Trust Territory of the Pacific)
Business Service Center, General Services Administration (9ADB), 525 Market Street, San Francisco, CA 94105, Telephone: 415–522–2715, FAX: 415–522–2705
Northwest/Arctic Region
(Comprised of the States of Alaska, Idaho, Oregon, and Washington)
General Services Administration (10L), GSA Center, 15th and C Streets, SW., Auburn, WA 98002, Telephone: 206–931–7007, FAX: 206–931–7195
National Capital Region
(Comprised of the District of Columbia and the surrounding metropolitan area)
General Services Administration (WPFA–L), 7th and D Streets SW., Washington, DC 20407, Telephone: 202–708–5854, FAX: 202–708–4655

(b) *Time.* The offices listed in paragraph (a) of this section will be open to the public during the business hours of the GSA office where they are located.

(c) *Reproduction services and fees.* The GSA Central Office or the Regional Business Service Centers will furnish reasonable copying and reproduction services for available materials at the fees specified in § 105–60.305.

§ 105–60.304 Public Information Handbook and Index.

GSA publishes a handbook for the public that identifies information regarding any matter described in § 105–60.302. This handbook also lists published information available from GSA and describes the procedures the public may use to obtain information using the Freedom of Information Act (FOIA). This handbook may be obtained without charge from any of the GSA FOIA offices listed in § 105–60.303(a), or at the GSA Internet Homepage (http://www.gsa.gov/staff/c/ca/cai/foiabk.htm).

§ 105–60.305 Fees.

§ 105–60.305–1 Definitions.

For the purpose of this part:

(a) A statute specifically providing for setting the level of fees for particular types of records (5 U.S.C. 552(a)(4)(A)(vii)) means any statute that specifically requires a Government agency to set the level of fees for particular types of records, as opposed to a statute that generally discusses such fees. Fees are required by statute to:

(1) Make Government information conveniently available to the public and to private sector organizations;

(2) Ensure that groups and individuals pay the cost of publications and other services which are for their special use so that these costs are not borne by the general taxpaying public;

(3) Operate an information dissemination activity on self-sustaining basis to the maximum extent possible; or

(4) Return revenue to the Treasury for defraying, wholly or in part, appropriated funds used to pay the cost of disseminating Government information.

(b) The term *direct costs* means those expenditures which GSA actually incurs in searching for and duplicating (and in the case of commercial requesters, reviewing and redacting) documents to respond to a FOIA request. Direct costs include, for example, the salary of the employee performing the work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits), and the cost of operating duplicating machinery. Overhead expenses such as costs of space, and heating or lighting the facility where the records are stored are not included in direct costs.

(c) The term *search* includes all time spent looking for material that is responsive to a request, including line-by-line identification of material within documents. Searches will be performed in the most efficient and least expensive manner so as to minimize costs for both the agency and the requester. Line-by-line searches will not be undertaken when it would be more efficient to duplicate the entire document. ''Search'' for responsive material is not the same as ''review'' of a record to determine whether it is exempt from disclosure in whole or in part (see paragraph c of this section). Searches may be done manually or by computer using existing programming or are programming when this would not significantly interfere with the operation of the automated system in question.

(d) The term *duplication* means the process of making a copy of a document in response to a FOIA request. Copies can take the form of paper, microform, audiovisual materials, or magnetic tapes or disks. To the extent practicable, GSA will provide a copy of the material in the form specified by the requester.

(e) The term *review* means the process of examining documents located in response to a request to determine if any portion of that document is permitted to be withheld and processing any

documents for disclosure. See § 015–60.305–6.

(f) The term *commercial-use request* means a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or person on whose behalf the request is made. GSA will determine whether a requester properly belongs in this category by determining how the requester will use the documents.

(g) The term *educational institution* means a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, or an institution of vocational education which operates a program or programs of scholarly research.

(h) The term *noncommercial scientific institution* means an institution that is not operated on a ''commercial'' basis as that terms is used in paragraph (f) of this section and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(i) The term *representative of the news media* means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term ''news'' means information that is about current events or that would be of current interest to the public. Examples of news media include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of ''news'') who make their products available for purchase or subscription by the general public. ''Freelance'' journalists will be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization even though they are not actually employed by it.

§ 105–60.305–2 Scope of this subpart.

This subpart sets forth policies and procedures to be followed in the assessment and collection of fees from a requester for the search, review, and reproduction of GSA records.

§ 105–60.305–3 GSA records available without charge.

GSA records available to the public are displayed in the Business Service Center for each GSA region. The address and phone number of the Business Service Centers are listed in § 105–60.303. Certain material related to bids (excluding construction plans and specifications) and any material displayed are available without charge upon request.

§ 105–60.305–4 GSA records available at a fee.

(a) GSA will make a record not subject to exemption available at a time and place mutually agreed upon by GSA and the requester at fees shown in § 105–60.305–10. Waivers of these fees are available under the conditions described in § 105–60.305.13. GSA will agree to:

(1) Show the originals to the requester;

(2) Make one copy available at a fee; or

(3) A combination of these alternatives.

(b) GSA will make copies of voluminous records as quickly as possible. GSA may, in its discretion, make a reasonable number of additional copies for a fee when commercial reproduction services are not available to the requester.

§ 105–60.305–5 Searches.

(a) GSA may charge for the time spent in the following activities in determining ''search time'' subject to applicable fees as provided in § 105–60.305–10:

(1) Time spent in trying to locate GSA records which come within the scope of the request;

(2) Time spent in either transporting a necessary agency searcher to a place of record storage, or in transporting records to the locations of a necessary agency searcher; and

(3) Direct costs of the use of computer time to locate and extract requested records.

(b) GSA will not charge for the time spent in monitoring a requester's inspection of disclosed agency records.

(c) GSA may assess fees for search time even if the search proves unsuccessful or if the records located are exempt from disclosure.

§ 105–60.305–6 Reviews.

(a) GSA will charge only commercial-use requesters for review time.

(b) GSA will charge for the time spent in the following activities in determining ''review time'' subject to applicable fees as provided in § 105–60.305–10:

(1) Time spent in examining a requested record to determine whether any or all of the record is exempt from disclosure, including time spent consulting with submitters of requested information; and

(2) Time spent in deleting exempt matter being withheld from records otherwise made available.

(c) GSA will not charge for:

(1) Time spent in resolving issues of law or policy regarding the application of exemptions; or

(2) Review at the administrative appeal level of an exemption already applied. However, records or portions of records withheld in full under an exemption which is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. GSA will charge for such subsequent review.

§ 105–60.305–7 Assurance of payment.

If fees for search, review, and reproduction will exceed $25 but will be less than $250, the requester must provide written assurance of payment before GSA will process the request. If this assurance is not included in the initial request, GSA will notify the requester that assurance of payment is required before the request is processed. GSA will offer requesters an opportunity to modify the request to reduce the fee.

§ 105–60.305–8 Prepayment of fees.

(a) *Fees over $250.* GSA will require prepayment of fees for search, review, and reproduction which are likely to exceed $250. When the anticipated total fee exceeds $250, the requester will receive notice to prepay and at the same time will be given an opportunity to modify his or her request to reduce the fee. When fees will exceed $250, GSA will notify the requester that it will not start processing a request until payment is received.

(b) *Delinquent payments.* As noted in § 105–60.305–12(d), requesters who are delinquent in paying for previous requests will be required to repay the old debt and to prepay for any subsequent request. GSA will inform the requester that it will process no additional requests until all fees are paid.

§ 105–60.305–9 Form of payment.

Requesters should pay fees by check or money order made out to the General Services Administration and addressed to the official named by GSA in its correspondence. Payment may also be made by means of Mastercard or Visa. For information concerning payment by credit cards, call 816–926–7551.

§ 105–60.305–10 Fee schedule.

(a) When GSA is aware that documents responsive to a request are maintained for distribution by an agency operating a statutory fee based program, GSA will inform the requester of the procedures for obtaining records from those sources.

(b) GSA will consider only the following costs in fees charged to requesters of GSA records:

(1) *Review and search fees.*

Manual searches by clerical staff: $13 per hour or fraction of an hour.

Manual searches and reviews by professional staff in cases in which clerical staff would be unable to locate the requested records: $29 per hour or fraction of an hour.

Computer searches: Direct cost to GSA.

Transportation or special handling of records: Direct cost to GSA.

(2) *Reproduction fees.*

Pages no larger than 8½ by 14 inches, when reproduced by routine electrostatic copying: 10¢ per page.

Pages over 8½ by 14 inches: Direct cost of reproduction to GSA.

Pages requiring reduction, enlargement, or other special services: Direct cost of reproduction to GSA.

Reproduction by other than routine electrostatic copying: Direct cost of reproduction to GSA.

(c) Any fees not provided for under paragraph (b) of this section, shall be calculated as direct costs, in accordance with § 105–60.305–1(b).

(d) GSA will assess fees based on the category of the requester as defined in § 105–60.305–1(f) through (i); i.e., commercial-use, educational and noncommercial scientific institutions, news media, and all other. The fees listed in paragraph (b) of this section apply with the following exceptions:

(1) GSA will not charge the requester if the fee is $25 or less as the cost of collection is greater than the fee.

(2) Educational noncommercial scientific institutions and the news media will be charged for the cost of reproduction alone. These requesters are entitled to the first 100 pages (paper copies) of duplication at no cost. The following are examples of how these fees are calculated:

(i) A request that results in 150 pages of material. No fee would be assessed for duplication of 150 pages. The reason is that these requesters are entitled to the first 100 pages at no charge. The charge for the remaining 50 pages would be $5.00. This amount would not be billed under the preceding section.

(ii) A request that results in 450 pages of material. The requester in this case would be charged $35.00. The reason is that the requester is entitled to the first 100 pages at no charge. The charge for the remaining 350 pages would be $35.

(3) Noncommercial requesters who are not included under paragraph (d)(2) of this section will be entitled to the first 100 pages (paper copies) of duplication at no cost and two hours of search without charge. The term ''search time'' generally refers to manual search. To apply this term to searches made by computer, GSA will determine the hourly cost of operating the central processing unit and the operator's hourly salary plus 16 percent. When the cost of search (including the operator time and the cost of operating the computer to process a request) reaches the equivalent dollar amount of two hours of the salary of the person performing a manual search, i.e., the operator, GSA will begin assessing charges for computer search.

(4) GSA will charge commercial-use requesters fees which recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. Commercial-use requesters are not entitled to two hours of free search time.

(e) *Determining category of requester.* GSA may ask any requester to provide additional information at any time to determine what fee category he or she falls under.

§ 105–60.305–11 Fees for authenticated and attested copies.

The fees set forth in § 105–60.30510 to apply to requests for authenticated and attested copies of GSA records.

§ 105–60.305–12 Administrative actions to improve assessment and collection of fees.

(a) *Charging interest.* GSA may charge requesters who fail to pay fees interest on the amount billed starting on the 31st day following the day on which the billing was sent. Interest will be at the rate prescribed in 31 U.S.C. 3717.

(b) *Effect of the Debt Collection Act of 1982.* GSA will take any action authorized by the Debt Collection Act of 1982 (Pub. L. 97–365, 96 Stat. 1749), including disclosure to consumer reporting agencies, use of collection agencies, and assessment of penalties and administrative costs, where appropriate, to encourage payment.

(c) *Aggregating requests.* When GSA reasonably believes that a requester, or group of requesters acting in concert, is attempting to break a down a request into a series of requests related to the same subject for the purpose of evading the assessment of fees, GSA will combine any such requests and charge accordingly, including fees for previous requests where charges were not assessed. GSA will presume that multiple requests of this type within a 30-day period are made to avoid fees.

(d) *Advance payments.* Whenever a requester is delinquent in paying the fee for a previous request (i.e., within 30 days of the date of billing), GSA will require the requester to pay the full amount owed plus any applicable interest penalties and administrative costs as provided in paragraph (a) of this section or to demonstrate that he or she has, in fact, paid the fee. In such cases, GSA will also require advance payment of the full amount of the estimated fee before the agency begins to process a new request or a pending request from that requester. When advance payment is required under this section, the administrative time limits in subsection (a)(6) of the FOIA (i.e., 10 working days from receipt of appeals from initial denial plus permissible time extensions) will begin only after GSA has received the fee payments described in § 105–60.305–8.

§ 105–60.305–13 Waiver of fee.

(a) Any request for a waiver or the reduction of a fee should be included in the initial letter requesting access to GSA records under § 105–60.402–1. The waiver request should explain how disclosure of the information would request should explain how disclosure of the information would contribute significantly to public's understanding of the operations or activities of the Government and would not be primarily in the commercial interest of the requester. In responding to a request, GSA will consider the following factors:

(1) Whether the subject of the requested records concerns ''the operations or activities of the Government.'' The subject matter of the requested records must specifically concern identifiable operations or activities of the Federal Government. The connection between the records and the operations or activities must be direct and clear, not remote or attenuated.

(2) Whether the disclosure is ''likely to contribute'' to an understanding of Government operations or activities. In this connection, GSA will consider whether the requested information is already in the public domain. If it is, then disclosure of the information in the public domain. If it is, then disclosure of the information would not be likely to contribute to an understanding of Government operations or activities, as nothing new would be added to the public record.

(3) Whether disclosure of the requested information will contribute to ''public's understanding.'' The focus here must be on the contribution to public's understanding rather than personal benefit to be derived by the requester. For purposes of this analysis, the identity and qualifications of the requester should be considered to determine whether the requester is in a position to contribute to public's understanding through the requested disclosure.

(4) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and if so: whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public's interest in disclosure, that disclosure is ''primarily in the commercial interest of the requester.''

(b) GSA will ask the requester to furnish additional information if the initial request is insufficient to evaluate the merits of the request. GSA will not start processing a request until the fee waiver issue has been resolved unless the requester has provided written assurance of payment in full if the fee waiver is denied by the agency.

Subpart 105–60.4—Described Records

§ 105–60.401 General.

(a) Except for records made available in accordance with subparts 105–60.2 and 105–60.3 of this part, GSA will make records available to a requester promptly when the request reasonably describes the records unless GSA invokes an exemption in accordance with subpart 105–60.5 of this part. Although the burden of reasonable description of the records rests with the requester, whenever practical GSA will assist requesters to describe records more specifically.

(b) Whenever a request does not reasonably describe the records requested, GSA may contact the requester to seek a more specific description. The 20-workday time limit set forth in § 105–60.402–2 will not start until the official identified in § 105–60.402–1 or other responding official receives a request reasonably describing the records.

§ 105–60.402 Procedures for making records available.

This subpart sets forth initial procedures for making records available when they are requested, including administrative procedures to be exhausted prior to seeking judicial review by an appropriate United States District Court.

§ 105–60.402–1 Submission of requests.

For records located in the GSA Central Office, the requester must submit a request in writing to the GSA FOIA Officer, General Services Administration (GSA), Washington, DC 20405. Requesters may FAX requests to (202) 501–2727, or submit a request by electronic mail to gsa.foi@gsa.gov. For records located in the Office of Inspector General, the requester must submit a request to the FOIA Officer, Office of Inspector General, General Services Administration, 1800 F Street NW., Room 5324, Washington, DC 20405. For records located in the GSA regional offices, the requester must submit a request to the FOIA Officer for the relevant region, at the address listed in § 105–60.303(a). Requests should include the words ''Freedom of Information Act Request'' prominently marked on both the face of the request letter and the envelope. The 20-workday time limit for agency decisions set forth in § 105–60.402–2 begins with receipt of a request in the office of the official identified in this section, unless the provisions under §§ 105–60.305–8 and 105–60.305–12(d) apply. Failure to include the words ''Freedom of Information Act Request'' or to submit a request to the official identified in this section will result in processing delays. A requester with questions concerning a FOIA request should contact the GSA FOIA Office, General Services Administration (GSA), 18th and F Streets, NW., Washington, DC 20405, (202) 501–2262.

§ 105–60.402–2 Response to initial requests.

(a) GSA will respond to an initial FOIA request that reasonably describes requested records, including a fee waiver request, within 20 workdays (that is, excluding Saturdays, Sundays, and legal holidays) after receipt of a request by the office of the appropriate official specified in § 105–60.402–1. This letter will provide the agency's decision with respect to disclosure or nondisclosure of the requested records, or, if appropriate, a decision on a request for a fee waiver. If the record to be disclosed are not provided with the initial letter, the records will be sent as soon as possible thereafter.

(b) In unusual circumstances, as described in § 105–60.404, GSA will inform the requester of the agency's need to take an extension of time, not to exceed an additional 10 workdays. This notice will afford requesters an opportunity to limit the scope of the request so that it may be processed within prescribed time limits or an opportunity to arrange an alternative time frame for processing the request or a modified request. Such mutually agreed time frames will supersede the 10 day limit for extensions.

(c) GSA will consider requests for expedited processing from requesters who submit a statement describing a compelling need and certifying that this need is true and correct to the best of such person's knowledge and belief. A compelling need means:

(1) Failure to obtain the records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(2) The information is urgently needed by an individual primarily engaged in disseminating information in order to inform the public concerning actual or alleged Federal Government activity. An individual primarily engaged in disseminating information means a person whose primary activity involves publishing or otherwise disseminating information to the public. ''Urgently needed'' information has a particular value that will be lost if not disseminated quickly, such as a breaking news story or general public interest. Information of historical interest only, or information sought for litigation or commercial activities would not qualify, nor would a news media publication or broadcast deadline unrelated to the newsbreaking nature of the information.

(d) GSA will decide whether to grant expedited processing within five working days of receipt of the request. If the request is granted, GSA will process the request ahead of non-expedited requests, as soon as practicable. If the request is not granted, GSA will give expeditious consideration to administrative appeals of this denial.

(e) GSA may, at its discretion, establish three processing queues based on whether any request have been granted expedited status and on the difficulty and complexity of preparing a response. Within each queue, responses will be prepared on a ''first in, first out'' basis. One queue will be made up of expedited requests; the second, of simple responses that clearly can be prepared without requesting an extension of time; the third, of responses that will require an extension of time.

§ 105–60.403 Appeal within GSA.

(a) A requester who receives a denial of a request, in whole or in part, a denial of a request for expedited processing or of a fee waiver request may appeal that decision within GSA. A requester may also appeal the adequacy of the search if GSA determines that it has searched for but has no requested records. The requester must send the appeal to the GSA FOIA Officer, General Services Administration (CAI), Washington, DC 20405, regardless of whether the denial being appealed was made in the Central Office or in a regional office. For denials which originate in the Office of Inspector General, the requester must send the appeal to the Inspector General, General Services Administration, 1800 F Street NW., Washington, DC 20405.

(b) The GSA FOIA Officer must receive an appeal no later than 120 calendar days after receipt by the requester of the initial denial of access or fee waiver.

(c) An appeal must be in writing and include a brief statement of the reasons he or she thinks GSA should release the records or provide expedited processing and enclose copies of the initial request and denial. The appeal letter must include the word ''Freedom of Information Act Appeal'' on both the face of the appeal letter and on the envelope. Failure to follow these procedures will delay processing of the appeal. GSA has 20 workdays after receipt of a proper appeal of denial of records to issue a determination with respect to the appeal. The 20-workday time limit shall not begin until the GSA FOIA Officer receives the appeal. As noted in § 105–60.404, the GSA FOIA Officer may extend this time limit in unusual circumstances. GSA will process appeals of denials of expedited processing as soon as possible after receiving them.

(d) A requester who receives a denial of an appeal, or who has not received a response to an appeal or initial request within the statutory time frame may seek judicial review in the United States District Court in the district in which the requester resides or has a principal place of business, or where the records are situated, or in the United States District Court for the District of Columbia.

§ 105–60.404 Extension of time limits.

(a) In unusual circumstances, the GSA FOIA Officer or the regional FOIA Officer may extend the time limits prescribed in §§ 105–60.402 and 105–60–403. For purposes of this section, the term ''unusual circumstances'' means:

(1) The need to search for an collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are described in a single request;

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of GSA having substantial subject-matter interest therein; or

(4) The need to consult with the submitter of the requested information.

(b) If necessary, GSA may take more than one extension of time. However, the total extension of time to respond to any single request shall not exceed 10 workdays. The extension may be divided between the initial and appeal stages or within a single stage. GSA will provide written notice to the requester of any extension of time limits.

§ 105–60.405 Processing requests for confidential commercial information.

(a) *General.* The following additional procedures apply when processing requests for confidential commercial information.

(b) *Definitions.* For the purposes of this section, the following definitions apply:

(1) *Confidential commercial information* means records provided to the Government by a submitter that contain material arguably exempt from release under 5 U.S.C. 552(b)(4), because disclosure could reasonably be expected to cause substantial competitive harm.

(2) *Submitter* means a person or entity which provides to the Government information which may constitute confidential commercial information. The term ''submitter'' includes, but is not limited to, individuals, partnerships, corporations, State governments, and foreign governments.

(c) *Designating confidential commercial information.* Since January 1, 1988, submitters have been required to designate confidential commercial information as such when it is submitted to GSA or at a reasonable time thereafter. For information submitted in connection with negotiated procurements, the requirements of Federal Acquisition Regulation 48 CFR 15.406(c)(8) and 52.215–12 also apply.

(d) *Procedural requirements—consultation with the submitter.* (1) If GSA receives a FOIA request for potentially confidential commercial information, it will notify the submitter immediately by telephone and invite and opinion whether disclosure will or will not cause substantial competitive harm.

(2) GSA will follow up the telephonic notice promptly in writing before releasing any records unless paragraph (f) of this section applies.

(3) If the submitter indicates an objection to disclosure GSA will give the submitter seven workdays from receipt of the letter to provide GSA with a detailed written explanation of how disclosure of any specified portion of the records would be competitively harmful.

(4) If the submitter verbally states that there is no objection to disclosure, GSA will confirm this fact in writing before disclosing any records.

(5) At the same time GSA notifies the submitter, it will also advise the requester that there will be a delay in responding to the request due to the need to consult with the submitter.

(6) GSA will review the reasons for nondisclosure before independently deciding whether the information must be released or should be withheld. If GSA decides to release the requested information, it will provide the submitter with a written statement explaining why his or her objections are not sustained. The letter to the submitter will contain a copy of the material to be disclosed or will offer the submitter an opportunity to review the material in one of GSA's offices. If GSA decides not to release the material, it will notify the submitter orally or in writing.

(7) If GSA determines to disclose information over a submitter's objections, it will inform the submitter that GSA will delay disclosure for 5 workdays from the estimated date the submitter receives GSA's decision before it releases the information. The decision letter to the requester shall state that GSA will delay disclosure of material it has determined to disclose to allow for the notification of the submitter.

(e) *When notice is required.* (1) For confidential commercial information submitted prior to January 1, 1988, GSA will notify a submitter whenever it receives a FOIA request for such information:

(i) If the records are less than 10 years old and the information has been designated by the submitter as confidential commercial information; or

(ii) If GSA has reason to believe that disclosure of the information could reasonably be expected to cause substantial competitive harm.

(2) For confidential commercial information submitted on or after January 1, 1988, GSA will notify a submitter whenever it determines that the agency may be required to disclose records:

(i) That the submitter has previously designated as privileged or confidential; or

(ii) That GSA believes could reasonably be expected to cause substantial competitive harm if disclosed.

(3) GSA will provide notice to a submitter for a period of up to 10 years after the date of submission.

(f) *When notice is not required.* The notice requirements of this section will not apply if:

(1) GSA determines that the information should not be disclosed;

(2) The information has been published or has been officially made available to the public;

(3) Disclosure of the information is required by law other than the FOIA;

(4) Disclosure is required by an agency rule that:

(i) Was adopted pursuant to notice and public comment;

(ii) Species narrow classes of records submitted to the agency that are to be released under FOIA; and

(iii) Provides in exceptional circumstances for notice when the submitter provides written justification, at the time the information is submitted or a reasonable time thereafter, that disclosure of the information could reasonably be expected to cause substantial competitive harm;

(5) The information is not designated by the submitter as exempt from disclosure under paragraph (c) of this section, unless GSA has substantial reason to believe that disclosure of the information would be competitively harmful; or

(6) The designation made by the submitter in accordance with paragraph (c) of this section appears obviously frivolous; except that, in such cases, the agency must provide the submitter with written notice of any final administrative decision five workdays prior to disclosing the information.

(g) *Lawsuits.* If a FOIA requester sues the agency to compel disclosure of confidential commercial information, GSA will notify the submitter as soon as possible. If the submitter sues GSA to enjoin disclosure of the records, GSA will notify the requester.

Subpart 105–60.5—Exemptions

§ 105–60.501 Categories of records exempt from disclosure under the FOIA.

(a) 5 U.S.C. 552(b) provides that the requirements of the FOIA do not apply to matters that are:

(1) Specifically authorized under the criteria established by an executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such executive order;

(2) Related solely to the internal personnel rules and practices of an agency;

(3) Specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute:

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Interagency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records of information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(b) GSA will provide any reasonably segregable portion of a record to a requester after deletion of the portions that are exempt under this section. If GSA must delete information from a record before disclosing it, this information, and the reasons for withholding it, will be clearly described in the cover letter to the requester or in an attachment. Unless indicating the extent of the deletion would harm an interest protected by an exemption, the amount of deleted information shall be indicated on the released portion of paper records by use of brackets or darkened areas indicating removal of information. In the case of electronic deletion, the amount of redacted information shall be indicated at the place in the record where such deletion was made, unless including the indication would harm an interest protected by the exemption under which the exemption was made.

(c) GSA will invoke no exemption under this section to deny access to records that would be available pursuant to a request made under the Privacy Act of 1974 (5 U.S.C. 522a) and implementing regulations, 41 CFR Part 105–64, or if disclosure would cause no demonstrable harm to any governmental or private interest.

(d) Pursuant to National Defense Authorization Act for Fiscal Year 1997, Pub. L. 104–201, section 821, 110 Stat. 2422, GSA will invoke Exemption 3 to deny access to any proposal submitted by a vendor in response to the requirements of a solicitation for a competitive proposal unless the proposal is set forth or incorporated by reference in a contract entered into between the agency and the contractor that submitted the proposal.

(e) Whenever a request is made which involves access to records described in § 105–60.501(a)(7)(i) and the investigation or proceeding involves a possible violation of criminal law, and there is reason to believe that the subject of the investigation or proceeding is not aware of it, and disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, the agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this section.

(f) Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed.

(g) Whenever a request is made that involves access to records maintained by the Federal Bureau of Investigation pertaining to foreign intelligence or counterintelligence, or international terrorism, and the existence of the records is classified information as provided in paragraph (a)(1) of this section, the Bureau may, as long as the existence of the records remains classified information, treat the records as not subject to the requirements of this section.

Subpart 105–60.6—Production or Disclosure by Present or Former General Services Administration Employees in Response to Subpoenas or Similar Demands in Judicial or Administrative Proceedings

§ 105–60.601 Purpose and scope of subpart.

(a) By virtue of the authority vested in the Administrator of General Services by 5 U.S.C. 301 and 40 U.S.C. 486(c) this subpart establishes instructions and procedures to be followed by current and former employees of the General Services Administration in response to subpoenas or similar demands issued in judicial or administrative proceedings for production or disclosure of material or information obtained as part of the performance of a person's official duties or because of the person's official status. Nothing in these instructions applies to responses to subpoenas or demands issued by the Congress or in Federal grand jury proceedings.

(b) This subpart provides instructions regarding the internal operations of GSA and the conduct of its employees, and is not intended and does not, and may not, be relied upon to create any right or benefit, substantive or procedural, enforceable at law by a party against GSA.

§ 105–60.602 Definitions.

For purposes of this subpart, the following definitions apply:

(a) *Material* means any document, record, file or data, regardless of the physical form or the media by or through which it is maintained or recorded, which was generated or acquired by a current or former GSA employee by reason of the performance of that person's official duties or because of the person's official status, or any other tangible item, e.g., personal property possessed or controlled by GSA.

(b) *Information* means any knowledge or facts contained in material, and any knowledge or facts acquired by current or former GSA employee as part of the performance of that person's official duties or because of that person's official status.

(c) *Demand* means any subpoena, order, or similar demand for the production or disclosure of material, information or testimony regarding such material or information, issued by a court or other authority in a judicial or administrative proceeding, excluding congressional subpoenas or demands in Federal grand jury proceedings, and served upon a present or former GSA employee.

(d) *Appropriate Authority* means the following officials who are delegated authority to approve or deny responses to demands for material, information or testimony:

(1) The Counsel to the Inspector General for material and information which is the responsibility of the GSA Office of Inspector General or testimony of current or former employees of the Office of the Inspector General;

(2) The Counsel to the GSA Board of Contract Appeals for material and information which is the responsibility of the Board of Contract Appeals or testimony of current or former Board of Contract Appeals employees;

(3) The GSA General Counsel, Associate General Counsel(s) or Regional Counsel for all material, information, or testimony not covered by paragraphs (d)(1) and (2) of this section.

§ 105–60.603 Acceptance of service of a subpoena duces tecum or other legal demand on behalf of the General Services Administration.

(a) The Administrator of General Services and the following officials are the only GSA personnel authorized to accept service of a subpoena or other legal demand on behalf of GSA: the GSA General Counsel and Associate General Counsel(s) and, with respect to material or information which is the responsibility of a regional office, the Regional Administrator and Regional Counsel. The Inspector General and Counsel to the Inspector General, as well as the Chairman and Vice Chairman of the Board of Contract Appeals, are authorized to accept service for material or information which are the responsibility of their respective organizations.

(b) A present or former GSA employee not authorized to accept service of a subpoena or other demand for material, information or testimony obtained in an official capacity shall respectfully inform the process server that he or she is not authorized to accept service on behalf of GSA and refer the process server to an appropriate official listed in paragraph (a) of this section.

(c) A Regional Administrator or Regional Counsel shall notify the General Counsel of a demand which may raise policy concerns or affect multiple regions.

§ 105.60.604 Production or disclosure prohibited unless approved by the Appropriate Authority.

No current or former GSA employee shall, in response to a demand, produce any material or disclose, through testimony or other means, any information covered by this subpart, without prior approval of the Appropriate Authority.

§ 105.–60.605 Procedure in the event of a demand for production or disclosure.

(a) Whenever service of a demand is attempted in person or via mail upon a current or former GSA employee for the production of material or the disclosure of information covered by this subpart, the employee or former employee shall immediately notify the Appropriate Authority through his or her supervisor or his or her former service, staff office, or regional office. The supervisor shall notify the Appropriate Authority. For current or former employees of the Office of Inspector General located in regional offices, Counsel to the Inspector General shall be notified through the immediate supervisor or former employing field office.

(b) The Appropriate Authority shall require that the party seeking material or testimony provide the Appropriate Authority with an affidavit, declaration, statement, and/or a plan as described in paragraphs (c)(1), (2), and (3) of this section if not included with or described in the demand. The Appropriate Authority may waive this requirement for a demand arising out of proceedings to which GSA or the United States is a party. Any waiver will be coordinated with the United States Department of Justice (DOJ) in proceedings in which GSA, its current or former employees, or the United States are represented by DOJ.

(c)(1) Oral testimony. If oral testimony is sought by a demand, the Appropriate Authority shall require the party seeking the testimony or the party's attorney to provide, by affidavit or other statement, a detailed summary of the testimony sought and its relevance to the proceedings. Any authorization for the testimony of a current or former GSA employee shall be limited to the scope of the demand as summarized in such statement or affidavit.

(2) Production of material. When information other than oral testimony is sought by a demand, the Appropriate Authority shall require the party seeking production or the party's attorney to provide a detailed summary, by affidavit or other statement, of the information sought and its relevance to the proceeding.

(3) The Appropriate Authority may require a plan or other information from the party seeking testimony or production of material of all demands reasonably foreseeable, including, but not limited to, names of all current and former GSA employees from whom testimony or production is or will likely be sought, areas of inquiry, for current

employees the length of time away from duty anticipated, and identification of documents to be used in each deposition or other testimony, where appropriate.

(d) The Appropriate Authority will notify the current or former employee, the appropriate supervisor, and such other persons as circumstances may warrant, whether disclosure or production is authorized, and of any conditions or limitations to disclosure or production.

(e) Factors to be considered by the Appropriate Authority in responding to demands:

(1) Whether disclosure or production is appropriate under rules or procedure governing the proceeding out of which the demand arose;

(2) The relevance of the testimony or documents to the proceedings;

(3) The impact of the relevant substantive law concerning applicable privileges recognized by statute, common law, judicial interpretation or similar authority;

(4) The information provided by the issuer of the demand in response to requests by the Appropriate Authority pursuant to paragraphs (b) and (c) of this section;

(5) The steps taken by the issuer of the demand to minimize the burden of disclosure or production on GSA, including but not limited to willingness to accept authenticated copies of material in lieu of personal appearance by GSA employees;

(6) The impact on pending or potential litigation involving GSA or the United States as a party;

(7) In consultation with the head of the GSA organizational component affected, the burden on GSA which disclosure or production would entail; and

(8) Any additional factors unique to a particular demand or proceeding.

(f) The Appropriate Authority shall not approve a disclosure or production which would:

(1) Violate a statute or a specific regulation;

(2) Reveal classified information, unless appropriately declassified by the originating agency;

(3) Reveal a confidential source or informant, unless the investigative agency and the source or informant consent;

(4) Reveal records or information compiled for law enforcement purposes which would interfere with enforcement proceedings or disclose investigative techniques and procedures the effectiveness of which would be impaired;

(5) Reveal trade secrets or commercial or financial information which is privileged or confidential without prior consultation with the person from whom it was obtained; or

(6) Be contrary to a recognized privilege.

(g) The Appropriate Authority's determination, including any reasons for denial or limitations on disclosure or production, shall be made as expeditiously as possible and shall be communicated in writing to the issuer of the demand and appropriate current or former GSA employee(s). In proceedings in which GSA, its current or former employees, or the United States are represented by DOJ, the determination shall be coordinated with DOJ which may respond to the issuer of the subpoenas or demand in lieu of the Appropriate Authority.

§ 105–60.606 Procedure where response to demand is required prior to receiving instructions.

(a) If a response to a demand is required before the Appropriate Authority's decision is issued, a GSA attorney designated by the Appropriate Authority for the purpose shall appear with the employee or former employee upon whom the demand has been made, and shall furnish the judicial or other authority with a copy of the instructions contained in this subpart. The attorney shall inform the court or other authority that the demand has been or is being referred for the prompt consideration by the Appropriate Authority. The attorney shall respectfully request the judicial or administrative authority to stay the demand pending receipt of the requested instructions.

(b) The designated GSA attorney shall coordinate GSA's response with DOJ's Civil Division or the relevant Office of the United States Attorney and may request that a DOJ or Assistant United States Attorney appear with the employee in addition to or in lieu of a designated GSA attorney.

(c) If an immediate demand for production or disclosure is made in circumstances which preclude the appearance of a GSA or DOJ attorney on the behalf of the employee or the former employee, the employee or former employee shall respectfully make a request to the demanding authority for sufficient time to obtain advice of counsel.

§ 105–60.607 Procedure in the event of an adverse ruling.

If the court or other authority declines to stay the effect of the demand in response to a request made in accordance with § 105–60.606 pending receipt of instructions, or if the court or other authority rules that the demand must be compiled with irrespective of instructions by the Appropriate Authority not to produce the material or disclose the information sought, the employee or former employee upon whom the demand has been made shall respectfully decline to comply, citing these instructions and the decision of the United States Supreme Court in United States ex rel. *Touhy* v. *Ragen*, 340 U.S. 462 (1951).

§ 105–60.608 Fees, expenses, and costs.

(a) In consultation with the Appropriate Authority, a current employee who appears as a witness pursuant to a demand shall ensure that he or she receives all fees and expenses, including travel expenses, to which witnesses are entitled pursuant to rules applicable to the judicial or administrative proceedings out of which the demand arose.

(b) Witness fees and reimbursement for expenses received by a GSA employee shall be disposed of in accordance with rules applicable to Federal employees in effect at the time.

(c) Reimbursement to the GSA for costs associated with producing material pursuant to a demand shall be determined in accordance with rules applicable to the proceedings out of which the demand arose.

Dated: June 9, 1998.

Joseph R. Rodriquez,

Acting Associate Administrator for Management and Workplace Programs.

[FR Doc. 98–15948 Filed 6–16–98; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE85

Endangered and Threatened Wildlife and Plants; Notice of Reopening of Public Comment Period on the Proposed Rule to List the Cowhead Lake Tui Chub as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), provides notice of the reopening of the comment period for the proposed endangered status for the Cowhead Lake tui chub (*Gila bicolor vaccaceps*). The comment period has been reopened to acquire additional information on the

biology, distribution, and status of the Cowhead Lake tui chub in northeastern California.

DATES: Comments from all interested parties must be received by August 3, 1998. All comments received by the closing date will be considered in the final decision on this proposal.

ADDRESSES: Written comments, materials and data, and available reports and articles concerning this proposal should be sent directly to the Field Supervisor, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 3310 El Camino Avenue, Suite 130, Sacramento, California 95821. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ann Chrisney, at the address listed above (telephone 916/979–2725, facsimile 916/979–2723).

SUPPLEMENTARY INFORMATION:

Background

The Cowhead Lake tui chub is a fish that is found only in Cowhead Slough and connected ditches within the bed of Cowhead Lake in extreme northeastern Modoc County, California. Prior to being drained for agricultural purposes, Cowhead Lake is thought to have contained the majority of the Cowhead Lake tui chub population. The entire population appears to occur in a very confined area of 5.4 kilometers (3.4 miles) of Cowhead Slough and connected drainage within the bed of Cowhead Lake. There are no additional populations. Protection of the habitat within this limited range is required to conserve the Cowhead Lake tui chub. This subspecies is threatened throughout its range by a variety of impacts, including loss of habitat from agricultural activities, the risk of disease and contamination, loss of genetic variability and by naturally occurring random events.

On March 30, 1998, the Service published in the **Federal Register** a rule proposing endangered status for the Cowhead Lake tui chub (63 FR 15152). The original comment period closed May 29, 1998.

There have been requests from five parties, including private organizations and private citizens, to reopen the comment period for this listing proposal. The Service is seeking additional information concerning:

(1) The size, number, or distribution of populations of this subspecies; and

(2) Other biological, commercial, or other relevant data on any threat (or lack thereof) to this subspecies.

Written comments may be submitted until August 3, 1998 to the Service office in the **ADDRESSES** section.

Author

The primary author of this notice is Ann Chrisney (see **ADDRESSES** section).

Authority

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

Dated: June 9, 1998.

Don Weathers,

Acting Regional Director, Region 1.

[FR Doc. 98–15929 Filed 6–16–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 227

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition To List the Spruce Creek Snail of Florida as Threatened and Designate Critical Habitat

AGENCY: Fish and Wildlife Service, Interior; National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of 90-day petition finding.

SUMMARY: The Fish and Wildlife Service and National Marine Fisheries Service (Services) announce a 90-day finding on a petition to list the Spruce Creek snail (*Melongena sprucecreekensis*) under the Endangered Species Act, as amended. The Services find the petition did not present substantial scientific or commercial information indicating that listing this species may be warranted.

DATES: The finding announced in this document was made on May 11, 1998, and concurred with by NFMS on May 28, 1998.

ADDRESSES: Questions, comments, data, or information concerning this petition should be submitted to the Field Supervisor, U.S. Fish and Wildlife Service, 6620 Southpoint Drive South, Suite 310, Jacksonville, Florida 32216; Regional Administrator, National Marine Fisheries Service, 9721 Executive Center Drive, St. Petersburg, Florida 33702–2432, or Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East West Highway, Silver Spring, Maryland 20910. The petition finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above addresses.

FOR FURTHER INFORMATION CONTACT: Dr. Michael M. Bentzien, Assistant Field Supervisor, Jacksonville, Florida; telephone 904/232–2580, ext. 106; facsimile 904/232–2404 or Colleen Coogan, Fishery Biologist, St. Petersburg, Florida, telephone 813/570–5312; facsimile 813/570–5517 (see **ADDRESSES** section).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires the Services to make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. This finding is to be based on all information available to the Services at the time the finding is made. To the maximum extent practicable, this finding shall be made within 90 days following receipt of the petition, and promptly published in the **Federal Register**. If the finding is that substantial information was presented, the Services are also required to promptly commence a review of the status of the species involved, if one has not already been initiated under the Service's internal candidate assessment process.

On December 12, 1994, the Fish and Wildlife Service received a petition dated December 5, 1994, from R. P. Haviland, corresponding secretary of the Environmental Council of Volusia and Flagler counties, Florida. The petition requested the Service to list the Spruce Creek snail, *Melongena sprucecreekensis*, as a threatened species and designate its critical habitat. The petition stated that this recently described snail is restricted to Spruce Creek and associated waters in Volusia County, Florida, and is threatened by ongoing and potential development and natural factors.

The Fish and Wildlife Service received a previous petition in 1985 to list the species, then known as the Spruce Creek Kings Crown snail, as endangered. The Service found that petitioned action was not warranted due to the species' uncertain taxonomic

status, and published its finding on July 18, 1985 (50 FR 29238). In a follow-up letter to the petitioner, Mr. John Tucker of Cocoa, Florida, the Service indicated that a scientific description of the species in a peer-reviewed journal would increase the likelihood that it could make a positive finding on any future petition to list this species. Tucker (1994) subsequently described the Spruce Creek snail as a distinct species.

A 1974 Memorandum of Understanding (MOU) between the Services sets forth jurisdictional responsibilities and listing procedures under the Act. As applied to the following petition, the MOU stipulates that the agencies shall jointly determine whether to list the petitioned species, and publish the results in a single **Federal Register** document.

Because of the joint jurisdiction of this species, the National Marine Fisheries Service agreed to process this petition according to the Fish and Wildlife Service's Listing Priority Guidance for Fiscal Years 1998 and 1999, published on May 8, 1998 (63 FR 25502). The guidance clarifies the order in which the FWS will process rulemakings giving highest priority (Tier 1) to processing emergency rules to add species to the Lists of Endangered and Threatened Wildlife and Plants (Lists); second priority (Tier 2) to processing final determinations on proposals to add species to the Lists, processing new proposals to add species to the Lists, processing administrative findings on petitions (to add species to the Lists, delist species, or reclassify listed species), and processing a limited number of proposed or final rules to delist or reclassify species; and third priority (Tier 3) to processing proposed or final rules designating critical habitat. Processing of this petition is a Tier 2 action.

The Spruce Creek snail is a large predatory gastropod belonging to the family Melongenidae. Its light-colored shell has two to three, brown to grey bands of varying width, and a distinct ratio of shell spines on its shoulder and anterior end (Tucker 1994). The snail occurs in brackish waters over a muddy sand substrate, where it feeds almost exclusively on oysters and often congregates in large numbers within oyster bars (congregation of oysters). The species, with an estimated population of less than 25,000 total individuals, is known only from five local areas within Spruce Creek and adjacent estuaries in Volusia County, Florida. Its prehistoric range is thought to have included neighboring Brevard County and may have extended as far south as Palm Beach County (Tucker in litt. 1985).

The petition suggests that stormwater runoff carrying fertilizers, pesticides, and silt; dredging canals and boat channels; diking and draining mangrove swamps; removing seagrasses or mangroves to install revetments; and destruction of freshwater swamps pose threats to the snail and its habitat. Sea level rises and storm surges are natural factors cited as additional potential threats. The petitioner believes siltation produced by residential development along the adjacent Rose Bay drainage is responsible for the absence of oyster beds and possibly Spruce Creek snails from that area. Tucker (in litt. 1985) found the snail to be less common within parts of the Spruce Creek drainage near upland development. The petition concludes that future development or habitat alteration could lead to the extinction of the Spruce Creek snail.

The Services have reviewed the petition, the literature cited in the petition, and information available in the Services' files, and made a 90-day finding. On the basis of the best scientific and commercial information available, the Services find the petition does not present substantial information indicating that listing the Spruce Creek snail may be warranted. The petition does not provide data on historic distribution and abundance, population trends, and the species' full range of habitat requirements. The threats discussed in the petition are speculative and are not correlated to any known population decline. The known range of the Spruce Creek snail is within Outstanding Florida Waters designated by the Florida Environmental Regulation Commission, pursuant to Chapter 62–302 of the Florida Administrative Code. This designation imposes water quality standards that, if maintained, should be compatible with the continued existence of oysters and the petitioned species.

The petitioner's request for designation of critical habitat is not subject to the Act's petition provisions and is, therefore, not considered in this notice.

Reference Cited

Tucker, J.K. 1994. The crown conch (*Melongena:* Melongenidae) in Florida and Alabama with the description of *Melongena sprucecreekensis,* n. sp. Bull. Florida Mus. Nat. Hist. Biol. Sci. 36(7):181–203.

Authors: The primary author of this document is Mr. John F. Milio, FWS, Jacksonville Field Office (see **ADDRESSES** section).

Authority

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

Dated: May 11, 1998.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

Dated: May 28, 1998.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 98–16133 Filed 6–16–98; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 63, No. 116

Wednesday, June 17, 1998

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

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: Foreign Availability Procedures and Criteria.

Agency Form Number: None.

OMB Approval Number: 0694–0004.

Type of Request: Extension of a currently approved collection of information.

Burden: 510 hours.

Average Time Per Response: Approximately 105 hours per request and 15 hours for supporting submissions (multiple persons per each case).

Number of Respondents: 2 respondents; approximately 10 respondents for supporting documentation related to each case.

Needs and Uses: The office identifies foreign goods and technology analogous to American equipment subject to export controls. The foreign equipment must be available in sufficient quantities to controlled destinations. Continued restrictions on exports when comparable items are available from uncontrollable sources decreases U.S. competitiveness in high-technology industries and undermines U.S. national security interests. Without this information from the exporting community, the U.S. could easily lose its competitiveness in foreign markets.

Affected Public: Businesses or other for-profit institutions.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Victoria Baecher-Wassmer (202) 395–5871.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Victoria Baecher-Wassmer, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20230.

Dated: June 11, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–16066 Filed 6–16–98; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: Written Assurances for Exports of Technical Data Under License Exception TSR.

Agency Form Number: None.

OMB Approval Number: 0694–0023.

Type of Request: Extension of a currently approved collection of information.

Burden: 104 hours.

Average Time Per Response: 30 minutes per response and 1 minute for recordkeeping.

Number of Respondents: 200 respondents.

Needs and Uses: The Export Administration Regulations (EAR) require in Section 740.6 that exporters obtain letters of assurance from their importers stating that technology or software will not be reexported or released to unauthorized destinations that are subject to controls for national security or foreign policy and nuclear non-proliferation reasons. The importer, in making these assurances acknowledges his/her requirement to comply with the EAR. The written assurance requirement of License Exception TSR (Technology and Software Under Restriction) provides greater security for the protection of U.S. origin technology and software that becomes incorporated into foreign products.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Victoria Baecher-Wassmer (202) 395–5871.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Victoria Baecher-Wassmer, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20230.

Dated: June 11, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–16067 Filed 6–16–98; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 2–97]

Foreign-Trade Zone 100—Dayton, Ohio Application for Expansion; Amendment of Application

Notice is hereby given that the application of the Greater Dayton Foreign Trade Zone, Inc., grantee of FTZ 100, requesting authority to expand its zone in the Dayton, Ohio, area (Docket 2–97, 62 FR 3659, 1/24/97), has been amended to reduce the acreage originally requested for Site 1 within the Dayton International Airport Complex.

While the application originally requested increasing Site 1 by 775 acres, the amended request proposes to increase Site 1 by 551 acres (expanding Site 1 to 1,005.49 acres).

The comment period is extended until July 17, 1998. Submissions (original and

3 copies) shall be addressed to the Board's Executive Secretary at the address below.

A copy of the application and the amendment and accompanying exhibits are available for public inspection at the following locations:

Office of the Port Director, U.S. Customs Service, 3575 Concord Drive, Vandalia, Ohio 45377

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue NW, Washington, DC 20230

Dated: June 11, 1998.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–16107 Filed 6–16–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Advocacy Questionnaire

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burdens, invites the general public and other Federal agencies to take this opportunity to comment on the 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 August 17, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230; Phone number: (202) 482–3272.

FOR FURTHER INFORMATION CONTACT: Request for additional information or copies of the information collection instrument and instructions should be directed to: Jay Brandes, The Advocacy Center, Room 3814A, the Department of Commerce, 14th and Constitution Ave., NW, Washington, DC 20230; Phone number: (202) 482–3896, and fax number: (202) 482–3508.

SUPPLEMENTARY INFORMATION:

I. Abstract

The International Trade Administration's Advocacy Center marshals federal resources to assist U.S. firms competing for foreign government procurements worldwide. The Advocacy Center is under the umbrella of the Trade Promotion Coordination Committee (TPCC), which is chaired by the Secretary of Commerce and includes 19 federal agencies involved in export promotion. The TPCC is tasked with assessing the U.S. Government (USG) advocacy in order to achieve a maximum increase in exports and to maximize job creation for American workers. The purpose of the questionnaire is to collect the necessary information to make an evaluation as to whether a U.S. firm qualifies for USG advocacy assistance. There are clear, well-established USG Advocacy Guidelines that describe the various situations in which the USG can provide advocacy support for a U.S. firm. The questionnaire was developed to collect only the information necessary to determine if the U.S. firm meets the conditions set forth in the guidelines. The Advocacy Center, appropriate ITA officials, our U.S. Embassies worldwide, and other federal government agencies that provide advocacy support to U.S. firms (Advocacy Network), will request U.S. firm(s) seeking USG advocacy support to complete the questionnaire. Without this information we will be unable to determine if a U.S. firm is eligible for U.S. Government advocacy assistance.

II. Method of Collection

Form ITA–4133P is sent to U.S. firms that request USG advocacy assistance.

III. Data

OMB Number: 0625–0220.

Form Number: ITA–4133P.

Type of Review: Revision-Regular Submission.

Affected Public: Companies who desire USG advocacy.

Estimated Number of Respondents: 400.

Estimated Time Per Response: 15 minutes.

Estimated Total Annual Burden Hours: 105.

Estimated Total Annual Costs: The estimated annual cost for this collection is $6,300. ($2,625 for federal government and $3,675 for respondents).

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 costs) 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 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: June 11, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–16007 Filed 6–16–98; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–601]

Brass Sheet and Strip From Canada: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Order in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke Order in Part.

SUMMARY: In response to a request by the respondent, the Department of Commerce is conducting an administrative review of the antidumping duty order on brass sheet and strip from Canada. The review covers one manufacturer/exporter of this merchandise to the United States, Wolverine Tube (Canada), Inc. The period covered is January 1, 1996 through December 31, 1996. As a result of the review, the Department preliminarily determined that no dumping margins existed for this respondent. However, upon consideration of petitioner's and respondent's case briefs and rebuttal briefs, we have now determined that a dumping margin does exist. Therefore, we are not revoking the order with respect to brass sheet and strip from Canada manufactured by Wolverine Tube (Canada), Inc.

EFFECTIVE DATE: June 17, 1998.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or Tom Futtner, Office of Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th

Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4474 or 482–3814, respectively.

Applicable Statute and Regulations

Unless otherwise stated, 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 references to the Department's regulations are to 19 CFR part 353 (April 1, 1997).

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (the Department) published an antidumping duty order on brass sheet and strip from Canada on January 12, 1987 (52 FR 1217). On February 9, 1998, the Department published in the **Federal Register** the preliminary results of its administrative review of the antidumping duty order on brass sheet and strip from Canada (63 FR 6519) (preliminary results). We gave interested parties an opportunity to comment on our preliminary results. We received written comments from Hussey Copper, Ltd.; The Miller Company; Olin Corporation; Revere Copper Products, Inc.; International Association of Machinists and Aerospace Workers; International Union, Allied Industrial Workers of America (AFL–CIO); Merchandise Educational Society of America, and United Steelworkers of America (AFL–CIO), collectively, the petitioner, and Wolverine Tube (Canada), Inc., the respondent.

Scope of Review

Imports covered by this review are shipments of brass sheet and strip (BSS), other than leaded and tinned BSS. The chemical composition of the covered products is currently defined in the Copper Development Association (C.D.A.) 200 Series or the Unified Numbering System (U.N.S.) C2000. This review does not cover products the chemical compositions of which are defined by other C.D.A. or U.N.S. series. In physical dimensions, the products covered by this review have a solid rectangular cross section over 0.006 inches (0.15 millimeters) through 0.188 inches (4.8 millimeters) in finished thickness or gauge, regardless of width. Coiled, wound-on-reels (traverse wound), and cut-to-length products are included. The merchandise is currently classified under Harmonized Tariff Schedule (HTS) item numbers 7409.21.00 and 7409.29.00. Although the HTS item numbers are provided for convenience and customs purposes, the written description of the scope of this order remains dispositive. Pursuant to the final affirmative determination of circumvention of the antidumping duty order, covering the period September 1, 1990, through September 30, 1991, we determined that brass plate used in the production of BSS falls within the scope of the antidumping duty order on BSS from Canada. *See Brass Sheet and Strip from Canada: Final Affirmative Determination of Circumvention of Antidumping Duty Order.* 58 FR 33610 (June 18, 1993).

The review period (POR) is January 1, 1996 through December 31, 1996. The review involves one manufacturer/exporter, Wolverine Tube (Canada), Inc. (Wolverine).

Fair Value Comparisons

To determine whether sales of subject merchandise from Canada to the United States were made at less than fair value, we compared the Export Price (EP) to the Normal Value (NV), as described in the ''Export Price'' and ''Normal Value'' sections of the preliminary results of review notice (see Preliminary Results, 63 FR at 6520). On January 8, 1998, the Court of Appeals for the Federal Circuit issued a decision in *CEMEX* v. *United States*, 1998 WL 3626 (Fed Cir.). In that case, based on the pre-URAA version of the Act, the Court discussed the appropriateness of using constructed value (CV) as the basis for foreign market value when the Department finds home market sales to be outside the ''ordinary course of trade.'' This issue was not raised by any party in this proceeding. However, the URAA amended the definition of sales outside the ''ordinary course of trade'' to include sales below cost. See Section 771(15) of the Act. Consequently, the Department has reconsidered its practice in accordance with this Court decision and has determined that it would be inappropriate to resort directly to CV, in lieu of foreign market sales, as the basis for NV if the Department finds foreign market sales of merchandise identical or most similar to that sold in the United States to be outside the ''ordinary course of trade''. We will match a given U.S. sale to foreign market sales of the next most similar model when all sales of the most comparable model are below cost. The Department will use CV as the basis for NV only when there are no above-cost sales that are otherwise suitable for comparison. Therefore, in this proceeding, when making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the ''Scope of Review'' section of this notice, above, that were in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade, based on the characteristics listed in Sections B and C of our antidumping questionnaire. We have implemented the Court's decision in this case, to the extent that the data on the record permitted.

Revocation

Under the Department's regulations, the Department may revoke and order in part if the Secretary concludes that: (1) ''one or more producers or resellers covered by the order have sold the merchandise at not less than fair value for a period of at least three consecutive years''; (2) ''[i]t is not likely that those persons will in the future sell the merchandise at less than fair value * * *; and (3) ''the producers or resellers agree in writing to the immediate reinstatement of the order as long as any producer or reseller is subject to the order, if the Secretary concludes that the producer or reseller, subsequent to the revocation, sold the merchandise at less than fair value.'' *See* 19 CFR 353.25(a)(2).

Upon review of the three criteria described above, and of the case briefs and rebuttal briefs, and on the basis of all the evidence on the record, we determine for the final results of this review that the Department's requirements for revocation have not been met.

The Department found that Wolverine's sales reviewed during the eighth (1994) and ninth (1995) reviews under this order were made at not less than NV. However, in this tenth review, we have determined that Wolverine's sales were made at less than NV. We, therefore, do not revoke in part the antidumping duty order with respect Wolverine.

Changes

In our preliminary results we inadvertently failed to make a certain adjustment reported by the respondent. Since the adjustment constitutes business proprietary information, it is described in our analysis memorandum dated June 9, 1998.

Analysis of Comments Received

Comment 1: Wolverine claims that the Department erred in not taking into

consideration, in matching home market and U.S. sales, the product code information it submitted identifying reroll/nonreroll material. Petitioner states that the Department properly disregarded non-physical characteristics of Wolverine's product control numbering system, such as whether the brass content was reroll material, and that the Department should not accept a product matching system that is not based on actual physical elements of the merchandise.

Department Position: We agree with the Petitioner. The Department believes that the reroll/nonreroll designation, and its revision, ''type 1/type 2'' designation, indicates only whether Wolverine purchased brass for further rolling or cast the material itself. Wolverine maintains that brass it purchased from unrelated suppliers and then rerolled itself resulted in an end product more chemically pure and of a higher grain density than the end product produced from brass it cast itself. The Department believes that, although this designation may indicate a probability or tendency with respect to purity and grain density of the final end product, this designation does not objectively and scientifically describe actual purity and grain density as measurable physical characteristics of the end product. Wolverine has provided no quantifiable or verifiable data on the differences in purity and grain density between BSS made from reroll material and that made from non-reroll material. Therefore this criterion should not be considered as a product matching characteristic. Moreover, in its supplemental questionnaire, the Department stated that Wolverine should delete the reroll/nonreroll designation from its product matching criteria and report instead the actual chemical purity and grain density of sales of subject merchandise for the POR. Wolverine deleted the reroll/nonreroll designation from its product description but then did not add chemical purity and grain density designations to its product numbering system. Instead, Wolverine simply designated reroll and nonreroll as ''type 1'' and ''type 2'' subject merchandise, respectively. This designation does not provide an objective, measurable basis upon which to segregate the end-product into separate product groups for purposes of creating product matches. In addition, the record does not include details supporting separation of the subject merchandise into separate product groups on the basis of production process/costs and/or market selling prices, additional factors the Department might consider in establishing the product concordance.

Comment 2: Wolverine asserts that sales verification exhibit 19 should be included in the record of this proceeding. Wolverine maintains that topics covered in this exhibit, covering revocation issues, were listed in the verification outline, and it, therefore, created and presented exhibit 19 to avoid the possibility of the application of facts available by the Department in its analysis. In addition, Wolverine claims that sales verification exhibit 19, which the Department removed from the record as untimely submitted new information, should be placed back on the record in accordance with established rules of evidence because the petitioner, it claims, relied on exhibit 19 in arguments made in its case brief.

Petitioner states that the Department properly removed sales verification exhibit 19 from the administrative record as new information. Petitioner asserts that the respondent had ample opportunity to present company-specific information regarding revocation but waited until verification to do so. Furthermore, petitioner claims that the information presented in exhibit 19, covering revocation topics, did not correspond to information previously placed on the record and was not itself verified. Therefore, this exhibit cannot be relied upon as part of the administrative record.

Department Position: the Department believes that exhibit 19 contained untimely submitted new factual information. The Department believes that this information should have been presented, at the latest, when the Department opened the record for 30 days beginning on October 16, 1998, so that such information could be presented. The Department's verification outline stated only that the respondent should be prepared to discuss revocation topics. The Department did not request or solicit additional factual information pertaining to the revocation issue from respondent. In addition, the verifier informed respondent's counsel at the time exhibit 19 was presented that it could be considered new information and did not verify this information when it was presented for the first time at verification. Finally, we note that, because it has rejected exhibit 19, the Department has not relied on petitioner's reference in its case brief to exhibit 19 in reaching its final determination and therefore that reference does not incorporate exhibit 19 into the record of this proceeding.

Comment 3: Petitioner claims that Wolverine's per-unit cost of materials was understated because the overall cost of materials was divided by a quantity factor that included metals provided to Wolverine at no cost by customers to whom Wolverine provided only fabrication services. Wolverine did not purchase these metal input materials for these customers; therefore, the quantities of these materials should not have been added to quantities purchased by Wolverine for processing to determine total cost of materials. Respondent states that it reported material costs are accurate and require no adjustment. Wolverine notes that a standard mill loss allowance was deducted from tolled production quantity and was then added to non-tolled production quantity to be incorporated into calculations showing mill loss, in terms of quantity, including both tolled and non-tolled merchandise. Respondent cites verification cost exhibit 9a, which shows that the quantity of copper used for non-tolled production divided into the total cost of copper equals the reported per pound copper cost.

Department Position: We agree with the respondent. The Department verified that the reported per-unit materials cost was accurate. Although a mill loss adjustment was made to the metal pools account which reflected decreased quantities, this adjustment does not affect the cost of materials account. We also verified that the mill loss allowance was consistently applied in terms of quantity according to company accounting procedures. Because proprietary information is involved, please refer to our analysis memorandum dated June 9, 1998, for further information.

Comment 4: Petitioner assets that net home market prices, as calculated by the Department for purposes of the cost analysis, included indirect selling expenses. However, by definition, the cost of production (COP), to which net home market prices are compared for purposes of the below COP test, did not include indirect selling expenses. Petitioner claims, therefore, that the comparison of per unit COP with home market net prices results in an understatement of number of below cost sales. That is, home market prices are artificially high with respect to COP since home market prices include indirect selling expenses while COP does not. Respondent asserts that the COP already includes indirect selling expenses as these expenses are grouped under the general and administrative expenses (G&A) of the consolidated company, Wolverine USA, which were

included in the Department's calculation of COP.

Department Position: We agree with the respondent. Respondent's financial statements demonstrate that indirect selling expenses were included in general and administrative expenses. Adding an additional amount for indirect selling expenses to the COP would result in double-counting.

Comment 5: Petitioner states that the Department's calculation applied to Wolverine's general and administrative expenses to include an allocated portion of the expenses of Wolverine's corporate headquarters' included two minor errors with respect to the exchange rate and the revised selling, general and administrative (SG&A) ratio: (1) The Department used an incorrect exchange rate in calculating the preliminary results, and (2) the Department slightly understated the revision of the SG&A ratio. Wolverine did not specifically comment on this issue.

Department Position: We agree with petitioner that the exchange rate was rounded incorrectly and that the revised SG&A ratio was inaccurately recorded. We have corrected these errors which were clerical in nature. See our analysis memorandum dated 9, 1998; for the proprietary version of this amount.

Comment 6: Petitioner states that the Department properly adjusted Wolverine's general and administrative expenses to include an allocated portion of the G&A expenses incurred by Wolverine's corporate headquarters. Respondent asserts that no general expenses of the corporate headquarters should be allocated to the Fergus plant. Wolverine claims that the only U.S. operation of Wolverine that provided services to the Fergus facility was Wolverine Finance USA, which handles customer credit. Wolverine states that an appropriate proportion of Wolverine Finance USA expenses were allocated to the Fergus plant.

Department Position: We agree with petitioner that the adjustment to Wolverine's general and administrative expenses to include an allocated portion of expenses incurred by Wolverine's corporate headquarters is appropriate.

For purposes of the below COP test conducted for home market comparison sales we allocated a portion of SG&A expenses for the corporate headquarters in Huntsville/Decatur, Alabama to Wolverine's COP. This additional allocation was based on SG&A and cost of sales information taken from Wolverine's financial statements. In its questionnaire response, Wolverine did not allocate SG&A for its Huntsville/Decatur corporate headquarters, although it did allocate SG&A for its London, Ontario corporate offices. At verification, however, discussions with company officials and a review of company correspondence revealed that the Fergus, Ontario facility was subject to significant guidance and control by corporate headquarters in Huntsville/Decatur during the POR. Therefore, we calculated a ratio based on the Fergus Facility's reported cost of sales and the U.S. total cost of sales as follows. First we converted the reported Fergus cost of sales from Canadian dollars to U.S. dollars. Second, we divided the Fergus cost of sales (in U.S. dollars) by the U.S. total cost of sales as reported in respondent's 1996 consolidated income statement included in its April 28, 1997 questionnaire response as appendix. The result represents the appropriate proportion of U.S. SG&A expense to be applied to the Fergus operation. We then multiplied the appropriate proportion of U.S. SG&A expense to be applied to the Fergus operation by total SG&A taken from appendix A–5. We then converted this amount to Canadian dollars and added the U.S. portion of SG&A expense to the Canadian portion shown in exhibit H. Finally, we divided total G&A allocable to Fergus by the total cost of sales of Wolverine Tube (Canada), Inc. to yield the revised G&A factor. We adjusted the computer program to apply this revised G&A factor. See our analysis memorandum dated June 9, 1998, for the proprietary version of this comment.

Comment 7: Petitioner claims that the Department erroneously applied its revised SG&A ratio to Wolverine's originally reported SG&A amount, whereas it should have applied the revised ratio to Wolverine's reported cost of manufacture. Wolverine did not comment specifically on this issue.

Department Position: The Department agrees with petitioner that the revised SG&A should have been applied to Wolverine's cost of manufacture in accordance with our usual practice. We have adjusted our calculations to reflect this revision.

Comment 8: Petitioner claims that the Department failed to include revised warranty expenses outlined in the respondent's pre-verification submission of December 1, 1997. Respondent does not dispute petitioner's claim regarding the inclusion of warranty expenses.

Department Position: We agree with petitioner. The Department overloaded the submission of the revised warranty expenses in its calculations. We have revised our computer program in include the revised warranty expenses.

Comment 9: Petitioner argues that the Department erred by not requiring that additional historical data be placed on the record to inform the Department's decision with respect to the revocation issue. Petitioner asserts that the Department, as the administering authority, has not complied with its investigative responsibilities in this respect. In addition, petitioner maintains that the burden is on Wolverine to demonstrative that it is not likely to resume dumping if the order were revoked, and that Wolverine has not been forthcoming with company-specific information on this point. Furthermore, petitioner claims that respondent should not be able to obtain revocation based on a limited number of sales, of a limited product range, to a limited number of customers. Respondent states that no compelling need exists to place further information with respect to revocation on the record. Respondent states that ample opportunity has been provided for interested parties to place information on the record. In addition, respondent claims that volume and value information from previous proceedings would not have probative value in this review. Wolverine claims that it is not likely to dump in the future and rebuts petitioner's arguments that it is likely to do so. Finally, Wolverine states that it takes its legal responsibilities seriously and considers potential reinstatement of the order to be a viable remedy were it to resume dumping following revocation.

Department Position: The Department does not need to reach the issues raised by the parties in this review with respect to likelihood of future following a revocation of an antidumping duty order because it has determined on other grounds that the revocation of the order at issue is not appropriate.

Comment 10: Petitioner argues that Wolverine is likely to dump in the future because: (1) U.S. prices have been declining, (2) Wolverine's preliminary margin was just barely *de minimis*, (0.042 percent), (3) Wolverine has economic incentive to dump as it must replace certain lost business, and (4) the U.S. market is the most likely target for dumping due to the openness of the market, strong demand, and price competition. Wolverine denies that is likely to dump in the future. It asserts that the U.S. and Canadian brass market comprise a unified market, thus brass prices will rise and fall in tandem. In addition, Wolverine claims that although it lost certain business, that business involved non-subject merchandise which did not include the production process of annealing. Therefore, the loss of that business does not create additional capacity to

produce, and presumably dump, additional subject merchandise which requires annealing.

Department Position: These issues were addressed in the preliminary results wherein the Department indicated that it did not consider these factors conclusive. Final determinations regarding these points need not be reached in these final results since we not find that, due to the extensive of a non-*de-minimis* dumping margin in this review, Wolverine is not eligible for revocation pursuant to 19 CFR 353.25(a)(2).

Final Results for the Review

As a result of our comparison of EP to NV, we determine that a dumping margin of 0.67 percent exists for Wolverine for the period January 1, 1996 through December 31, 1996, and we determine, not to revoke in part the antidumping duty order with respect to imports of subject merchandise from Wolverine.

The Department will determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. For assessment purposes, we have calculated importer-specific *ad valorem* duty assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales during the POR to the total quantity of sales examined during the POR. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of these final results for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Wolverine will be the rate stated above; (2) if the exporter is not a firm covered in this review, a prior review, or the original less than fair value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (3) the cash deposit rate for all other manufacturers or exporters will continue to be the ''all others'' rate established in the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 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 the 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 administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 9, 1998.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–16106 Filed 6–16–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–805]

Circular Welded Non-Alloy Steel Pipe and Tube From Mexico: 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 December 8, 1997, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on circular welded non-alloy steel pipe from Mexico covering exports of this merchandise to the United States by one manufacturer/exporter, Hylsa S.A. de C.V. (''Hylsa'') during the period November 1, 1995 through October 31, 1996. *See Circular Welded Non-Alloy Steel Pipe and Tube from Mexico: Preliminary Results of Antidumping Duty Administrative Review and Partial Termination of Review,* 62 FR 64564 (*Preliminary Results*). We invited interested parties to comment on the preliminary results. We received comments and rebuttals from petitioners and Hylsa. Based on our analysis of the comments received, we have changed the results from those presented in the preliminary results of review.

EFFECTIVE DATE: June 17, 1998.

FOR FURTHER INFORMATION CONTACT: Ilissa Kabak at (202) 482–0145 or John Kugelman at (202) 482–0649, Enforcement Group III—Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

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 references to the Department's regulations are to 19 C.F.R. Part 353 (April 1, 1997). Where appropriate, we have cited the Department's new regulations, codified at 19 C.F.R. 351 (62 FR 27296, May 19, 1997). While not binding on this review, the new regulations serve as a restatement of the Department's policies.

Background

The Department published an antidumping duty order on circular welded non-alloy steel pipe and tube from Mexico on November 2, 1992 (57 FR 49453). The Department published a notice of ''Opportunity to Request an Administrative Review'' of the antidumping duty order for the 1995/96 review period on November 4, 1996 (61 FR 56663). On November 27, 1996, respondents Hylsa and Tuberia Nacional S.A. de C.V. (''TUNA'') requested that the Department conduct an administrative review of the antidumping duty order on circular welded non-alloy steel pipe and tube from Mexico. We initiated this review on December 16, 1996. *See* 61 FR 66017. On February 4, 1997, TUNA requested a withdrawal from the proceeding. Pursuant to 19 C.F.R. 353.22(a)(5) of the Department's regulations, the Department may allow a party that requests an administrative review to withdraw such request not later than 90 days after the date of publication of the notice of initiation of the administrative review. TUNA's request for withdrawal was timely and there were no requests for review of TUNA from other

interested parties. Therefore, the Department terminated this review with respect to TUNA in the December 8, 1997 preliminary results of this administrative review in accordance with § 353.22(a)(5) of the Department's regulations (19 CFR 353.22(a)(5)).

Under § 751(a)(3)(A) of the Act, the Department may extend the deadline for issuing the preliminary results of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 245 days. The Department determined that timely completion was not practicable. Accordingly, on July 8, 1997, the Department published a notice of extension of the time limit for the preliminary results in this case to December 2, 1997. *See Extension of Time Limit for Antidumping Duty Administrative Review,* 62 FR 36488. We held a public hearing on February 20, 1998.

The Department has now completed this review in accordance with § 751(a) of the Act.

Scope of the Review

The products covered by this order are circular welded non-alloy steel pipes and tubes, of circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipes and tubes and are intended for the low pressure conveyance of water, steam, natural gas, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses, and generally meet ASTM A–53 specifications. Standard pipe may also be used for light load-bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and support members for reconstruction or load-bearing purposes in the construction, shipbuilding, trucking, farm equipment, and related industries. Unfinished conduit pipe is also included in these orders.

All carbon steel pipes and tubes within the physical description outlined above are included within the scope of this order, except line pipe, oil country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit. Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil or gas pipelines is also not included in this order.

Imports of the products covered by this order are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90.

Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of these proceedings is dispositive.

The period of review (POR) is November 1, 1995 through October 31, 1996. This review covers sales of circular welded non-alloy steel pipe and tube by Hylsa.

Fair Value Comparisons

To determine whether sales of subject merchandise from Mexico to the United States were made at less than fair value, we compared the export price (EP) to the normal value (NV), as described in the ''Export Price'' and ''Normal Value'' sections of the preliminary results of review notice (*see Preliminary Results* at 64565–64566). On January 8, 1998, the Court of Appeals for the Federal Circuit issued a decision in *CEMEX* v. *United States,* 133 F.3d 897 (Fed. Cir. 1998). In that case, which involved a determination by the Department under pre-URAA law, the Court discussed the appropriateness of using constructed value (CV) as the basis for foreign market value when the Department finds home market sales to be outside the ''ordinary course of trade.'' However, the URAA amended the definition of sales outside the ''ordinary course of trade'' to include sales below cost. *See* § 771(15) of the Act. Consequently, the Department has reconsidered its practice in light of this court decision and has determined that it would be inappropriate to resort directly to CV, in lieu of foreign market sales, as the basis for NV if the Department finds foreign market sales of merchandise identical or most similar to that sold in the United States to be outside the ''ordinary course of trade.'' Instead, the Department will use sales of similar merchandise, if such sales exist. The Department will use CV as the basis for NV only when there are no above-cost sales that are otherwise suitable for comparison. Therefore, in this proceeding, when making comparisons in accordance with § 771(16) of the Act, we considered all products sold in the home market as described in the ''Scope of Review'' section of this notice, above, that were in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade, based on the characteristics listed in Sections B and C of our antidumping questionnaire. We have implemented the Court's decision in this case, to the extent that the data on the record permitted.

Analysis of Comments Received

We invited interested parties to comment on our preliminary results of review. We received both comments and rebuttals from petitioners and Hylsa. The following analysis addresses the issues raised by the parties in these comments and rebuttals.

Comment 1: Reimbursement

During the POR, Hylsa was the producer, exporter, and importer of record for all U.S. sales of subject merchandise. Hylsa's U.S. customs broker claims Hylsa as the importer of record on the customs entry document completed upon importation of subject merchandise. The broker then invoices Hylsa to reclaim the customs duties and service fees it incurred. Hylsa International Corporation (Hylsa International) is a U.S. company wholly-owned by Hylsa; it has no employees, nor does it perform any sales activities. Hylsa International is used by Hylsa as a conduit through which Hylsa passes sales invoices to, and collects payments from, its U.S. customers. To this end, Hylsa issues two invoices for its U.S. sales; one invoice is from Hylsa to Hylsa International while the other is from Hylsa International to the U.S. customer. The latter invoice is issued to the U.S. customer for purchase and payment records. The U.S. customer remits payment to Hylsa International's bank account, and Hylsa applies these payments to the customer account it maintains for Hylsa International. For a more detailed explanation of Hylsa International, see Sales Verification Report at 8.

Petitioners request that the Department apply the reimbursement regulation, 19 CFR § 353.26, in this administrative review by deducting the amount of antidumping duties paid by Hylsa on behalf of the importer, or reimbursed to the importer, from the export price. Petitioners object to the Department's interpretation of § 353.26 set forth in the preliminary results of this administrative review. The Department stated in the preliminary results that separate corporate entities must exist as producer/reseller and importer in order to invoke the

reimbursement regulation. Petitioners argue that, contrary to the Department's position, the regulation does not require that the producer/exporter and importer be separate entities. According to petitioners, the only case in which this situation was addressed was in the previously completed administrative review of this order. *See Circular Welded Non-Alloy Steel Pipe and Tube from Mexico (Final Results of Pipe and Tube from Mexico),* 62 FR 37014 at 37017 (July 10, 1997) (Comment 4). There, petitioners aver, the Department did not decide this issue.

Petitioners state that cases in which the Department has discussed the application of the reimbursement regulation all involved the payment of duties by a foreign affiliate. In such cases, petitioners contend, the Department has not inferred that reimbursement has occurred from the mere fact of affiliation. To this end, petitioners cite *Certain Cut-to-Length Carbon Steel Plate from Germany,* 62 FR 18390 at 18394 (April 15, 1997) (Comment 6). On the other hand, petitioners argue, the Department has not hesitated in applying the reimbursement regulation in cases where there is evidence of the producer's direct payment of, or reimbursement for, antidumping duties incurred by an affiliated importer. *See Furfuryl Alcohol from the Republic of South Africa (Furfuryl Alcohol),* 62 FR 36488, 36490 (July 8, 1997) (preliminary results) and *Certain Cold-Rolled Carbon Steel Flat Products from the Netherlands (Preliminary Results of Steel Products from the Netherlands),* 61 FR 51888, 51891 (October 4, 1996). According to petitioners, the Department has rejected the argument that since two affiliated parties are collapsed to calculate a dumping margin, the parties should also be collapsed under the reimbursement regulation (citing *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea (Pipe from Korea),* 62 FR 55574, 55580 (October 27, 1997) and *Color Television Receivers from the Republic of Korea (Color Television Receivers),* 61 FR 4408, 4411 (February 6, 1996)). Petitioners argue that, because the Department has not collapsed entities to apply the reimbursement regulation, we have not concluded whether the regulation can apply to a single entity. Additionally, because § 353.26 applies regardless of the affiliation between the producer/exporter and the importer, it would be inconsistent to apply the regulation in a case where the producer and importer are affiliated but not apply it when the producer and importer are a single entity. Petitioners state that the Department recognized this principle with regards to duty absorption in *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom,* 61 FR 65022 at 65023 (December 10, 1996) (preliminary results).

Petitioners note that in the few cases in which the Department has addressed the issue of reimbursement, it has demonstrated that the producers' direct payment of antidumping duties triggers § 353.26. Petitioners cite to *Brass Sheet and Strip from the Netherlands (Brass from the Netherlands*), 57 FR 9534 (March 19, 1992) (Comment 6) and *Color Television Receivers* at 4410–4411 in support of their position. Petitioners maintain that while the Department has previously stated that the reimbursement regulation cannot apply in cases where, as here, the importer *is* the exporter, the Department has, nevertheless, applied the reimbursement provision in cases with CEP sales without addressing concerns over the possibility of one party reimbursing itself. Petitioners refer to *Certain Cold-Rolled Carbon Steel Flat Products from the Netherlands (Final Results of Steel Products from the Netherlands),* 61 FR 48465 at 48470 (September 13, 1996) (Comment 17) and *Furfuryl Alcohol* at 36490.

However, petitioners state that if the Department continues to interpret the regulation as requiring two separate entities, we should find reimbursement in this case because two entities are, in fact, involved. Petitioners note that in the regulations the Department defines ''importer'' as ''the person by whom, or for whose account, the merchandise is imported.'' 19 CFR § 353.2(i). Petitioners argue that this definition may refer to more than one entity. In this case, they assert that while Hylsa may be the ''importer'' because it is ''the person by whom * * * the merchandise is imported,'' Hylsa International may also be considered an ''importer'' if it is the party ''for whose account * * * the merchandise is imported.'' Because Hylsa International is a separate legal entity that acts as a reseller for Hylsa's sales to U.S. customers, we may consider it to be the ''importer'' in this case. Therefore, petitioners argue that if Hylsa International is the ''importer,'' then the Department should find that Hylsa is paying U.S. antidumping duties on behalf of the ''importer'' within the framework of § 353.26.

Petitioners also assert that the reimbursement regulation applies even though assessment of antidumping duties has not occurred and cites *Final Results of Steel Products from the Netherlands* at 48470–71. According to petitioners, the Department has taken several approaches to implementing the reimbursement provisions. Petitioners note that in past cases, including the above referenced administrative review, we have ordered the U.S. Customs Service to double the duty assessment rates published in the final results instead of deducting the amount of antidumping duties from the export price when applying the reimbursement regulation. However, in the *Preliminary Results of Steel Products from the Netherlands,* the Department deducted the amount of antidumping duties to be paid from the export price. Petitioners urge the Department to adhere to the plain language of the regulation and deduct any antidumping duties paid by Hylsa from EP.

Hylsa counters that the reimbursement regulation is inapplicable in this case. Arguing that Hylsa is the ''importer,'' Hylsa notes that § 353.26 mandates the ''importer'' to file a pre-liquidation certificate with the appropriate District Director of Customs stating that the ''importer'' has not entered into any duty reimbursement agreement with the manufacturer, producer, seller, or exporter. Hylsa argues that since the importer of record is the only party required to provide this certification, the ''importer'' under the reimbursement regulation is defined as the ''importer of record.'' Since Hylsa International has not entered into any reimbursement agreement with Hylsa, respondent concludes, the reimbursement provision of § 353.26 does not apply.

Hylsa argues that the Department's interpretation of the regulation was correct in the preliminary results of this administrative review. The Department stated in the preliminary results that separate entities must exist as producer and/or seller and importer in order to apply the reimbursement regulation. Hylsa agrees that § 353.26 requires the participation of two separate corporate entities and that the regulation applies only when antidumping duty payments are made on behalf of the importer. Hylsa also agrees with the petitioners that the Department has never applied the reimbursement regulation in a case in which the producer/reseller and importer are the same corporate entity, but asserts, contrary to petitioners, that this is not a case of first impression. Hylsa argues that international sales made on a duty-paid basis are a normal part of international commerce. Therefore, the fact that the Department has not addressed the issue of reimbursement in these situations does

not mean that it has not previously been considered by the Department or that the Department does not have an established practice with regard to this issue. Rather, Hylsa argues that this indicates that parties involved in previous cases agreed that reimbursement is impossible where the producer and importer are the same entity.

Lastly, Hylsa asserts that if the Department is inclined to reconsider its interpretation of § 353.26, it would not be proper to do so for the final results of this administrative review. Hylsa believes that applying the reimbursement regulation in cases where the producer/reseller and importer are the same entity would be a fundamental change in Departmental policy that should be completed through our normal rule-making procedures, including publication in the **Federal Register**, and provision for comment by all interested parties. The application of the reimbursement regulation to Hylsa's sales in this review would penalize Hylsa for failing to predict what Hylsa characterizes as a fundamental policy change.

Department's Position

We disagree with petitioners that 19 CFR § 353.26 is applicable in this case. Petitioners claim that because the Department has not collapsed entities to apply the reimbursement regulation in past cases, we have not addressed whether the regulation can apply to a single entity. Our decision as to reimbursement is based upon our regulatory interpretation of 19 CFR § 353.26, which is that two separate corporate entities must exist to invoke the reimbursement regulation. This interpretation was the basis for the decision not to apply the reimbursement regulation in the preliminary results of this administrative review. Petitioners cited to *Brass Sheet and Strip from the Netherlands* and *Final Results of Steel Products from the Netherlands,* in which the Department invoked the reimbursement regulation, and claimed that the regulation should likewise be applied here, where the exporter is the importer. However, because two separate entities were present in both of those cases, those decisions do not apply to the instant case in which one corporate entity is the producer, exporter and importer of record.

We also disagree with petitioners' claim that Hylsa International could be considered the ''importer'' to satisfy the separate corporate entity requirement. Hylsa International is a paper company with no employees or sales activities. In addition, the customs broker bills Hylsa, not Hylsa International, for fees it incurred. The customs broker also claims Hylsa, not Hylsa International, as the importer of record on the customs entry document completed upon importation of subject merchandise. Therefore, we do not agree that the subject merchandise imported into the United States by Hylsa is for Hylsa International's account. Accordingly, we conclude that, for purposes of the reimbursement provision, Hylsa is the importer as defined in 19 C.F.R. § 353.2(i) because it is ''the person by whom . . . the merchandise is imported.''

As indicated above, petitioners assert that § 353.26 applies even when the producer and importer are the same entity. Petitioners claim that the Department has applied the reimbursement regulation to cases with CEP sales without addressing concerns regarding an entity reimbursing itself and cites two antidumping cases to support this argument. As indicated above, petitioners assertions are incorrect. In *Color Television Receivers,* our premise was precisely the notion that the reimbursement regulation does not apply when the producer, exporter and importer are one and the same entity. In that case, the issue was whether companies which had been collapsed and treated as a single entity for purposes of calculating duties should also be considered a single entity for purposes of applying the reimbursement regulation. See Id. at 4411. In that case, we determined that these are distinct issues, requiring different analyses. As we stated, ''[h]ow antidumping duties are calculated and who, under the law, is responsible for paying those duties are separate and distinct issues.'' Id. at 4411. Unlike the case now before us, *Color Television Receivers* did not involve a single entity involved in the production, export and import of subject merchandise. In the cases cited by petitioners, *two* entities were involved in the production, export, and import of the subject merchandise. Because the Department has determined that a single entity is involved in the production, export, and import of subject merchandise in this administrative review, the two cited cases are inapplicable in this instance.

While we recognize that petitioners' position may be a permissible interpretation of the regulation, the Department continues to believe that our interpretation is more appropriate given the circumstances of this case.

Comment 2: Co-export Sales

Hylsa grants co-export rebates on sales to home market customers that use pipe as input material to manufacture non-subject merchandise for export. Hylsa explained that it provides the rebate to account for the differential between home market and export prices for subject pipe charged to these customers. Hylsa requires the majority of its co-export customers to submit export documentation as proof that they are eligible for the rebate. See Sales Verification Report at 9.

Petitioners assert that the Department should exclude these co-export sales for comparison purposes because the price at which the merchandise is sold is not ''the price at which the foreign like product is first sold . . . for consumption in the exporting country'' under 19 U.S.C. § 1677b(a)(1)(B)(i). Petitioners argue that the Department is entitled to agency deference in defining home market consumption on a case-by-case basis, citing *Chevron U.S.A. Inc.* v. *Natural Resources Defense Council,* 467 U.S. 837, 842–843 (1984). Because co-export rebates are granted only for sales which are subsequently exported after further processing, petitioners insist that such sales are not ''for consumption'' in Mexico, and believe that including co-export sales in the normal value calculation would encourage price discrimination of subject merchandise between Mexican and U.S. markets. Use of these sales for comparison purposes, petitioners conclude, will not provide an accurate measurement of any price differences between the two markets.

Alternatively, petitioners argue that the Department may consider co-export sales to be outside of the ordinary course of trade as defined at 19 U.S.C. § 1677(15). Petitioners list a number of factors that the Department should consider when deciding whether sales of subject merchandise are made outside of the ordinary course of trade, citing the Court of International Trade's (CIT) decision in *Laclede Steel Co.* v. *United States,* Slip Op. 95–144, 1995 Court of International Trade LEXIS 191 (Ct. Intl. Trade 1995). These factors are: 1) the price of the merchandise as compared to other home market sales, 2) the profit margin of the merchandise as compared to other home market sales, 3) the number of customers purchasing the product, 4) quality assurances extended for the merchandise, 5) differences in how the product is sold, 6) the end use of the merchandise, 7) the average size of the sale compared to other home market sales, and 8) distinguishable characteristics of the product by the seller. Petitioners state that the Department should also note other particular characteristics of Hylsa's co-export sales, including (i) only home market customers that export to the U.S.

market receive the rebate, and (ii) co-export sales are made at prices not representative of ''conditions and practices within Mexico for sales of standard pipe.'' Petitioners maintain that Hylsa's co-export sales prices are below ''normal'' home market prices, which proves that profitability is below that of normal domestic sales. Sales terms for co-export sales differ from normal home market sales in that separate export documentation and dual invoicing are required. Petitioners note that these sales are also made by Hylsa's export sales department instead of the domestic sales department, which handles all other home market sales.

Petitioners assert that even if the Department does consider these sales to be within the ordinary course of trade, in the past it has reserved the inherent authority under 19 C.F.R. § 353.44(b) to exclude home market sales from its calculation, if the Department believes that their inclusion would not serve the purpose of the antidumping law. This provision states that if 80 percent of home market sales are made at the same price, the Department will calculate normal value based on that sales price alone, excluding the remaining transactions. Petitioners also cite 19 C.F.R. § 353.44(c), which provides that, if the Department decides that § 353.44(b) does not apply and that using weighted-average price or prices (as provided for in § 353.44(a)) is inappropriate, the Department will use any other reasonable method for calculating normal value that it deems appropriate. Therefore, petitioners believe that we should disregard co-export sales in the calculation of normal value.

Petitioners assert that if the Department includes the co-export sales, it should not allow any adjustment for ''co-export rebates'' granted to home market customers. According to petitioners, the Department could not verify the basic operation of these rebates as a result of inconsistent and contradictory explanations made by Hylsa at verification. Therefore, petitioners assert that the Department should add the rebate amounts back into the invoiced home market price using a circumstance-of-sale (COS) adjustment to increase normal value by the amount equal to the co-export rebates, as provided under 19 U.S.C. § 1677b(a)(6). Petitioners cite *Zenith Electronics Corp.* v. *United States,* 77 F.3d 426 (Fed. Cir. 1996), *Mantex, Inc.* v. *United States,* 841 F. Supp. 1290 (Ct. Intl. Trade 1993), and *Sawhill Tubular Division Cyclops Corp.* v. *United States,* 666 F. Supp. 1550 (Ct. Intl. Trade 1987) to support the discretion the courts have allowed the Department regarding COS adjustments. Petitioners state that we made a COS adjustment in *Oil Country Tubular Goods from Argentina,* 60 FR 33539 (June 28, 1995) (Comment 6) to account for rebates granted on third-country comparison market sales. Petitioners note further that the CIT upheld our adjustment and finding of a ''causal link'' between the rebates and any difference ''or lack thereof'' between U.S. market prices and comparison market prices in *U.S. Steel Group* v. *United States,* 973 F. Supp. 1076 (Ct. Intl. Trade 1997). Petitioners argue that a ''causal link'' exists between Hylsa's co-export rebates and the difference in prices between the U.S. and comparison prices in the instant review.

Hylsa avers that the Department should continue to include co-export sales for comparison with U.S. sales. Hylsa maintains that the operations of the co-export rebate program were fully explained to the Department and that the confusion petitioners cite arose from one sales trace analyzed at verification. Hylsa argues that the payment process for this sale was not characteristic of co-export sales payments, and that normal invoicing procedures were followed by Hylsa. Therefore, Hylsa believes that the co-export rebate program was described correctly to the Department.

Hylsa further argues that co-export sales are made for consumption in the home market, demonstrated by the fact that the co-export customers transform the foreign like product into merchandise outside the scope of the antidumping duty order before exportation. Hylsa cites to *Dynamic Random Access Memory Semiconductors of One Megabit and Above from Korea (DRAMS from Korea),* 58 FR 15467, 15473 (March 23, 1993) in support of its position.

Additionally, Hylsa asserts that co-export sales are made within the ordinary course of trade. Hylsa notes that its co-export rebate program predates the original antidumping duty investigation and that the Department included these sales in its home market price calculations in the original investigation, published in *Circular Welded Non-Alloy Steel Pipe from Mexico (Final Determination of Pipe from Mexico),* 57 FR 42953, 42954 (September 17, 1992). Hylsa maintains that no differences exist in ''quality assurance, average size of sale, product markings, or the manner in which the pipe is sold'' between co-export sales and other home market sales. Hylsa contends that, under the Department's established practice, price differentials alone are not sufficient to classify a company's sales, with otherwise-normal distribution channels, as sales made outside the ordinary course of trade. *See Electrolytic Manganese Dioxide from Japan,* 58 FR 28551, 28552 (May 14, 1993).

Hylsa also argues against the petitioners' proposed application of a COS adjustment to co-export sales to adjust for any price differential attributable to co-export rebates. Hylsa contends that the regulation regarding COS adjustments provides for the application of a COS adjustment to account for differences in direct selling and other assumed expenses. Hylsa notes that petitioners do not address any differences in direct selling and/or assumed expenses between Hylsa's co-export and other home market sales. Hylsa also notes that any price differential between these sales exists because the co-export customer commits to using the foreign like product as input for non-subject merchandise which is subsequently exported. The Department cannot, and should not, use this commitment to apply an unfavorable COS adjustment, according to Hylsa.

Department's Position

We disagree with petitioners that co-export sales are not made for consumption in the home market or that these sales are outside the ordinary course of trade. Additionally, we disagree with petitioners that the Department should exclude these sales under 19 CFR § 353.44 (b) and (c) or that we should apply a COS adjustment.

Hylsa's co-export customers purchase the foreign like product to use as an input for the processing of merchandise outside the scope of the antidumping duty order. This finished merchandise is then exported to the United States or South America. We agree with Hylsa that the transformation of the foreign like product into non-subject merchandise constitutes consumption by the home market co-export customers and that such transactions constitute home market sales under section 773(a)(1)(B)(i) of the Act. We followed this practice in the past. *See, e.g., DRAMS from Korea* at 15473. Consistent with our findings in *DRAMS from Korea,* the merchandise exported by Hylsa's co-export customers is not within the class or kind of merchandise subject to the order. Morever, as in *DRAMS from Korea,* the record in this case indicates that Hylsa does not know the ultimate export destination to which the further-processed merchandise is shipped. *See Id.*

Furthermore, we do not consider Hylsa's co-export sales to be outside of

the ordinary course of trade under 19 U.S.C. § 1677(15). This provision states that ''ordinary course of trade'' means the ''conditions and practices which, for a reasonable time prior to the exportation of the subject merchandise, have been normal in the trade under consideration with respect to merchandise of the same class or kind.'' We note that Hylsa implemented the co-export rebate program before the antidumping petition was filed. Therefore, co-export sales have been part of Hylsa's normal business practices for many years. Additionally, we considered these sales as within the ordinary course of trade and included them in our home market price calculation in the original investigation in this case (*see Final Determination of Pipe from Mexico* at 42954). Petitioners argued that *Laclede Steel Co.* v. *United States* outlined eight factors which the Department should consider when determining whether sales were made within the ordinary course of trade. We agree with petitioners that co-export sales prices are lower than other home market sales prices and that sales terms are different for co-export sales. However, no sales differences exist with regard to quality assurance for the product, distinguishable characteristics of the pipe, average size of the sale, or the manner in which the majority of co-export sales are sold (*see* Proprietary Version of Hylsa's July 3, 1997 Response at 35). We believe that the above-cited differences between co-export and other home market sales in and of themselves are not sufficient to consider co-export sales as outside the ordinary course of trade.

Petitioners note that we have the inherent authority under 19 C.F.R. § 353.44 (b) and (c) to exclude those sales that would not serve the purposes of the antidumping statute. We note that § 353.44(b) concerns home market transactions sold at the ''same price.'' The majority of Hylsa's home market sales are made at varying price levels, thus rendering this provision inapplicable. Additionally, § 353.44(c) states that if the Department determines that § 353.44 (a) and (b) do not apply, we have the authority to ''use any other method for calculating foreign market value.'' Subparagraph (a), which states that the Department will calculate normal value by using the weighted-average price when home market sales vary in price, applies in the review. Because we consider the co-export sales to be made within the ordinary course of trade and consider such sales as home market sales, we do not need to invoke our authority to exclude these sales when calculating normal value.

Finally, we disagree with petitioners that a COS adjustment is warranted for the co-export sales. Under 19 C.F.R. § 353.56(a)(2), factors that would warrant the use of a COS adjustment involve differences in selling expenses, such as ''commissions, credit terms, guarantees, warranties, technical assistance, and servicing * * * [and] also * * * differences in selling costs.'' We did not find that Hylsa's co-export sales had any demonstrable differences in selling expenses, as referenced above. Therefore, a COS adjustment is not warranted for Hylsa's co-export sales.

Comment 3: Additional Foreign Inland Freight, Additional Inland Freight, Additional Foreign Brokerage Fees, and Additional U.S. Brokerage Fees

Hylsa argues that the Department improperly rejected Hylsa's reported additional foreign inland freight, additional inland freight, additional foreign brokerage fees, and additional U.S. brokerage fees and improperly applied adverse partial facts available. Hylsa explains that in its normal course of business it incurs freight and brokerage expenses which exceed the amounts billed to, and collected from, its customers. Hylsa asserts that it used a reasonable allocation basis for reporting these additional expenses, given that it does not maintain actual freight and brokerage costs on a sales-specific basis, and that transaction-specific reporting would have been too burdensome. Hylsa argues that the calculation methodology it used in this administrative review was identical to that which was verified and accepted by the Department in the original investigation of this case. Hylsa also cites to the following cases as examples where the Department allowed the allocation of movement expenses when the calculation of transaction-specific costs was deemed too burdensome: *Industrial Belts from Japan*, 58 FR 30018, 30022; *Steel Wire Rope from India,* 56 FR 46285, 46287 (September 11, 1991).

Hylsa argues that the Department verified the accuracy of the reported additional freight and brokerage expenses by reconciling the amounts reported in Hylsa's section B and C sales listings to Hylsa's cost accounting system. Additionally, Hylsa asserts that the Department verified the unreasonable burden Hylsa would have faced in attempting to report these expenses on a transaction-specific basis. Hylsa reiterated that it does not have computer capabilities to match the additional freight expenses to specific invoices.

Hylsa asserts that the Department has no reasonable basis for rejecting the reported additional freight and brokerage expenses. Hylsa notes that the Department claimed in the preliminary results of this administrative review that the information was unverifiable based on transaction-specific freight and brokerage expenses the Department calculated from individual sales traces reviewed at verification. Hylsa maintains that the allocation of these additional expenses was reasonable given that, ''on average[,] Hylsa's customers paid Hylsa less for shipping and brokerage expenses than Hylsa paid its suppliers. Due to the inherent nature of averages, however, a given customer may have paid more or less than Hylsa paid on any specific transaction.'' Hylsa's February 6 brief at 13. Hylsa contends that this fluctuation does not render the information unverifiable.

Hylsa further argues that the Department was not warranted in its use of partial adverse facts available for the additional freight and brokerage expenses in the preliminary results. Hylsa asserts that it provided verifiable information and cooperated to the best of its ability to comply with our requests for information. In addition, Hylsa maintains that the Department did not advise Hylsa in its supplemental questionnaires that its reporting methodology was incorrect. In sum, Hylsa argues that the reporting of additional freight and brokerage expenses, in addition to those charged to customers, to compensate for the difference between the actual and invoiced freight and brokerage expenses, is proper and should be used.

Petitioners assert that the Department should continue to disallow the additional inland freight and foreign inland freight expenses reported by Hylsa for the final results of this review. Petitioners argue that the methodology Hylsa employed to calculate the additional freight expenses for both home market and U.S. sales is unacceptable because it encompasses fees incurred on both subject and nonsubject merchandise allocated only to sales of subject merchandise that incurred freight expenses. Additionally, petitioners argue that additional freight charges result from partial truck load shipments, noting that ''[t]he shipping company charges by the truckload, but Hylsa invoices its customers for shipping charges based on a flat per-ton rate that assumes the truck is full.'' Petitioners' February 13 rebuttal brief at 3. Petitioners contend that Hylsa's methodology implies that it pays the

same proportion of additional freight fees for subject and non-subject merchandise sales delivered by partial truck loads. However, petitioners note that there is no evidence on the record supporting this assumption. Petitioners assert that the verification report shows that an overall calculated percentage does not reasonably represent additional freight charges for individual transactions.

Petitioners cite to the final results of the previous administrative review of this case in which the Department disallowed Hylsa's claimed adjustment for additional freight expenses. *See Circular Welded Non-Alloy Steel Pipe and Tube from Mexico (Final Results of Pipe from Mexico)*, 62 FR 37014, 37017 (July 10, 1997) (Comment 5). Petitioners note that although the methodology Hylsa used to report the additional expenses in the above-cited review was different than in this review, it was flawed for similar reasons that are apparent in the present review; specifically, it resulted in the improper allocation of freight and brokerage expenses incurred on sales of non-subject merchandise to sales of subject merchandise. Additionally, the Department found in the previous review that Hylsa maintained records that would have allowed it to tie freight expenses to specific sales but that Hylsa destroyed these records after a short period of time. In response, the Department stated in the final results that it intended to investigate this situation in future reviews. Petitioners argue that Hylsa should have been prepared in this present review to substantiate its freight claim by maintaining the appropriate records.

Petitioners argue that the Department should also continue to deny any adjustment for the additional foreign and U.S. brokerage expenses. Petitioners contend that because the calculations represent brokerage expenses incurred on subject and nonsubject merchandise exported to both U.S. and third-country markets, it is not a reasonable representation of additional brokerage fees incurred on U.S. sales of subject merchandise. Petitioners cite to the Memorandum to the File from Ilissa Kabak, December 4, 1997 (Analysis Memo) at 2 and the Sales Verification Report, November 20, 1997, at 33.

Department's Position

We disagree with Hylsa's claim that we improperly rejected the reported additional foreign inland freight, additional inland freight, additional foreign brokerage fees, and additional U.S. brokerage fees. We also disagree with Hylsa's claim that we improperly applied adverse partial facts available.

Hylsa's methodology for allocating additional freight and brokerage expenses to reported home market and U.S. sales is unacceptable. In its original and supplemental questionnaire responses, Hylsa never explicitly indicated that its additional freight calculations included expenses incurred on non-subject as well as subject merchandise. Hylsa's February 21, 1997 Section B response at 27 and July 3, 1997 response at 70. Thus, Hylsa's complaint that we did not alert Hylsa that the reporting methodology was incorrect in supplemental questionnaires is not compelling. Because Hylsa inadequately explained its calculation methodology before verification, it was not possible for us to advise Hylsa that its methodology was incorrect. We agree with petitioners that, because these additional expenses for sales of subject and non-subject merchandise are allocated only to sales of subject merchandise that incurred freight expenses, the calculation methodology for this expense is unacceptable. As for the additional foreign and U.S. brokerage expenses, Hylsa again did not explicitly state in its responses prior to verification that its calculations for these expenses included fees incurred for both subject and non-subject merchandise sales to both U.S. and third-country markets. Hylsa's July 3, 1997 Section C response at 88. Therefore, we agree with petitioners that because these additional expenses for subject and non-subject merchandise, and for export markets other than the United States, are allocated only to subject merchandise sales to the U.S. market, the calculation methodology is distortive and, therefore, unacceptable.

We also disagree with Hylsa that the information regarding the additional freight and brokerage expenses was verified and should not be rejected. When comparing the total reported freight and brokerage expenses with actual costs incurred for the sales traces we analyzed at verification, we determined that the total freight and brokerage fees, including the additional expenses reported, did not reasonably represent the actual costs incurred by Hylsa and, therefore, could not be considered verified. Accordingly, we adjusted the expenses in our margin calculation as explained in the Analysis Memo at 2–3.

It is the respondent's burden to provide the Department with verifiable information in antidumping proceedings. *See* 19 CFR 353.37 and 353.54. As we noted in the final results of the previous administrative review, Hylsa maintains computerized records that would allow it to tie total freight expenses to specific transactions but destroys these records after a short period of time in the normal course of business. Therefore, if these records exist in Hylsa's accounting system, we expect Hylsa's full cooperation in providing us with verifiable information, which would include these records, to tie freight charges to specific transactions. Therefore, we believe that Hylsa did not cooperate to the best of its ability and that the use of partial adverse facts available is justified. As we explained in our preliminary results, we have applied partial facts available in accordance with section 776 of the Act. See Preliminary Results, 62 FR 64564 at 64565.

In sum, the use of partial adverse facts available for additional freight and foreign and U.S. brokerage charges on U.S. sales and the denial of additional freight deductions on home market sales is justified and we continue to follow this approach in these final results of review.

Comment 4: U.S. Credit Expenses

Petitioners argue that the Department should base U.S. credit expenses on facts available. Petitioners note that in its questionnaire response, Hylsa explained that credit expenses were calculated on a sale-by-sale basis using the actual number of days between the shipment and payment dates, citing Hylsa's February 21, 1997 Section C questionnaire response at 31–32. Subsequently, petitioners note that at verification the Department found that actual payment dates were not used for Hylsa's credit calculation, noting the findings presented in the Sales Verification Report at 18–20. Therefore, petitioners argue that the Department should use the longest reported shipment-to-payment date interval to calculate U.S. credit expenses.

Hylsa disagrees with petitioners' request for the Department to apply facts available to U.S. credit expenses. Hylsa contends that the reported sale-specific payment dates were the dates on which the payments for U.S. sales were posted in Hylsa's accounting system in the normal course of business. Hylsa supported its position by reiterating that when a U.S. customer specifies invoices for which it is paying, Hylsa's accounting system records the actual date of payment. However, if the U.S. customer does not specify invoices with its payment, Hylsa makes a ''reasonable assignment'' of the payment to outstanding invoices in Hylsa International's customer account with Hylsa, retiring the oldest outstanding

balance first. Hylsa's February 13 rebuttal brief at 18. Hylsa's accounting records reflect a longer outstanding balance than is actually the case for these sales. Therefore, Hylsa asserts, the reported payment dates tend to over-state U.S. credit expenses due to the lag time between the receipt of payment and recording of payment for these sales in the accounting system, thereby rendering the application of facts available unnecessary.

Department's Position

We agree with Hylsa that applying facts available for U.S. credit expenses is unreasonable. While it is correct that Hylsa did not use the actual payment date for certain sales, we noted from the verified sales traces that Hylsa reported payment date as the date on which the payment was recorded in its accounting records in the normal course of business. We agree with Hylsa that the reported payment dates tend to over-state U.S. credit expenses due to the lag time between the actual receipt of payment and its subsequent recording in the accounting system. Because Hylsa's methodology would tend to over-state, rather than understate, U.S. credit expenses, the application of facts available is not justified in this instance.

Comment 5: Inland Freight Expenses for 1996 Co-Export Sales

Hylsa asserts that we improperly disallowed deductions for inland freight expenses incurred on co-export sales made in 1996. Hylsa claimed that although Department verifiers noted in the verification report that no freight charges were incurred on co-export sales made during 1996, this conclusion is incorrect due to a misunderstanding by the Department. Hylsa argues that no company official claimed during verification that the co-export sales made in 1996 did not incur freight expenses. To support this, Hylsa filed with its February 6 case brief an affidavit from the company official responsible for presenting freight information during verification. The affidavit states that this company official explained to Department verifiers that freight expenses for 1996 co-export sales were recorded in Hylsa's *export* freight expense account. Hylsa also argues that in its submissions, Hylsa claimed freight expenses for these sales and that during verification the Department confirmed that the sales in question incurred freight charges. Therefore, Hylsa contends that the Department should not disallow the freight expenses reported for 1996 co-export sales.

Petitioners argue that if the Department uses co-export sales for comparison for the final results of this administrative review (*see* Comment 2 above), we should continue to disallow the deduction of freight expenses for 1996 co-export sales. Petitioners contend that the discrepancies the Department discovered between the questionnaire response and information presented at verification justify denying the adjustment. Additionally, petitioners argue that the affidavit submitted by Hylsa with its case brief was untimely filed because the deadline for submitting factual information to the Department was June 16, 1997, 180 days after the publication date of the notice of initiation, as outlined in § 353.31(a)(1)(ii) of the Department's regulations. Petitioners believe that this affidavit should not be considered for the final results of this review nor retained for the record, as allowed under § 353.31(a)(3). Petitioners note that even if the Department retains the affidavit, the document should not negate the statement, noted by the Department in its sales verification report, that Hylsa did not incur freight expenses on 1996 co-export sales.

Department's Position

We disagree with Hylsa that we improperly disallowed deductions for inland freight expenses incurred on co-export sales made in 1996. During verification, Hylsa presented the Department with worksheets regarding freight expenses that were incurred throughout the POR. We noted that the co-export freight accounts had zero recorded for each month of 1996. Prior to submission of its case brief, Hylsa never provided the Department with an explanation that freight charges for its home market co-export sales were expensed in the export freight account.

Further, the record does not contain evidence concerning i) how much freight was incurred on co-export sales in 1996, and ii) where, and how, such charges were expensed in Hylsa's accounting records. Although Hylsa submitted an affidavit with its February 6 case brief (at Appendix 1) from the official in charge of presenting freight expenses to the Department at verification, by the affiant's own statement, he ''did not include[ ]'' data on 1996 co-export freight expenses in the worksheets presented specifically for purposes of verifying domestic inland freight. Therefore, Hylsa itself made any such expenses unverifiable by withholding the information that would substantiate the claimed adjustment. Therefore, we are denying Hylsa's claimed adjustment for freight expenses incurred on 1996 co-export sales.

Comment 6: Simultaneous Reporting of Early Payment Discounts and Reported Interest Revenue

Hylsa argues that the Department improperly disallowed early payment discounts for observations where Hylsa reported both early payment discounts and interest revenue collected on late payments. According to Hylsa, the company's accounting records permitted it to report only a customer-specific allocated amount of early payment discounts granted and late payment fees/interest revenues collected during the POR. Hylsa notes that the Department accepted the customer-specific allocation methodology for these adjustments. Hylsa argues against the Department's preliminary decision that the allocation of both an early payment discount and interest revenue fee to the same transaction is inconsistent. Hylsa maintains that this allocation reflects that the customer in question remitted payment early for some purchases and late for others, not that the customer earned early payment discounts and paid late-payment charges *on the same sales transaction*. Hylsa believes that because this approach accurately reflects the discounts granted and income Hylsa received from these customers, the Department should not deny deductions of early payment discounts for those sales that also have a reported interest revenue.

Petitioners maintain that the Department should continue to disallow any deduction for early payment discounts for those transactions with simultaneously reported interest revenue. Petitioners note it is impossible for any given customer, *on average*, to pay both early and late. Therefore, argue petitioners, the Department was correct in denying the adjustment for these transactions.

Department's Position

Prior to verification, Hylsa neglected to explain that early payment discounts reported for sales made in 1996 were reported on an allocated, not actual, basis. *See* Hylsa's February 21, 1997 response at 19 and July 3, 1997 response at 64. Although specifically asked to explain how the reported per-unit early payment amount was calculated, Hylsa never suggested that the reported early payment discounts were calculated, allocated amounts. In its February 21 response Hylsa stated that ''[t]he amount of the prompt-payment discount granted for each sale is reported on a per-metric-ton basis. . .''. We note that

for other adjustments reported on an allocated basis, Hylsa fully explained in its questionnaire response that the expenses were indeed allocated amounts, not transaction-specific amounts (*e.g.*, interest revenue, inventory carrying costs). *See id.* at 33, 38. Therefore, prior to verification, Hylsa did not fully and accurately disclose the methodology it used to report early payment discounts for sales made in 1996 prior to verification.

At verification Hylsa explained that it implemented a new accounting system in 1996. Hylsa stated that with this new accounting system, it lost the ability to tie early payment discounts and the accompanying credit memos to specific invoices issued throughout 1996. *See* Sales Verification Report at 23. Hylsa then explained that, for early payment discounts granted in 1996, it calculated a customer-specific percentage of early payment discounts granted on sales of subject and non-subject merchandise for the calendar year 1996. Hylsa then applied these customer-specific percentages to reported home-market sales. *See* Sales Verification Report at 24 and Verification Exhibit 17.

In response to comments submitted in the case and rebuttal briefs, we further analyzed Hylsa's questionnaire responses and verification exhibits. We have concluded from information on the record that Hylsa did indeed have the ability to report transaction-specific early payment discounts. Included in documentation submitted by Hylsa at Appendix SA–11 are examples of sales invoices issued in 1996 with accompanying credit memos for early payment discounts. The credit memo includes the invoice number for which the early payment discount was granted. Additionally, page 21 of Verification Exhibit 21 shows the customer account detail for a home market customer. We found that this customer account subledger reflects debit and credit movement, by sales invoice, of the account. Additionally, we found that early payment discounts are recorded, *by invoice,* in the same customer account subledger. Therefore, we conclude that Hylsa had the ability to tie early payment discounts to specific sales invoices, contrary to its claims at verification. Furthermore, Hylsa specifically stated that it was *unable* to report transaction-specific early payment discount amounts, not that sales-specific reporting would be too burdensome. We find that Hylsa did not act to the best of its ability in responding to our requests for information. Hylsa failed to provide accurate and verifiable information regarding early payment discounts granted in 1996. Therefore, for the final results, we are denying the deduction of all early payment discounts granted in 1996; we are continuing to allow deduction of early payment discounts for sales made in 1995, which were reported on a transaction-specific basis.

Comment 7: Bare and Varnished Pipe

Hylsa argues that the Department improperly instructed it to treat bare and varnished pipe as having the same surface finish when assigning control numbers (CONNUMs). In its original questionnaire responses, Hylsa reported bare and varnished pipe as products with separate surface finishes. Prior to verification the Department instructed Hylsa to consider bare and varnished pipe as the same products when assigning CONNUMs and subsequently treated these products as identical merchandise for the preliminary margin calculation. Hylsa asserts that bare and varnished pipe are not identical products because of material and production process differences, and that bare and varnished pipe are recognized in the marketplace as discrete products, with differing prices and applications.

Hylsa cites *Gray Portland Cement and Clinker from Mexico,* 55 FR 29244, 29247 (July 18, 1990) in which the Department emphasized that § 771(16)(A) of the Act states a preference for matching home market merchandise with identical characteristics to those products sold in the U.S. market. Hylsa argues that bare and varnished pipe are not physically identical merchandise and, therefore, the Department should follow statutory preference and match identical products. Because Hylsa sold varnished pipe in Mexico identical to merchandise sold in the United States, Hylsa argues, the Department should not match home market sales of bare pipe to U.S. sales of varnished pipe.

Hylsa further asserts that market behavior demonstrates that bare and varnished pipe are different products that are not easily interchangeable. For example, customers who galvanize pipe themselves prefer bare pipe so that they will not have to remove the varnish prior to galvanization. Additionally, Hylsa contends that price differentials between the two products can be significant and cites a proprietary example from its database of transactions reported for January 1996.

According to Hylsa, bare and varnished pipe go through different finishing stages during the production process. While varnished pipe is coated with a lacquer varnish, bare pipe may be pickled, oiled, or left untreated. Due to these differences, Hylsa argues, end products incur different costs of production.

Petitioners respond that the Department has always treated bare and varnished pipe as the same product for model-matching purposes in its pipe and tube cases. Because varnishing is viewed by the industry primarily as a packing treatment to inhibit rust, petitioners aver, its presence does not transform the merchandise into a different product. Petitioners claim that Hylsa's example of a price differential is unreliable. They note it is based on a comparison of one January 1996 sale of bare pipe, which was sold to a customer not even included in Hylsa's list of standard pipe customers, to three, weighted-average January 1996 sales of varnished pipe. Furthermore, argue petitioners, the inclusion of co-export sales and unreliable adjustments reported in the sales database cause substantial price differences between identical products sold within the same month. According to petitioners, these price differences operate independently of the pipe's surface finish. Lastly, petitioners state that one selective example of a price differential between bare and varnished pipe does not rise to the level of a prima facie demonstration of price differentials attributable to differing surface finish.

Department's Position

We agree with petitioners. Pickling, oiling and varnishing are packing treatments used to inhibit rust development on finished pipe products. The application of these treatments does not transform the finished merchandise into a different product for purposes of merchandise comparison under § 771(16)(A) and (B) of the Act. We are unable to determine from the record the significance of Hylsa's example of the price differential between bare and varnished pipe because one example of a price differential is not representative of a trend of price differentials. We have treated bare and varnished pipe as identical merchandise in previous reviews of this and other pipe cases and we continue to do so for the final results of this review.

Comment 8: Value-Added Tax Included in the Home Market Credit Expense Calculation

The Department explained its decision to exclude value-added taxes (IVA) from the home market credit expense calculation in the previous review of this case. *See Final Results of Pipe from Mexico* at 37016. In this review we determined that because the IVA is revenue for the government and not for Hylsa, it should not be included

in the credit calculation. Because of the Department's decision in the previous review, Hylsa reported home market credit expenses for this review exclusive of IVA. Hylsa claims, however, that we should include IVA when calculating home market credit expenses for these final results, as we accepted this methodology in the less-than-fair-value (LTFV) investigation of this case.

Hylsa claims that it allows its customers to delay payment of the entire invoice amount of a sale, which includes the IVA. Therefore, the opportunity cost to Hylsa of extending credit should be based on the entire amount of the invoice. Hylsa cites to *Certain Fresh Cut Flowers from Mexico,* 56 FR 1794,1798 (January 17, 1991) and *Shop Towels from Bangladesh,* 57 FR 3996, 4001 (February 3, 1992) as cases where the Department's approach to credit expenses supports Hylsa's argument. Hylsa argues that the fact that IVA is a revenue for the government, not the company, is irrelevant because the customer carries credit based on the entire amount of the invoice, and it is based on this amount that Hylsa incurs the opportunity cost of capital.

Petitioners object to Hylsa's suggestion that the Department include IVA in the home market credit expense calculation. They note that Hylsa is presenting the same argument that the Department rejected in the previous administrative review in *Final Results of Pipe from Mexico* at 37016. Petitioners argue that although the opportunity cost of the money used to pay taxes may be as genuine as other opportunity costs, they represent an incident of taxation, inclusion of which does not serve any purpose under the antidumping statute.

Department's Position

We disagree with Hylsa that IVA should be included in the home market credit expense calculation because the IVA is not a revenue for Hylsa but for the government. As the Department explained in *Certain Cut-to-Length Steel Plate from Brazil,* 62 FR 18486 at 18488 (April 15, 1997), it is not our practice to include VAT payments in credit expense calculations. In that case we stated that ''[w]hile there may be a potential opportunity cost associated with the respondents' prepayment of the VAT, this fact alone is not a sufficient basis for the Department to make an adjustment in price-to-price comparisons.'' *Id.* at 1848. The Department continued to explain that ''to allow the type of credit adjustment suggested by the respondents would imply that in the future the Department would be faced with the virtually impossible task of trying to determine the potential opportunity cost or gain of every charge and expense reported in the respondents' home market and U.S. databases.'' *Id.* at 18488. Furthermore, no statute or regulation requires us to include IVA in the home market credit expense calculation. For these final results, we are following our established practice of excluding the IVA from home market credit expense calculations in the final results of this review.

Comment 9: General and Administrative Expenses

Hylsa objects to the Department's recalculation of Hylsa's general and administrative expenses (G&A) in the preliminary results of this administrative review and believes that the Department should use Hylsa's reported G&A rates. *See* Analysis Memo at 9, Appendix 2. Hylsa argues that in other cases the Department has accepted its methodology which involves a ''layered calculation'' in which ''corporate-wide G&A expenses are allocated over corporate-wide cost of goods sold, and divisional G&A expenses are allocated over divisional costs of goods sold.'' Hylsa cites *Flat Panel Displays from Japan,* 56 FR 32376, 32398–99 (July 16, 1991) as support for its reporting methodology. Hylsa believes that its reported ''layered'' G&A expenses are consistent with the methodology the Department has routinely accepted. Further, Hylsa claims the Department's methodology in the instant review is illogical because Hylsa's total G&A expenses include costs for divisions that are not related to the production or sale of subject merchandise. Hylsa argues in the alternative that if the Department does not accept its methodology for reporting G&A expenses, the information the Department would need to recalculate G&A on a company-wide basis is on the record. Therefore, argues Hylsa, the Department should not apply adverse facts available as requested by the petitioners.

Petitioners note that the Department decided in the previous administrative review of this case to use company-wide G&A rates for the G&A calculation in *Final Results of Pipe from Mexico* at 37022. Petitioners assert that although the Department has determined that G&A must be reported on a company-wide basis, Hylsa has deliberately refused to comply with the Department's request in this review. In light of Hylsa's deliberate refusal in this regard, petitioners assert that the Department should apply adverse facts available using Hylsa's, or any related entity's, highest G&A rate on the record.

Department's Position

We disagree with both Hylsa and petitioners, in part. In the original questionnaire issued to Hylsa on December 23, 1996, page D–16 states that ''G&A expenses are those period expenses which relate to the activities of the company as a whole rather than to the production process alone * * * [y]ou should also include in your reported G&A expenses an amount for administrative services performed on your company's behalf by its parent company or other affiliated party.'' It is our practice to use company-wide G&A expenses when calculating cost of production and constructed value. *See, e.g., Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From South Africa,* 60 FR 22550, 22556 (1995).

However, we disagree with petitioners' contention that we should use adverse facts available for G&A expenses. We obtained the information to calculate acceptable G&A rates at verification. Therefore, it is unnecessary and unreasonable to apply adverse facts available given the circumstances in this review. For these final results of review we have continued to use the G&A rates that we used for the preliminary results.

Comment 10: Additional Depreciation

Petitioners claim that in its margin calculation program, the Department neglected to include the additional depreciation due to revaluation of fixed assets for the Flat Products Division. According to petitioners, this information was discovered at verification and is on the record.

Hylsa argues that these depreciation costs were already included in the preliminary results margin calculation program, citing to the Analysis Memo at 8.

Department's Position

We agree with Hylsa that these costs were included in the preliminary results margin calculation program. *See* Analysis Memo at 8 and Appendix 1. Therefore, we have continued to include these additional depreciation costs for these final results.

Comment 11: Classification of Aluminum, Zinc, and Zinc Chloride

Petitioners assert that the cost verification report implies that aluminum, zinc, and zinc chloride have been inappropriately classified as overhead and not direct materials. *See* Cost Verification Report at 27. Petitioners note that because these are

material inputs, they should be reclassified as direct materials costs.

Hylsa asserts that the materials in question were correctly included in the reported direct material costs and cites to the Cost Verification Report at 22.

Department's Position

We agree with Hylsa. After further analysis we determined that aluminum, zinc, and zinc chloride were properly classified as direct materials for the purposes of this review. Therefore, no adjustment to Hylsa's reported material costs is needed for the final results.

Comment 12: Indirect Selling Expenses in the Arm's-Length Test

Petitioners note that the computer program used to determine whether Hylsa's home market sales to affiliated parties were at arm's length for the preliminary results of this administrative review unintentionally neglected to subtract indirect selling expenses from the gross unit prices prior to testing the affiliated-party prices.

Department's Position

It is the Department's practice not to adjust for indirect selling expenses for home market sales in the arm's-length test and margin calculation programs when the reviewed U.S. transactions are EP sales. *See Notice of Final Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipe and Tube from Turkey*, 61 FR 69067 (December 31, 1996). Therefore, we are not adjusting our methodology for the final results of this administrative review.

Comment 13: Reported Customer Codes

Petitioners argue that Hylsa's reported customer codes are reported in a non-numeric and inconsistent format. Petitioners assert that this inconsistency may result in one customer being treated as two separate entities in the arm's-length test if it has two customer codes. Because the arm's-length program does not include special instructions to correct for this error, reason petitioners, the Department should insert the proper language.

Department's Position

We noted the inconsistent format in which Hylsa reported customer codes for the preliminary results of this review. We inserted special computer language to correct for the inconsistencies that the petitioners noted for affiliated-customer codes in the arm's-length test for the preliminary results. Since the arm's-length test compares the weighted-average prices of affiliated party sales, by customer code and CONNUM, to the weight-averaged prices of unaffiliated party sales by CONNUM only, there is no need to insert code to ''correct'' for the home market customer codes. Therefore, for these final results, we have not inserted additional programming language related to this issue.

Final Results of the Review

As a result of this review, we determine that the following weighted-average dumping margin exists:

CIRCULAR WELDED NON-ALLOY STEEL PIPES AND TUBES

Producer/manufacturer/exporter	Weighted-average margin
Hylsa	8.31

The Department will determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Because Hylsa was the only importer during the POR, we have calculated the importer-specific per-unit duty assessment rate for the merchandise imported by Hylsa by dividing the total amount of antidumping duties calculated during the POR by the total quantity entered during the POR. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of circular welded non-alloy steel pipe from Mexico entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by § 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate stated above; (2) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (3) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (4) the cash deposit rate for all other manufacturers or exporters will continue to be the ''all others'' rate of 32.62 percent.[1] *See Notice of Antidumping Orders: Certain Circular Welded Non-Alloy Steel Pipe from Brazil, the Republic of Korea (Korea), Mexico, and Venezuela, and Amendment to Final Determination of Sales at Less Than Fair Value: Certain Circular Welded Non-Alloy Steel Pipe from Korea*, 57 FR 49453 (November 2, 1992). These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 C.F.R. § 353.26 of the Department's regulations 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 order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 C.F.R. § 353.34(d)(1) of the Department's regulations. Timely 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 751(a)(1) and 777(i)(1) of the Act.

Dated: June 8, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–16108 Filed 6–16–98; 8:45 am]

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[1] The preliminary results of this administrative review incorrectly stated that the ''all others'' rate was 36.62 percent. *Preliminary Results* at 62 FR 64568.

DEPARTMENT OF COMMERCE

International Trade Administration

North Carolina State University; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC.

Docket Number: 98–020. *Applicant*: North Carolina State University,

Raleigh, NC 27695–7212. *Instrument*: Mini 4-Pocket E-Beam Evaporator, Model EGC04. *Manufacturer*: Oxford Applied Research, United Kingdom. *Intended Use*: See notice at 63 FR 19715, April 21, 1998.

Comments: None received. *Decision*: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons*: The foreign instrument provides: (1) four pockets for evaporation of four elements and (2) small size for mounting on a photo-electron emission microscope. The National Institute of Standards and Technology advised May 28, 1998 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–16102 Filed 6–16–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Application for Duty-Free Entry of Scientific Instrument

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether an instrument of equivalent scientific value, for the purposes for which the instrument shown below is intended to be used, is being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 98–030. *Applicant:* Stanford University, Ginzton Laboratory, 450 Via Palou, Stanford, CA 94305. *Instrument:* Crystal Growth Furnace, Type FZ–T–10000–HVP–II–S. *Manufacturer:* Crystal Systems, Inc., Japan. *Intended Use:* The instrument will be used for materials research of transition metal compounds and rare-earth compounds. In addition, the instrument will be used for training students in its use on an individual basis rather than course work. Application accepted by Commissioner of Customs: May 26, 1998.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–16104 Filed 6–16–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Minnesota; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This is a decision pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC.

Decision: Denied. Applicant has failed to establish that domestic instruments of equivalent scientific value to the foreign instrument for the intended purposes are not available.

Reasons: Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the specified time period. This is the case for the following docket.

Docket Number: 97–090. *Applicant:* University of Minnesota, Minneapolis, MN 55455. *Instrument:* Visual Stimulus Generator, Model VSG2/3S. *Manufacturer:* Cambridge Research Systems Ltd., United Kingdom. Date of Denial Without Prejudice to *Resubmission:* February 26, 1998.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–16101 Filed 6–16–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of California, Berkeley; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC.

Docket Number: 98–021. *Applicant:* University of California, Berkeley, Berkeley, CA 94720. *Instrument:* Electron Neutralizer. *Manufacturer:* Gammadata-Scienta, Sweden. *Intended Use:* See notice at 63 FR 20612, April 27, 1998.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* This is a compatible accessory for an existing instrument purchased for the use of the applicant.

The accessory is pertinent to the intended uses and we know of no comparable domestic accessory which can be readily adapted to the existing instrument.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–16103 Filed 6–16–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

U.S.-South Africa Business Development Committee

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of membership opportunity.

SUMMARY: This notice supplements the **Federal Register** Notice of April 29, 1998 (63 FR 23420–23421) announcing membership opportunities for the U.S.-South Africa Business Development Committee. All information in the previous announcement remains current, except for the change to the closing date, as explained herein.

DATES: This notice extends the closing date of the referenced **Federal Register** Notice for one month to July 5, 1998.

FOR FURTHER INFORMATION CONTACT: Finn Holm-Olsen, South Africa Desk Officer, Office of Africa, International Trade Administration, U.S. Department of Commerce, telephone: (202) 482–5148, facsimile: (202) 482–5198.

Sally K. Miller,

Director, Office of Africa.

[FR Doc. 98–16082 Filed 6–16–98; 8:45 am]

BILLING CODE 3510–DA–U

DEPARTMENT OF COMMERCE

International Trade Administration

[C–401–056]

Viscose Rayon Staple Fiber From Sweden; Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Countervailing Duty Administrative Review.

SUMMARY: On February 9, 1998, the Department of Commerce published in the **Federal Register** its preliminary results of administrative review of the countervailing duty order on viscose rayon staple fiber from Sweden for the period January 1, 1996 through December 31, 1996 (63 FR 6534). The Department has now completed this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended. For information on the net subsidy for each reviewed company, and for all non-reviewed companies, please see the *Final Results of Review* section of this notice. We will instruct the U.S. Customs Service to assess countervailing duties as detailed in the *Final Results of Review* section of this notice.

EFFECTIVE DATE: June 17, 1998.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Eric Greynolds, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 C.F.R. 355.22(a), this review covers only those producers or exporters of the subject merchandise for which a review was specifically requested. Accordingly, this review covers Svenska Rayon AB (Svenska). This review also covers the period January 1, 1996 through December 31, 1996, and six programs.

We published the preliminary results on February 9, 1998 (63 FR 6534). We invited interested parties to comment on the preliminary results. We received no comments from any of the parties.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). The Department is conducting this administrative review in accordance with section 751(a)(1)(A) of the Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 C.F.R. part 355 (1997).

Scope of the Review

Imports covered by this review are shipments from Sweden of regular viscose rayon staple fiber and high-wet modulus (modal) viscose rayon staple fiber. Such merchandise is classifiable under item number 5504.10.00 of the Harmonized Tariff Schedule (HTS). The HTS item is provided for convenience and Customs purposes. The written description remains dispositive.

Analysis of Programs

Based upon the responses to our questionnaire, we determine the following:

I. Program Found to Confer Subsidies

Recruitment Subsidy Program

In the preliminary results, based on facts available, we found that this program conferred countervailable subsidies on the subject merchandise. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change our findings from the preliminary results. Accordingly, the net subsidy for this program of 0.06 percent *ad valorem* remains unchanged from the preliminary results.

II. Programs Found to be Not Used

In the preliminary results, we found that Svenska did not apply for or receive benefits under the following programs:

A. *Grants for Temporary Employment for Public Works*
B. *Regional Development Grant*
C. *Transportation Grants*
D. *Location-of-Industry Loans*

We did not receive any comments on these programs from the interested parties, and our review of the record has not led us to change our findings from the preliminary results.

III. Program Found to be Terminated

In the preliminary results, we found the following program to be terminated and that no residual benefits were being provided:

A. *Manpower Reduction Grants Program*

We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change our findings from the preliminary results.

Final Results of Review

In accordance with 19 C.F.R. 355.22(c)(4)(ii), we calculated an individual subsidy rate for each producer/exporter subject to this administrative review. For the period January 1, 1996 through December 31, 1996, we determined the net subsidy for Svenska to be 0.06 percent *ad valorem*.

As provided for in the Act, any rate less than 0.5 percent *ad valorem* in an administrative review is *de minimis*. *See* section 703(b)(4)(A) of the Act. Accordingly, we will instruct the U.S. Customs Service (''Customs'') to liquidate without regard to countervailing duties all shipments of this merchandise exported on or after January 1, 1996, and on or before December 31, 1996. The Department will also instruct Customs to collect a cash deposit of estimated countervailing duties of zero percent *ad valorem*, as provided for by section 751(a) of the Act, on all shipments of this merchandise from Svenska, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies (*see* section 777A(e) of the Act), the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. *See* 19 C.F.R. 355.22(a). Pursuant to 19 C.F.R. 355.22(g), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a review of that company. *See Federal-Mogul Corporation and The Torrington Company* v. *United States*, 822 F.Supp. 782 (CIT 1993) and *Floral Trade Council* v. *United States*, 822 F.Supp. 766 (CIT 1993) (interpreting 19 C.F.R. 353.22(e), the antidumping regulation on automatic assessment, which is virtually identical to 19 C.F.R. 355.22(g)). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged by the results of this review.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order will be the rate for that company established in the most recently completed administrative proceeding conducted under the URAA. If such a review has not been conducted, the rate established in the most recently completed administrative proceeding pursuant to the statutory provisions that were in effect prior to the URAA amendments is applicable. These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested. In addition, for the period January 1, 1996 through December 31, 1996, the assessment rates applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 C.F.R. 355.34(d). Timely written notification of 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 administrative review is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 U.S.C. 1677 f (i)).

Dated: June 8, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–16105 Filed 6–16–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.061198D]

Advisory Committee to the United States Section to the International Commission for the Conservation of Atlantic Tunas Bluefin Tuna Rebuilding Workshop

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

ACTION: Notice of public meeting.

SUMMARY: The Advisory Committee to the U.S. Section to the International Commission for the Conservation of Atlantic Tunas announces a second bluefin tuna rebuilding workshop.

DATES: The workshop is scheduled for Friday, June 26, 1998, 9:00 a.m. to 5:30 p.m.

ADDRESSES: The workshop will be held at the Holiday Inn, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Jonathon Krieger,(301)713-2276.

SUPPLEMENTARY INFORMATION: The workshop has the following objectives: (1) to discuss the Magnuson-Stevens National Standard Guidelines regarding bluefin tuna rebuilding, (2) to obtain Advisory Committee input on the Atlantic Tunas Convention Act required Comprehensive Research and Monitoring plan for Atlantic Highly Migratory Species developed by NMFS in consultation with the Advisory Committee and circulated as a draft to the Advisory Committee in April and (3) further develop advice regarding an appropriate rebuilding plan for Atlantic bluefin tuna.

Special Accommodations

The meeting locations are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Jonathon Krieger at (301) 713–2276 at least 5 days prior to the meeting date.

Dated: June 11, 1998.

Gary C. Matlock,

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

[FR Doc. 98–16028 Filed 6–12–98; 9:51 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Application for Discharge of Member or Survivor of Member of Group Certified to Have Performed Active Duty with the Armed Forces of the United States; DD Form 2168; OMB Number 0704–0100.

Type of Request: Reinstatement.

Number of Respondents: 3,000.

Responses Per Respondent: 1.

Annual Responses: 3,000.

Average Burden Per Response: 30 minutes.

Annual Burden Hours: 1,500.

Needs and Uses: This information collection requirement is necessary to implement 38 U.S.C. 106 (Pub. L. 95–202, Section 401), which directs the Secretary of Defense to determine if civilian employment or contractual service rendered by groups to the Armed Forces of the United States shall be considered active duty. This information is collected on DD Form 2168, ''Application for Discharge of Member or Survivor of Member of Group Certified to Have Performed Active Duty with the Armed Forces of the United States,'' which provides the necessary data to assist each of the Military Departments in determining if an applicant was a member of a group which has performed active military service. Those individuals who have been recognized as a member of an approved group are eligible for benefits provided for by laws administered by the Department of Veterans Affairs.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: June 10, 1998.

Patricia L. Toppings,

Alternate ODS Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–16004 Filed 6–16–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Base Realignment and Closure (BRAC) Military Base Reuse Status; DD Form 2740; OMB Number 0790–0003.

Type of Request: Extension.

Number of Respondents: 75.

Responses Per Respondent: 2.

Annual Responses: 150.

Average Burden Per Response: 1 hour.

Annual Burden Hours: 150.

Needs and Uses: Through the Office of Economic Adjustment (OEA), DoD funds are provided to communities for economic adjustment planning in response to closures of military installations. A measure of program evaluation is the monitoring of civilian job creation and type of redevelopment at the former military installations. The respondents to the semi-annual survey will generally include a single point of contact at the local level who is responsible for overseeing redevelopment efforts. If this data is not collected, OEA would have no accurate, timely information regarding the civilian reuse of former military bases. A key function of the economic adjustment program is to encourage private sector use of lands and buildings to generate jobs as military activity diminishes and to serve as a clearinghouse for reuse data.

Affected Public: Business or Other For-Profit; Federal Government; State, Local, or Tribal Government.

Frequency: Semi-annual.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: June 10, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–16005 Filed 6–16–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0033]

Proposed Collection; Comment Request Entitled Contractor's Signature Authority

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance (9000–0033).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Contractor's Signature Authority. The clearance currently expires on September 30, 1998.

DATES: Comments may be submitted on or before August 17, 1998.

FOR FURTHER INFORMATION CONTACT: Linda Nelson, Federal Acquisition Policy Division, GSA, (202) 501–1900.

ADDRESSES: Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Purpose

Entities doing business with the Government must identify those persons who have the authority to bind the principal. This information is needed to ensure that Government contracts are legal and binding. The information is used by the contracting officer to ensure that authorized persons sign contracts.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *1* minute per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *4,800;* responses per respondent, *1;* total annual responses, *4,800;* preparation hours per response, *.017;* and total response burden hours, *82.*

Obtaining Copies of Proposals

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0033, Contractor's Signature Authority, in all correspondence.

Dated: June 11, 1998.

Sharon A. Kiser,

FAR Secretariat.

[FR Doc. 98–16086 Filed 6–16–98; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

Department of the Army

Committee Meeting Notice

AGENCY: United States Army School of the Americas, Training and Doctrine Command.

ACTION: Notice of Meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: United States Army School of the Americas (USARSA) Subcommittee of the Army Education Advisory Committee.

Dates of Meeting: 16 and 17 July 1998.

Place of Meeting: United States Army School of the Americas, Building 35, Fort Benning, Georgia.

Time: 0900–1700 on 16 July and 0900–1600 17 July 1998.

FOR FURTHER INFORMATION CONTACT: United States Army School of the Americas, Attention: TMD, MAJ Clemente, Room 333, Building 35, Fort Benning, GA 31905.

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 fifth USARSA Subcommittee meeting. The subcommittee will receive a report from the Commanding General, Training and Doctrine Command, and briefings they requested as a result of the fourth subcommittee meeting.

2. Meeting of 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.

4. All communications regarding this subcommittee should be addressed to LTC Nunez-Rosa, Designated Federal Official, U.S. Army School of the Americas, ATTN: ATZB–SAZ–CS, Building 35, Room 333, Fort Benning, GA 31905–6245.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–16131 Filed 6–16–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Non-Exclusive, Exclusive or Partially Exclusive Licenses

AGENCY: U.S. Army, TAOM–ARDEC, Picatinny Arsenal, New Jersey.

ACTION: Notice.

SUMMARY: The Department of the Army announces the general availability of exclusive, partially exclusive or non-exclusive licenses under the following patent application and any continuations, divisions or continuations in part of the same.

Attorney Doc. No. DAR 33–98 and DAR 44–98.

Title: Processes and Compositions for Nitration of N-Substituted Isowurtzitane Compounds, etc.

Inventors: Raja Gopal Duddu and Paritosh Dave.

USPTO Application Serial No.: 09/071.022.

Filed: May 1, 1998.

Licenses shall comply with 35 U.S.C. 209 and 37 CFR 404.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Moran, Team Leader, Intellectual Property Division, Legal Office, AMSTA–AR–GCL, U.S. Army, ARDEC, Picatinny Arsenal, NJ 07806–5000. Phone: (973) 724–6590.

SUPPLEMENTARY INFORMATION: Written objections must be filed within three (3) months from the date of this notice in the **Federal Register.**

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–16132 Filed 6–16–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 17, 1998.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: June 11, 1988.

Hazel Fiers,

Acting Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Reinstatement.

Title: National Assessment of Educational Progress (NAEP) 1998–1999 Field Test, Long-term Trend Assessment, and 1999–2000 Full Scale.

Frequency: Every two years.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't; SEAs or LEAs.

Reporting and Recordkeeping Hour Burden; Responses: 45,150. Burden Hours: 39,130.

Abstract: The National Assessment of Educational Progress is mandated by 1994 legislation. The surveys and assessments allow NAEP to describe the educational attainment of students in grades 4, 8 and 12. Each assessment is designed to obtain comprehensive data on the knowledge, skills, concepts, understandings, and attitudes possessed by American students. This assessment will cover the subjects of math, reading, and science. The field test contains new cognitive items, and new and revised background questions to be field tested in mathematics and science. Cognitive items only will be field tested in reading. The field test is necessary to make certain that all of the materials for the 2000 NAEP are of high quality and meet rigorous content and psychometric standards. Also requested for clearance

is the 1998–1999 long-term trend assessment for mathematics, science, reading, and writing which is identical to those used previously in 1986, 1990, 1992, 1994, and 1996.

Office of Management

Type of Review: Reinstatement.

Title: Waiver Guidance for Waivers Available Under Goals 2000, Elementary and Secondary Education Act and School-to-Work.

Frequency: One time.

Affected Public: State, local or Tribal Gov't; SEAs or LEAs.

Reporting and Recordingkeeping Hour Burden: Responses: 100; Burden Hours: 2,000.

Abstract: The information collection is necessary to provide guidance to schools, local educational agencies, and state educational agencies, on submission of requests for waivers of statutory and regulatory requirements.

[FR Doc. 98–16029 Filed 6–16–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education Title I, Part C—Education of Migratory Children

AGENCY: Department of Education.

ACTION: Notice of funding level for FY 1998 consortium incentive grants available under Part C of Title of the Elementary and Secondary Education Act of 1995.

SUMMARY: The Assistant Secretary for Elementary and Secondary Education reserves $1,800,000 for FY 1998 consortium incentive grant awards authorized under section 1308(d) of Title I of the Elementary and Secondary Education Act of 1965. (The 1998 Appropriations Act for the Department (Pub. L. 105–78) overrides the $1,500,000 ceiling in the authorizing statute). State educational agencies operating Migrant Education Programs (MEPs) are the only eligible entities for this grant program. Criteria for awarding consortium incentive grants were published in the **Federal Register** on April 8, 1996 (61 FR 15670).

FOR FURTHER INFORMATION CONTACT: Mr. James English, U.S. Department of Education, 600 Independence Avenue, SW, Portals Building, Room 4100, Washington, D.C. 20202–6135. Telephone: 202–260–1394. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay System (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m. Eastern Time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate form (e.g. Braille, large print, or computer diskette) on request of the contact person listed in the preceding paragraph.

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http://ocfo.ed.gov/fedreg.htm
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To use the pdf your must have the Adobe Acrobat Reader Program with Search, 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 toll free at 1–888–293–6493.

Anyone may also view this documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

(Catalog of Federal Domestic Assistance Number 84.144, Migrant Education Coordination Program)

Program Authority: 20 U.S.C. 6398(d).

Dated: June 10, 1998.

Gerald N. Tirozzi,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 98–16076 Filed 6–16–98; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Rocky Flats

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats.

DATES: Thursday, July 2, 1998 6:00 p.m.–9:30 p.m.

ADDRESSES: Westminster City Hall, Lower-level Multi-purpose Room, 4800 West 92nd Avenue, Westminster, CO.

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, EM SSAB-Rocky Flats, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021, phone: (303) 420–7855, fax: (303) 420–7579.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. The Board will discuss recommendations to the Department of Energy for improving public involvement in development of the site budget.

2. The Board will review and discuss plans for a community forum it will be sponsoring in the fall.

3. Board members will discuss participation in a Low-Level Waste Forum hosted by the Nevada Test Site Citizens' Advisory Board.

4. Other topics will likely be added prior to the meeting date. A copy of the final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the beginning of the meeting.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021; telephone (303) 420–7855. Hours of operation for the Public Reading Room are 9:00 am and 4:00 pm on Monday through Friday. Minutes will also be

made available by writing or calling Deb Thompson at the Board's office address or telephone number listed above.

Issued at Washington, DC on June 11, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–16073 Filed 6–16–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–217–001]

Gas Research Institute; Notice of Revised Refund Report

June 11, 1998.

Take notice that on May 20, 1998, the Gas Research Institute (GRI) filed a revised report listing its 1997 refunds made to its pipeline members.

GRI states that revised refunds, totaling $18,349,305 to twenty-eight pipelines, were made in accordance with the Commission's September 27, 1996 Opinion No. 407 (76 FERC ¶ 61,337).

GRI states that it has served copies of the filing to each person included on the Secretary's service listed in Docket No. RP96–267–000.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before June 18, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–16038 Filed 6–16–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–192–001]

K N Wattenberg Transmission Limited Liability Company; Notice of Tariff Filing

June 11, 1998.

Take notice that on June 8, 1998, K N Wattenberg Transmission Limited Liability Co. (KNW) tendered for filing to become a part of KNW's FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheet to be effective May 22, 1998:

Substitute Original Sheet No. 18
Substitute Original Sheet No. 20
Substitute Original Sheet No. 31
Substitute Original Sheet No. 34
Substitute Original Sheet No. 48
Substitute Original Sheet No. 49
Substitute Original Sheet No. 67
Substitute Original Sheet No. 89
Substitute Original Sheet No. 97

KNW states that these tariff sheets are being filed to comply with the Commission's May 22, 1998 order accepting tariff filing subject to conditions in the above-captioned docket.

KNW states that copies of the filing were served upon KNW's customers and interested state regulatory commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commissions' Rules and Regulations. All such protests must be filed as provided in section 154.210 of the commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–16037 Filed 6–16–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2921–000]

Pacific Northwest Generating Cooperative; Notice of Filing

June 11, 1998.

Take notice that on May 4, 1998, Pacific Northwest Generating Cooperative tendered for filing its Quarterly Transaction Report for the period ended March 31, 1998.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before June 19, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lindwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–16033 Filed 6–16–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–593–000]

Paiute Pipeline Company; Notice of Request Under Blanket Authorization

June 11, 1998.

Take notice that on June 4, 1998, Paiute Pipeline Company (Paiute), P.O. Box 94197, Las Vegas, Nevada 89193–4197, filed in Docket No. CP98–593–000 a request pursuant to Sections 157.205 157.211 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211, and 157.216) for authorization to construct and operate an upgraded delivery tap to enable increased deliveries of natural gas at such delivery point to Southwest Gas Corporation-Northern Nevada (Southwest), an existing local distribution company customer of Paiute, under Paiute's blanket certificate issued in Docket No. CP84–739–000 pursuant to Section 7 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.

Paiute proposes to upgrade its existing Fernley-Wadsworth Tap, located on its Carson Lateral facilities in Lyon County, Nevada, by partially abandoning certain existing delivery point facilities, and constructing and operating upgraded replacement facilities, so as to enable the delivery of increased volumes of gas to Southwest at such tap. Paiute states that Southwest has requested the upgrade of the tap facilities to facilitate its ability to serve a new industrial park and other increasing market demands in the Fernley area.

To accommodate Southwest's request, Paiute proposes to upgrade the Fernley-Wadsworth delivery point facilities to increase the delivery capacity to approximately 15,800 Dth per day at 400 psig. Paiute indicates that it will amend its existing firm transportation service agreement with Southwest to reflect the new delivery point pressure and maximum daily quantity. Paiute states that no change will be made to Southwest's total daily contract entitlement or its daily contract entitlement on the Carson lateral, and thus deliveries by Paiute to the upgraded tap will be within the existing certificated entitlements of Southwest. Paiute further states that it will be reimbursed by Southwest for the entire cost of upgrading the delivery point facilities.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–16035 Filed 6–16–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–586–000]

Williston Basin Interstate Pipeline Company; Notice of Request Under Blanket Authorization

June 11, 1998.

Take notice that on June 2, 1998, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, Suite 300, Bismarck, North Dakota 58501, filed in Docket No. CP98–586–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations (18 CFR 157.205, 157.211) under the Natural Gas Act (NGA) for authorization to operate an existing tap in Big Horn County, Wyoming, for deliveries to Montana-Dakota Utilities Co. (MDU), under Williston Basin's blanket certificate issued in Docket No. CP83–1–000, *et al.*, pursuant to Section 7 of the NGA, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Williston Basin proposes to utilize the tap to make additional deliveries of gas transported for MDU, a local distribution company, to end-users other than right-of-way grantors. It is estimated that the additional volumes would total 110 Dt equivalent of natural gas per year. It is explained that the deliveries would be made under Williston Basin's Rate Schedules FT–1 and/or IT–1. It is asserted that the proposed deliveries will have no significant effect on Williston Basin's peak day or annual deliveries. It is explained that the proposal is not prohibited by Williston Basin's existing tariff and that Williston Basin has sufficient capacity to accomplish the deliveries.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–16034 Filed 6–16–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulation Commission

Notice of Amendment of License

June 11, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of License.

b. *Project No.:* 1951–059.

c. *Date Filed:* February 19, 1998.

d. *Applicant:* Georgia Power Company.

e. *Name of Project:* Sinclair Dam.

f. *Location:* The Sinclair Dam Project is located on the Oconee River in Baldwin County, Georgia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Larry Wall, Georgia Power Company, 241 Ralph McGill Boulevard NE, Atlanta, GA 30308–3374, (404) 506–2054.

i. *FERC Contact:* Jon Cofrancesco, (202) 219–0079.

j. *Comment Date:* July 30, 1998.

k. *Description of Project:* Georgia Power Company, licensee for the Sinclair Dam Project, filed an application to amend the project's approved recreation plan. The approved plan requires the licensee to construct a fishing access site (access road, parking, and a handicapped accessible fishing pier) at Beaver Dam Creek. The approved plan concluded that the fishing access site would be easily accessible from Highway 441 (a major thoroughfare for access to the project reservoir) and would provide important fishing opportunities to local anglers. Based on opposition from property owners surrounding the site, the licensee requests that the required facilities (currently unconstructed) be deleted from the plan and that it be given one year to select an alternate site for the facilities and two years to design and construct the facilities at the new site.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to

intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–16036 Filed 6–16–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6111–5]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Standards of Performance for New Stationary Sources, Phosphate Rock Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Standards of Performance for New Stationary Sources—Phosphate Rock Plants—NSPS Subpart NN (OMB# 2060–0111), expiring 8/31/98, The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 17, 1998.

FOR FURTHER INFORMATION: For a copy of the ICR, call Sandy Farmer at EPA, by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download off the Internet at http://www.epa.gov/icr/icr.htm, and refer to EPA ICR No. 1078.05

SUPPLEMENTARY INFORMATION:

Title: NSPS Subpart NN—Phosphate Rock Plants Subject to New Source Performance Standards (OMB Control No.2060–0111; EPA ICR No 1078.05) expiring 8/31/98. This is a request for extension of a currently approved collection.

Abstract: Particulate matter emissions from phosphate rock plants cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, NSPS were promulgated for this source category.

The control of emissions of particulate matter from phosphate rock plants requires not only the installation of properly designed equipment, but also the operation and maintenance of that equipment. Emissions of particulate matter from phosphate rock plants are the result of operation of the calciners, dryers, grinders, and ground rock handling and storage facilities. These standards rely on the capture of particulate emissions by a baghouse or wet scrubber.

In order to ensure compliance with these standards, adequate reporting and recordkeeping is necessary. In the absence of such information enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on March 5, 1998 (63 FR 10870–10874). No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 16 hours of reporting per response, for ten respondents per year, and 87.5 hours recordkeeping per response for 25 respondents per year. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Phosphate Rock Plants.

Estimated Number of Respondents: 25.

Frequency of Response: 1.

Estimated Total Annual Hour Burden: 2445 hours.

Estimated Total Annualized Cost Burden: $257,100.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1078.05 and OMB Control No. 2060–0111 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA 725 17th Street, NW, Washington, DC 20503.

Dated: June 11, 1998.

Richard T. Westlund, Acting Director,

Regulatory Information Division.

[FR Doc. 98–16081 Filed 6–16–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00525; FRL–5775–7]

Pesticide Product Label System; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of the 1998 Pesticide Product Label System on CD ROM.

FOR FURTHER INFORMATION CONTACT: By mail: Yvonne Brown, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery and telephone number: Rm. 238, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–6473.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Pesticide Product Label System (PPLS), a software product developed by EPA's Office of Pesticide Programs (OPP), contains images of registered pesticide product labels submitted by pesticide registrants and accepted by the OPP since 1971. The 1998 PPLS replaces the 1997 PPLS in its entirety.

The label images have been indexed by company, product, and date. The retrieval program allows the user to search by registration number, which is a combination of company number and product number. Searches can be conducted based on partial numbers if the complete number is unknown. Search results are displayed in full screen format and single or multiple pages can be printed.

Some label amendments address only portions of the label and may not represent the complete label. Review of all updates for a single product may be necessary. The label images represent the product at the time the labeling was accepted. The product may have been transferred to another company or canceled since the date the label was accepted and such status information is not reflected in this system.

The quality of the images varies greatly as it is dependent on the quality of the label submitted to and accepted by OPP. Since the initial version of the PPLS is the product of a conversion from images stored on microfiche, some oversized images are represented as two separate documents and will require retrieval of both to obtain the complete image.

Regulations governing the labeling requirements of pesticide products are contained in 40 CFR Chapter 1.

II. Ordering Information

The CD ROM collection is available as an ongoing subscription from the National Technical Information Service (NTIS), ATTN: Order Desk, 5285 Port Royal Road, Springfield, VA 22161, telephone: (703) 605–6060 or (800) 553–NTIS (6847). When requesting the PPLS from NTIS, use the Order Number SUB–5404.

Dated: April 24, 1998.

Richard D. Schmitt,

Acting Director, Information Resources Services Division, Office of Pesticide Programs.

[FR Doc. 98–15950 Filed 6–16–98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 90–571; DA 98–1118]

Notice of Telecommunications Relay Services (TRS); Certification

Released: June 11, 1998.

Notice is hereby given that the applications for certification of state Telecommunication Relay Services (TRS) programs of the states listed below have been granted, subject to the condition described below, pursuant to Title IV of the Americans with Disabilities Act of 1990, 47 U.S.C. 225(f)(2), and section 64.605(b) of the Commission's rules, 47 CFR 64.605(b). The Commission will provide further Public Notice of the certification of the remaining applications for certification once review of those states' applications has been completed. On the basis of the states applications, the Commission has determined that:

(1) The TRS program of the listed states meet or exceed all operational, technical, and functional minimum standards contained in section 64.604 of the Commission's rules, 47 CFR 64.604;

(2) The TRS programs of the listed states make available adequate procedures and remedies for enforcing the requirements of the state program; and,

(3) The TRS programs of the listed states in no way conflict with federal law.

The Commission also has determined that, where applicable, the intrastate funding mechanisms of the listed states are labeled in a manner that promotes national understanding of TRS and does not offend the public, consistent with section 64.605(d) of the Commission's rules, 47 CFR 64.605(d).

On May 14, 1998, the Commission adopted a Notice of Proposed Rulemaking that proposes ways to enhance the quality of existing telecommunications relay services (TRS) and expand those services for better use by individuals with speech disabilities. See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98–67, FCC 98–90 (rel. May 20, 1998). Because the Commission may adopt changes to the rules governing relay programs, including state relay programs, the certification granted herein is conditioned on a demonstration of compliance with any new rules ultimately adopted by the Commission. The Commission will provide guidance to the states on demonstrating compliance with such rule changes.

This certification, as conditioned herein, shall remain in effect for a five year period, beginning July 26, 1998, and ending July 25, 2003, pursuant to 47 CFR 64.605(c). One year prior to the expiration of this certification, July 25, 2002, the states may apply for renewal of their TRS program certifications by filing documentation in accordance with the Commission's rules, pursuant to 47 CFR 64.605(a) and (b).

Copies of certification letters are available for public inspection at the Commission's Common Carrier Bureau, Network Services Division, Room 235, 2000 M Street, N.W., Washington, D.C., Monday through Thursday, 8:30 AM to 3:00 PM (closed 12:30 to 1:30 PM) and the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C., daily, from 9:00 AM to 4:30 PM.

Third Group of States Approved For Certification

File No. TRS–97–06
Applicant: Georgia Public Service Commission
State of: Georgia
File No. TRS–97–16
Applicant: Pennsylvania Public Utility Commission
State of: Pennsylvania
File No. TRS–97–19
Applicant: Maine Public Utilities Commission
State of: Maine
File No. TRS–97–24
Applicant: Misouri Public Service Commission
State of: Missouri
File No. TRS–97–28
Applicant: Oklahoma Telephone Association
State of: Oklahoma
File No. TRS–97–34
Applicant: Iowa Utilities Board
State of: Iowa
File No. TRS–97–35

Applicant: West Virginia Public Service Commission
State of: West Virginia

For further information, contact Al McCloud, (202) 418–2499, amccloud@fcc.gov: Helene Nankin, (202) 418–1466, hnankin@fcc.gov; or Kris Monteith, (202) 418–1098, kmonteit@fcc.gov, (TTY, 202–418–0484), at the Network Services Division, Common Carrier Bureau, Federal Communications Commission.

Federal Communications Commission.

Anna Gomez,

Deputy Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 98–16069 Filed 6–16–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Submission for OMB Review and Comment Request

AGENCY: Federal Maritime Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the information collection requests abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and approval. The submissions to OMB request continued approval (extensions with no changes) for OMB No. 3072–0012 (Licensing of Ocean Freight Forwarders and Form FMC–18); OMB No. 3072–0028 (Foreign Commerce Anti-Rebating Certification); and OMB No. 3072–0053 (Non-Vessel-Operating Common Carriers Surety Bonds). Previously, comments were solicited by notice published on March 26, 1998, (63 FR 14713–14714). The FMC did not receive any comments in response to that notice.

DATES: Comments must be submitted on or before July 17, 1998.

ADDRESSES: Send comments to:

Edward P. Walsh, Managing Director, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573, (Telephone: (202) 523–5800)
and
Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Ed Clarke, Desk Officer for FMC, 725 17th Street, N.W., Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Send requests for copies of the current OMB clearances to: George D. Bowers, Director, Office of Information Resources Management, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573, (Telephone: (202) 523–5834).

SUPPLEMENTARY INFORMATION:

1. Ocean Freight Forwarder Licensing and Application Form FMC–18—OMB Approval Number 3072–0012 Expires August 31, 1998

Abstract: Section 19 of the Shipping Act of 1984, 46 U.S.C. app. § 1718, requires that no person shall act as a freight forwarder unless they hold a license by the Federal Maritime Commission. The Act requires the Commission to issue a license to any person that it determines to be qualified by experience and character to act as an ocean freight forwarder if that person has provided a surety bond issued by a surety company found acceptable by the Secretary of the Treasury. The Commission has implemented the provisions of Section 19 in regulations contained in 46 CFR Part 510 and its related application form, FMC–18.

Needs and Uses: The Commission uses information obtained from Form FMC–18 as well as information contained in the Commission's files and letters of reference to determine whether an applicant meets the requirements for a license. If the collection of information were not conducted, there would be no basis upon which the Commission could determine if applicants are qualified for licensing.

Frequency: This information is collected as applicants apply for a license or when certain information changes in existing licenses.

Type of Respondents: Persons desiring to act as freight forwarders.

Number of annual respondents: The Commission estimates an annual respondent universe of 2,007 licensed freight forwarders. The Commission estimates that the rule will impose, in varying degrees, a reporting burden on the entire respondent universe.

Estimated time per response: The completion time for the Form FMC–18 is estimated to be 2 person hours on average with the range being .5 hours to 4 hours.

Total Annual Burden: The Commission estimates the total annual burden to be 2,018 person hours, as follows: 822 hours to comply with the regulation provisions; 502 hours for recordkeeping requirements; and 694 hours to complete the Form FMC–18.

2. Foreign Commerce Anti-rebating Certification—OMB Approval number 3072–0028 Expires August 31, 1998

Abstract: Section 15(b) of the Shipping Act of 1984, 46 U.S.C. app. § 1714(b), requires the chief executive officer of each common carrier and certain other persons to file with the Commission a periodic written certification that anti-rebating policies have been implemented and that full cooperation will be given to any Commission investigation of illegal rebating activity. The Commission has implemented the provisions of section 15(b) in regulations contained in 46 CFR 582.

Needs and Uses: The Commission uses the information filed by these parties to maintain continuous surveillance over the activities of these entities and to provide an effective deterrent against rebating practices.

Frequency: This information is collected with the filing of a carrier's initial tariff and the applicant's ocean freight forwarder license application. On each subsequent even-numbered calendar year, certifications are required to be filed.

Type of Respondents: Respondents may include the chief executive officer of each common carrier and ocean freight forwarder, shipper, shipper's association, marine terminal operator or broker.

Number of Annual Respondents: The Commission estimates a total of approximately 4,857 respondents as follows: 2,450 non-vessel-operating common carriers, 400 vessel operating common carriers and 2,007 ocean freight forwarders.

Estimated Time Per Response: The Commission estimates approximately .5 person hours per response.

Total Annual Burden: Total annual burden is estimated at 2,429 person hours.

3. NVOCC Surety Bonds—OMB Approval Number 3072–0053 Expires September 30, 1998

Abstract: Section 23(a) of the Shipping Act of 1984, 46 U.S.C. app. § 1721(a), requires each non-vessel operating common carrier (NVOCC) to furnish the Commission with an acceptable bond, proof of insurance or other surety, which is to be available to pay for damages arising from transportation-related activities, reparations or penalties. The Commission has implemented the provisions of section 23(a) in regulations contained in 46 CFR 583.

Needs and Uses: The Commission uses the information to maintain continuous surveillance over NVOCCs and to enable the Commission to discharge its duties under the Act. Upon request, the Commission provides information to the public regarding a carrier's evidence of financial responsibility.

Frequency: Documents are filed annually.

Type of Respondents: Non-Vessel Operating Common Carriers.

Number of annual respondents: The Commission estimates that approximately 2,450 NVOCCs will file these documents.

Estimated Time per response: The Commission estimates one person hour per response for each filing.

Total Annual Burden: Total annual manhour burden is estimated at 2,450 hours.

Send comments regarding the burden estimate, or any other aspect of the information collections, including suggestions for reducing the burden, to the addresses shown above.

Joseph C. Polking,

Secretary.

[FR Doc. 98–16008 Filed 6–16–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby given notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW, Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 202–011587–002
Title: United States South Europe Conference
Parties:
A.P. Moller-Maersk Line
P&O Nedlloyd B.V.
P&O Nedlloyd Limited
Sea-Land Service, Inc.
Synopsis: The proposed modification of the Agreement's service contract guidelines would permit the parties to unanimous agree to exempt particular agreement service contracts from the application of specific surcharges. The parties have requested expedited review.

Agreement No.: 203–011625
Title: United Alliance Neutral Chassis Pool Program
Parties:
Hanjin Shipping Co., Ltd.
Cho Yang Shipping Co., Ltd.
DSR-Senator Lines GmbH
United Arab Shipping Co. (S. A. G.)
Synopsis: The proposed Agreement would permit the parties to form and operate a chassis pool among themselves and to agree upon the type and number of chassis to be contributed to the pool and upon the rates and conditions for use of the chassis both amongst themselves and by outside parties.

Agreement No.: 232–011626
Title: Aliance/Columbus/P&) Nedlloyd Agreement
Parties:
Empresa de Navegacao Alianca S.A.
Hamburg-Sud
P&O Nedlloyd Limited and P&O Nedlloyd B.V. acting as a single party
Synosis: The proposed Agreement authorizes the parties to operate vessels, agree on vessel deployment and sailing schedules, and to cross-charter and exchange space in the trades between (a) ports on the United States East Coast and ports on the East Coast of South America, and (b) ports on the United States Gulf Coast and ports in the Caribbean and ports on the East Coast of South America. The parties requested expedited review.

Dated: June 11, 1998.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 98–16009 Filed 6–16–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Monday, June 22, 1998.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed amendments to the Voluntary Guide to Conduct for Federal Reserve System Officials.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.bog.frb.fed.us for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: June 12, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–16198 Filed 6–12–98; 5:07 pm]

BILLING CODE 6210–01–P

FEDERAL SERVICE IMPASSES PANEL

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

AGENCY: Federal Service Impasses Panel.

ACTION: Notice.

The Federal Service Impasses Panel (Panel) has submitted the following information collection requirement to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. Comments should be addressed to: Joseph Lackey, Desk Officer for the Federal Labor Relations Authority, Office of Management and Budget, New Executive Office Building, room 10235, Washington, DC 20503; and to Solly Thomas, Executive Director, Federal Labor Relations Authority, 607 14th St., NW., Washington, DC 20424. Copies of the submission may be obtained by calling H. Joseph Schimansky, Executive Director, Federal Service Impasses Panel, (202) 482–6670, ext. 227.

Title: Request for Assistance.

Summary: Various persons can request assistance from the Panel to resolve collective bargaining impasses under the Federal Service Labor-Management Relations Statute, 5 U.S.C. 7119. The Panel needs information from the requesting party to begin processing the request for assistance. The Request for Assistance Form includes questions to the filer concerning, among other things, identification of the parties; a description of the issues; the number, length, and dates of negotiation and mediation sessions held; and if the impasse arises from an agency determination not to establish or terminate a compressed work schedule under the Federal Employees Flexible

and Compressed Work Schedules Act, the schedule or proposed schedule which is the subject of the agency's determination and the finding on which the determination is based.

Need and Use of the Information: The information to be collected by the Request for Assistance is required for the Panel to be able to process and decide collective bargaining impasses arising under the Federal Service Labor-Management Relations Statute, 5 U.S.C. 7119. The information collected on the form is to be used to enable Panel staff employees to contact affected parties in impasse proceedings, and to enable staff employees to take the necessary steps to begin the processing of the Request for Assistance. The form will be provided to members of the public to initiate an impasse proceeding before the Panel. The petition form is filed with the Panel's office. Use of the form is not required to obtain Panel assistance, however, so long as the written request by a party for assistance contains the information requested on the form.

Description of Respondents: Federal employees representing federal agencies in their capacity as employer and federal employees and employees of labor organizations that are representing those labor organizations, are the members of the public who may file the Request for Assistance form.

Number of Respondents: Approximately 160 per year.

Frequency of Response: On occasion, as collective bargaining impasses arise.

Total Burden Hours: Approximately one-half hour per petition (80 hours per year).

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chap. 35, as amended.

Dated: June 11, 1998.

H. Joseph Schimansky,

Executive Director, Federal Service Impasses Panel.

[FR Doc. 98–16045 Filed 6–16–98; 8:45 am]

BILLING CODE 6727–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0080]

Submission for OMB Review; Comment Request Entitled Contract Financing

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of request for an extension to an existing OMB clearance (3090–0080).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning Contract Financing.

DATES: *Comment Due Date:* August 17, 1998.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Marjorie Ashby, General Services Administration (MVP), 1800 F Street NW, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Al Matera, Office of GSA Acquisition Policy (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Purpose

The GSA is requesting the Office of Management and Budget (OMB) to review and approve information collection, 3090–0080, concerning Contract Financing. Offerors are required to identify whether items are foreign source end products and the dollar amount of import duty for each product.

B. Annual Reporting Burden

Respondents: 2,000; annual responses: 2,000; average hours per response: .1; burden hours: 200.

Copy of Proposal

A copy of this proposal may be obtained from the GSA Acquisition Policy Division (MVP), Room 4011, GSA Building, 1800 F Street NW, Washington, DC 20405, or by telephoning (202) 501–3822, or by faxing your request to (202) 501–3341.

Dated: June 9, 1998.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 98–16077 Filed 06–16–98; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement Number 98084]

Notice of Availability of Funds for 1998; State Cardiovascular Health Programs

Introduction

The Centers for Disease Control and Prevention (CDC), announces the availability of fiscal year (FY) 1998 funds for a cooperative agreement program for State-based cardiovascular health programs. This announcement is the first of its kind and contains cardiovascular health program design components considered essential to increasing the leadership of State health departments in cardiovascular disease prevention and control. The essential components are characterized by definition of the cardiovascular disease problem within the State; development of partnerships and coordination among concerned nongovernmental and governmental partners; development of effective strategies to reduce the burden of cardiovascular diseases and related risk factors with an overarching emphasis on heart healthy policies and physical and social environmental changes at all levels as interventions; and monitoring of all the critical aspects of cardiovascular diseases.

To improve the cardiovascular health of all Americans, every State health department should have the capacity, commitment, and resources to carry out comprehensive cardiovascular disease prevention and control programs. Applicants may apply for one, but not both, of the following levels of support:

1. A Core Capacity Program to develop basic cardiovascular disease program functions and activities at the State level such as partnerships and program coordination, scientific capacity, inventory of policy and environmental strategies, State plan for cardiovascular diseases, training and technical assistance, strategies for addressing Priority Populations, and intervention strategies.

2. A Comprehensive Program to implement and disseminate intervention activities throughout the State using health care settings, work sites, schools, media, the government, and community-based organizations as primary modes of intervention for cardiovascular diseases.

One optional enhanced school health program. Additional funding may be available for either a Core Capacity

Program or a Comprehensive Program to collaborate with the State education agency and other relevant governmental and nongovernmental agencies to implement cardiovascular disease prevention strategies that address students, their families, school staff, and communities.

While defining the problem of cardiovascular diseases and related risk factors within the State, the applicant may determine the Priority Populations to be addressed. Factors that may be considered when identifying Priority Populations include rates of cardiovascular diseases and related risk factors, lack of access to services, socioeconomic levels, and populations with documentation of high risk of cardiovascular diseases. The applicant may direct specific program interventions to reduce risk factors in key Priority Populations to levels at or below the general population.

The CDC is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Heart Disease and Stroke. (For ordering a copy of Healthy People 2000, see the section ''Where to Obtain Additional Information.'')

Authority

This program is authorized under section 317(a) of the Public Health Service (PHS) Act [42 U.S.C.247b(a)], as amended. Applicable program regulations are found in 42 CFR Part 51b-Project Grants for Preventive Health Services.

Smoke-Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and to promote the nonuse of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Assistance will be provided only to the health departments of certain States or their bona fide agents. Eligible States are limited to those in which mortality rates from ischemic heart disease or stroke exceed the national rates by ten percent or more. The eligible States (based on National Vital Records) are Alabama, Arkansas, Georgia, Indiana, Kentucky, Louisiana, Mississippi, Missouri, New York, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Virginia, West Virginia; and the District of Columbia.

Other States or territories including American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of the Marshall Islands, and the Republic of Palau may apply; but, they must provide evidence that their mortality rate from ischemic heart disease exceeds 189.7/100,000 or the mortality rate from stroke exceeds 44.4/100,000. Mortality statistics provided by the applicant must use ICD–9 codes of 410–414 (Ischemic heart disease) and 430–438 (Stroke), age-adjusted to the 1970 U.S. population, resident population only, for the 35–74 year-old population of the State, for 1991–1995 based on National Vital Records available on CDC WONDER. This documentation must be provided in the Executive Summary of the Application Content section.

State health departments are uniquely qualified to define the cardiovascular health problem throughout the State, to plan and develop statewide strategies to reduce the burden of cardiovascular diseases, to provide overall State coordination of cardiovascular health activities among partners, to lead and direct communities, to direct and oversee interventions within overarching State policies, and to monitor critical aspects of cardiovascular diseases. Therefore, because of these unique qualifications, competition is limited to State health departments.

Eligible applicants may choose to address either the Core Capacity Program or the Comprehensive Program. However, applicants choosing to address the Comprehensive Program must meet the matching requirement for State funds (see Recipient Financial Participation).

Availability of Funds

Approximately $4,750,000 is available in FY 1998 to fund approximately 8 States.

A. Approximately $1,800,000 is available for approximately 6 Core Capacity Program awards. It is expected that the average award will be $300,000, ranging from $250,000 to $500,000.

B. Approximately $2,500,000 is available for approximately 2 comprehensive awards. It is expected that the average award will be $1,250,000 ranging from $1,000,000 to $1,500,000.

C. Approximately $450,000 is available for one optional enhanced school health program that may be additional funding to either a Core Capacity Program or a Comprehensive Program.

It is expected that the awards will begin on or about September 28, 1998, and will be made for a 12-month budget period within a project period of up to 5 years. Funding estimates may vary and are subject to change.

Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

If requested, federal personnel, equipment, or supplies may be provided in lieu of a portion of the financial assistance.

States which compete for funds but do not receive an award and whose application is not disapproved, will maintain an ''approved but unfunded'' status for one year. If additional funds become available during the year, additional States may be considered for funding.

CDC anticipates that additional funds may become available for addressing Priority Populations for recipients under this program announcement. If funds become available, recipients may be solicited to submit competitive supplemental applications for these funds.

Recipient Financial Participation

Matching funds are required from State sources in an amount not less than $1 for each $4 of Federal funds awarded under the Comprehensive Program of this announcement. Applicants for the Comprehensive Program must provide evidence of State appropriated resources targeting cardiovascular health of at least 20 percent of the total approved budget. The Preventive Health and Health Services (PHHS) Block Grant may not be included as State resources.

Applicants may not use these funds to supplant funds from State sources or the Preventive Health and Health Services Block Grant dedicated to cardiovascular health. Applicants must maintain current levels of support dedicated to cardiovascular health from State sources or the Preventive Health and Health Services Block Grant.

Use of Funds

Funds provided under this program announcement are not intended to be used to conduct community-based pilot or demonstration projects.

Restrictions on Lobbying

Applicants should be aware of restrictions on the use of Health and Human Services (HHS) funds for lobbying of Federal or State legislative bodies. Under the provisions of 31

U.S.C. Section 1352 (which has been in effect since December 23, 1989), recipients (and their subtier contractors) are prohibited from using appropriated Federal funds (other than profits from Federal contract) for lobbying Congress or any Federal agency in connection with the award of a particular contract, grant, cooperative agreement, or loan. This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

In addition, the FY 1998 Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act (Public Law 105–78) states in Sec. 503(a)and (b) no part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relations, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislative body itself. No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

Background

Among men and women, and across all racial and ethnic groups, cardiovascular disease is our nation's leading killer and a leading cause of disability. More than 950,000 Americans die of cardiovascular disease each year, accounting for more than 40 percent of all deaths. Over half of these deaths occur among women.

In 1998, cardiovascular diseases are estimated to cost our nation $274 billion. This amount includes health expenditures and lost productivity resulting from illness and death. The use of expensive treatment, although effective in delaying death from cardiovascular diseases, is likely to continue to increase the financial impact.

Cardiovascular diseases are common and their risk factors are widespread in American society. Although most of the major risk factors for heart disease and stroke are modifiable or entirely preventable, over 80 percent of Americans report having at least one major risk factor. These include tobacco use, physical inactivity, poor diet, high blood pressure, high blood cholesterol, obesity, and diabetes.

Major disparities exist among population groups, with a disproportionate burden of death and disability from cardiovascular diseases in minority and low-income populations. For example, the rate of premature deaths caused by cardiovascular diseases is greater among African-Americans than among white Americans. Disparities also exist in the prevalence of risk factors for cardiovascular diseases. For example, physical inactivity is higher for Mexican-American women (46 percent) and African-American, non-Hispanic women (40 percent) than for white, non-Hispanic women (23 percent).

Purpose

The purpose of this program is not only to provide financial and programmatic assistance that will aid States in developing, implementing, and evaluating cardiovascular disease prevention and control programs; but also, to assist States in developing their Core Capacity Programs into a Comprehensive Program.

State Core Capacity Programs: The purpose of these programs is to develop and fill gaps in capacity and leadership in State health departments in areas critical to the implementation and management of a successful statewide comprehensive cardiovascular disease prevention program. Core Capacity Programs are the foundation upon which comprehensive cardiovascular health programs are built.

State Comprehensive Programs: The purpose of these programs is to build upon core capacities of the State. They implement widespread interventions throughout the State, adopting population-based approaches for cardiovascular disease prevention and control that extends to all population groups, and a focused approach for priority populations. In addition to the components of the Core Capacity Programs, the Comprehensive Programs extend resources to local health agencies, communities, and organizations for implementation of the cardiovascular health strategies.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for conducting the activities under A. (State Core Capacity Programs), below, or under B. (Comprehensive Programs), below, and CDC will be responsible for the conducting activities listed under C., below.

A. Recipient Activities for State Core Capacity Programs

1. Develop and Coordinate Partnerships

Identify, consult with, and appropriately involve the State cardiovascular health partners to identify areas critical to the development of a statewide cardiovascular disease prevention and control program, coordinate activities, avoid duplication of effort, and enhance the overall leadership of the State with its partners. Within a State health department, coordinate and collaborate with partners in nutrition and physical activity and other areas such as tobacco, diabetes, cancer, health education, Preventive Health and Health Services Block Grant, laboratory, as well as with data systems such as vital statistics and behavioral risk factor surveillance. Within State government, collaboration and partnership with other departments such as education, transportation, parks and recreation, and with youth risk behavioral surveillance, should be developed. These partnerships and collaborative efforts should develop into memorandums of agreement (MOA) or similar formalized arrangements. The State health department should develop a statewide coalition with representation from other agencies, professional and voluntary groups, academia, community organizations, the media, and the public.

2. Develop Scientific Capacity to Define the Cardiovascular Disease Problem

Enhance epidemiology, statistics, and data analysis from existing data systems such as vital statistics, hospital discharges, and behavioral risk factor surveillance to determine:

a. Trends in cardiovascular diseases.

b. Geographic distribution of the diseases.

c. The racial and ethnic identities of populations at highest risk for cardiovascular diseases.

d. Ways to integrate systems to provide comprehensive data needed for assessing and monitoring the cardiovascular health of populations and program outcomes.

Monitoring and program evaluation are considered essential components of building scientific capacity. Scientific capacity may also extend to developing access to outside databases such as medical care, and to laboratory development consistent with the overall direction of the program. State public health laboratories, or laboratories contracted by States to perform lipid

and lipoprotein testing, should be standardized by the CDC Lipid Standardization Program.

3. Develop an inventory of Policy and Environmental Strategies

Develop an inventory of policy and environmental issues in systems and settings, (State, communities, health care sites, work sites, schools) affecting the cardiovascular health of the general population and Priority Populations, to include such issues as food service policies; availability of opportunities such as sidewalks, recreation centers, parks, walking trails; restrictions on tobacco; and standards of care. Health care-related policy and environmental issues should be assessed in collaboration with purchasers of medical care, managed care organizations, and consumers. Attention should be paid to the needs of Priority Populations and the policy and environmental issues most vital to their cardiovascular health.

4. Develop or Update State Plan

Develop or update a State plan for cardiovascular diseases to include specific objectives for future reductions in cardiovascular diseases and related risk factors. Develop a complete description of the cardiovascular disease problem geographically and demographically and include population-specific strategies for achieving the objectives. The strategies should emphasize population-based policy and environmental approaches as well as the needs of Priority Populations. The strategies may also include planning for program development at the community level, particularly for Priority Populations.

5. Provide Training and Technical Assistance

Increase the skills of State health department and external personnel in areas such as data systems; use of data in program planning; assessing community assets and needs; cardiovascular diseases and related risk factors with emphasis on nutrition and physical activity; approaches to interventions with emphasis on policy and environmental issues; social marketing and communications; epidemiology; health promotion; partnering; cultural competency; community engagement; and program evaluation. Training may address State health department personnel as well as those at the local level, designated partners, and may include development of technical assistance to communities, work sites, health sites, schools, organizations of faith, and community-based organizations. This component may also extend to laboratory improvement for lipid measurement.

6. Develop Population-Based Strategies

Develop population-based intervention strategies to reduce the burden of cardiovascular diseases in the State, with a strong emphasis on policy and environmental approaches for the general population. Primary strategies must address the cardiovascular risk factors of nutrition and physical activity. The strategies should be included in the updated State plan and may use health sites, work sites, schools, media, organizations of faith, community-based organizations, and governments, as effective means to reach people. Although Core Capacity awards do not include funds for implementation of strategies, the projected cost of implementing the strategies should be developed and included in progress reports.

7. Develop Culturally-Competent Strategies for Priority Populations

Develop, and include in the State plan, strategies for enhanced program efforts to address Priority Populations with more intensive intervention than population-based approaches and specify how interventions would be designed appropriately for the priority populations to be addressed. Strategies should include policy and environmental approaches specific for the population to be addressed but may also include strategies for direct interventions such as community events, screenings, special classes, and campaigns designed to improve awareness of cardiovascular risk factors in the populations and to reduce risk factors in the populations to levels at or below the general population. Initiatives may be used to demonstrate the effectiveness of selected strategies or as a means to generate community support. Although Core Capacity awards do not include funds for implementation of strategies, the projected cost of implementing the strategies for Priority Populations should be developed and included in progress reports.

8. (Optional) Enhanced School Health Program

Develop enhanced program efforts designed to reach youth during their formative years. Collaborate with the State education agency to sustain efforts with local education agencies and other relevant governmental and nongovernmental agencies to implement cardiovascular disease prevention strategies that address students, their families, school staff, and communities. Implement policy mandates, environmental change, school food service, classroom instruction, and involve families and community agencies in such efforts. Establish, strengthen, or expand education intended to prevent or reduce sedentary lifestyle, dietary patterns, and tobacco use, that result in disease; and integrate education into comprehensive school health education. Coordinate fully with State education and health programs and strengthen school health programs. Establish qualified staffing in the State departments of education as well as in the State health department.

B. Recipient Activities for Comprehensive Programs

1. Implement Population-Based Intervention Strategies Consistent with the State Plan.

Strategies should include policy and environmental approaches, and other approaches disseminated through various settings including health care settings, work sites, schools, organizations of faith, governments, and the media. Interventions should be population-based, with objectives established that specify the population-wide changes sought. Approaches should extend to a relatively large proportion of the population to be addressed, rather than a few selected communities. Interventions should be coordinated such that health messages, policies, and environmental measures are consistent, the most cost-effective methods are used for reaching the populations, and duplication of effort is avoided. Primary interventions must address physical activity and nutrition. Lipid and hypertension management are consistent with physical activity and good nutrition and may also be included. Efforts to address tobacco use should be coordinated with the State tobacco program; tobacco-related activities should not be duplicated. Implementation may extend to grants and contracts with local health agencies, communities, and nonprofit organizations.

2. Implement Strategies Addressing Priority Populations

These strategies may include services directed to specific communities and segments of the population, and may include all appropriate modes of intervention needed to reach the populations to be addressed. These strategies may include more intensive, directed services by organizations including community-based organizations, organizations of faith, and State and national organizations

concerned with improving the health and quality of life of Priority Populations.

3. Specify and Evaluate Intervention Components

Design and implement a program evaluation system. Evaluation should be limited in scope to address strategy implementation, changes in personal behavioral risk factors, and changes in policies and the physical and social environment affecting cardiovascular health. Evaluation should not include comparison communities or quasi-experimental designs. Evaluation should cover both population-based strategies as well as targeted strategies. Evaluation should rely primarily upon existing data systems such as vital statistics, hospital discharges, behavioral risk factor surveillance, and youth risk behavioral surveys. The program should address measures considered critical to determine the success of the program.

4. Implement Professional Education Activities

Provide professional education to health providers to assure appropriate prevention and counseling are offered routinely and that appropriate standards of care are provided to all.

5. Monitor Secondary Prevention Strategies

Secondary prevention strategies may include such issues as aspirin and drug therapy, physical activity regimens, hormone replacement therapy, dietary changes, and hypertension and lipid management. Activities in secondary prevention should be limited primarily to monitoring the delivery of secondary prevention practices. Development of monitoring systems for secondary prevention practices should be coordinated with managed care providers, Medicaid, major employers, insurers, other organized health care providers, and purchasers of health care. Secondary prevention strategies may be integrated with professional education initiatives. Secondary prevention should not provide for drugs, patient rehabilitation, or other costs associated with the treatment of cardiovascular diseases.

6. (Optional) Enhanced School Health

Develop enhanced program efforts designed to reach youth during their formative years. Collaborate with the State education agency to sustain efforts with local education agencies and other relevant governmental and nongovernmental agencies to implement cardiovascular disease prevention strategies which address students, their families, school staff, and communities. Implement policy mandates, environmental change, school lunch programs, classroom instruction, and involve families and community agencies in the efforts. Establish, strengthen, or expand education intended to prevent or reduce sedentary lifestyle, dietary patterns, and tobacco use that result in disease; and integrate education into comprehensive school health education. Coordinate fully with State education and health programs and strengthen school health programs. Establish qualified staffing in State department of education as well as the State health department.

C. CDC Activities

1. Provide technical assistance in the coordination of surveillance and other data systems to measure and characterize the burden of cardiovascular diseases. Provide technical assistance in the design of surveillance instruments and sampling strategies, and provide assistance in the processing of data for States. Provide data on populations at highest risk. Provide data for national-level comparisons.

2. Develop and disseminate programmatic guidance and other resources for specific interventions, media campaigns, and coordination of activities.

3. Collaborate with the States and other appropriate partners to develop and disseminate recommendations for policy and environmental interventions including the measurement of progress in the implementation of such interventions.

4. Collaborate with appropriate private, nonprofit organizations to coordinate a cohesive national program.

5. Provide technical assistance to State public health laboratory or contract laboratory to standardize cholesterol, high density lipoproteins, and triglyceride measurements.

6. Provide training and technical assistance regarding the coordination of nutrition and physical interventions.

7. If requested, provide Federal personnel, equipment, or supplies in lieu of a portion of the financial assistance.

Technical Reporting Requirements

An original and two copies of semiannual progress reports are required 30 days after each semiannual reporting period. A financial status report is required no later than 90 days after the end of each budget period. Final financial and performance reports are required no later than 90 days after the end of the project period. All reports are to be submitted to the Grants Management Branch, CDC. Progress reports should include the following:

1. A comparison of actual accomplishments with the objectives established in the work plan for the period.

2. Core Capacity programs should report the projected cost of implementing the strategies developed.

3. Other pertinent information that includes, but is not limited to, the reasons for slippage if established goals were not met, analysis and explanation of unexpected delays or high costs of performance, and a listing of presentations and publications produced by, supported by, or related to, program activities.

Application Content

Applicants must develop their applications in accordance with PHS Form 5161–1 (Revised 5/96), or new CDC Form 0.1246(E), information contained in this Program Announcement, and the format and page limitations outlined below. Applicants may apply for funding of either Core Capacity activities or Comprehensive activities, but not both, and must designate in the Executive Summary of their application the component (Core Capacity Program or Comprehensive Program) for which they are applying.

Applications for the Core Capacity Program should not exceed 60 double-spaced pages, single sided, in 12 point type, excluding the optional enhanced school health program, budget and justification, and appendixes. Applications for the Comprehensive Program should not exceed 120 double-spaced pages, single sided, in 12 point type, excluding the optional enhanced school health program, budget and justification, and appendixes. Applications for the Optional Enhanced School Health Program should not exceed 25 double-spaced pages, single sided, in 12 point type, excluding the optional enhanced school health program, budget and justification, and appendixes. Applicants should also submit appendixes including resumes, job descriptions, organizational chart, facilities, and any other supporting documentation as appropriate. All materials must be suitable for photocopying (i.e., no audiovisual materials, posters, tapes, etc.).

I. Executive Summary

All applicants must provide a summary of the program applied for and whether the optional program is included (two pages maximum). States

and territories, other than the 17 eligible applicants, must include documentation of the required mortality statistics data.

II. Core Capacity Program

(Narrative portions of the application may not exceed 60 double-spaced pages.)

A. Staffing (Not Included in 60 Page Limitation)

Describe program staffing and qualifications including contacts for physical activity, nutrition, and epidemiology. Provide organizational chart, resumes, job descriptions, and experience for all budgeted positions. Describe lines of communication between various related chronic disease programs.

B. Facilities (Not Included in 60 Page Limitation)

Describe facilities and resources available to the program, including equipment available, communications systems, computer capabilities and access, and laboratory facilities if appropriate.

C. Background and Need

Thoroughly describe the need for funding and the current resources available for Core Capacity activities, to include:

1. The overall State cardiovascular disease problem.
2. The geographic patterns, trends, age, gender, racial and ethnic patterns, and other measures or assessments.
3. The barriers the State currently faces in developing and implementing a statewide program for the prevention of cardiovascular diseases.
4. The advisory groups, partnerships, or coalitions currently involved with the State health department for cardiovascular disease prevention and control.
5. The current chronic disease programs within the State health department.
6. The gaps in resources, staffing, capabilities, and programs that, if addressed, might further the progress of cardiovascular disease prevention; and how the funds will be used to fill the gaps in the core capabilities of the State cardiovascular disease prevention and control efforts.

D. Core Capacity Work Plan

Provide a work plan that addresses each of the required Core Capacity elements cited in the Recipient Activities section above, to include the following information:

1. Program objectives for each of the elements. Objectives should describe what is to happen, by when, and to what degree.
2. The proposed methods for achieving each of the objectives.
3. The proposed plan for evaluating progress toward attainment of the objectives.
4. A milestone and completion chart for all objectives for the project period.
5. If human subjects research will be conducted, describe how human subjects will be protected.

E. (Optional) Enhanced School Health Program (Not Included in 60 Page Limit; Has Its Own 25 Page Limit)

Enhanced program efforts designed to reach youth during their formative years may be included as a program component of a Core Capacity Program. Describe planned activities for collaboration with the State education agency to develop a sustained effort with local education agencies and other relevant governmental and nongovernmental agencies to implement cardiovascular disease prevention strategies that address students, their families, school staff, and communities. Effective strategies might include activities such as policy mandates, environmental change, classroom instruction, school lunch programs, and involvement of families and community agencies. Strategies should establish, strengthen, or expand education intended to increase regular physical activity and healthy dietary patterns and to prevent or reduce tobacco use; and should integrate such education into a coordinated school health program. Planned activities and strategies are expected to be fully coordinated between State education and health programs and to strengthen school health programs. Applicants may establish qualified staffing in the State department of education as well as the State health departments.

Note: There is no penalty for not undertaking optional activities.

F. Core Capacity Program Budget

Provide a line-item budget with justifications consistent with the purpose and proposed objectives, using the format in Form 5161–1 or CDC Form 0.1246(CDC). Applicants are encouraged to include budget items for travel for three trips to Atlanta, GA for three individuals to attend 3-day training and technical assistance workshops.

The budget for the optional enhanced school health program should be distinguished from the general budget.

Supporting material such as organizational charts, tables, position descriptions, relevant publications, letters of support, memorandums of agreement, etc., should be included in the appendixes and be reproducible.

III. Comprehensive Program

(Narrative portions of the Comprehensive Program application may not exceed 120 double spaced, 12 point typed pages.)

A. Background and Need

Provide a thorough description of the need for support, to include a detailed analysis of the cardiovascular disease problem in the State, the geographic and demographic distribution, age, sex, racial and ethnic groups, educational, and economic patterns of the diseases as well as the trends over time. Describe the barriers to successful implementation of a statewide program for prevention of cardiovascular diseases within the State; partnerships and collaboration with related agencies, and the status of policies and environmental approaches in place that influence risk factors and public awareness. Describe how the funding will be used to fill the gaps in cardiovascular disease prevention activities. Provide a description of the populations to be addressed, including Priority Populations, and their constituencies and leadership potential to develop and conduct program activities.

B. Staffing (Not Included in 120 Page Limitation)

Describe project staffing and qualifications including contacts for physical activity, nutrition, and epidemiology. Provide organizational chart, curriculum vitae, job descriptions, and experience needed for all budgeted positions. Describe lines of communication between various related chronic disease programs.

C. State Plan

Provide the current State plan (dated January 1997 or later) that includes population-based policy and environmental strategies as well as strategies for implementing community programs which utilize health care settings, work sites, the media, schools, community-based organizations, the community at-large; and which includes strategies addressing specific Priority Populations and communities.

D. Evaluation

Provide description of surveillance and monitoring activities that include mortality, changes in environmental and policy indicators, and behavioral risk factors including statistically valid estimates for populations to be addressed. Describe the capability for

special one-time surveys. Describe how each of the program elements will be evaluated and which measures are considered critical to monitor for evaluating the success of the program. Describe the various existing data systems to be employed, how the systems might be adapted, and the specific program elements to be evaluated by those systems. Describe the schedules for data collection and when analyses of the data will become available. Describe how human subjects will be protected, if human subjects research is conducted.

E. Comprehensive Program Work Plan

The work plan should address each of the required Core Capacity elements cited in the Recipient Activities section above in sufficient detail to describe the results expected and how the State will achieve the results. Objectives and strategies should specify priority populations to be addressed, communities, or geographic areas of concern; complete listings of the policy and environmental changes sought to create a heart-healthy environment for the population; other intervention strategies; coordination among State partners; risk factor changes, and strategies for closing the gap in cardiovascular disease disparity. Interventions should be expressed in terms of changes sought for the general population as well as changes in Priority Populations to be addressed. Population-based approaches should extend to a relatively large proportion of the State population rather than a few selected communities. Targeted strategies should clearly define the Priority Populations to be addressed. Objectives should describe what is to happen, by when, and to what degree. A milestone and activities completion chart should be provided for all objectives for the project period.

F. Collaboration

Provide letters of support describing the nature and extent of involvement by outside partners and coordination among State health department programs, other State agencies, and nongovernmental health and nonhealth organizations. Describe how the overall delivery of interventions for priority populations will be enhanced by these collaborative activities. Describe current data systems and how coordination will be ensured with managed care providers, Medicaid, major employers, insurers, and other organized health care providers, as well as purchasers of health care.

G. Training Capability

Provide a description of training sessions for health professionals provided within the past three years. Include agendas, dates, professional status or occupation, and number of attendees. Provide other evidence of training capabilities deemed appropriate to the program.

H. Budget Justification

Provide a line-item budget consistent with Form 5161–1 or CDC Form 1246(E) along with appropriate justifications. Applicants are encouraged to include budget items for travel for three trips to Atlanta, GA for three individuals to attend 3-day training and technical assistance workshops.

The budget for Priority Populations and the optional comprehensive school health program should be distinguished from the general budget. Please use the separate columns provided in the Budget Information Form 424A Section B.

I. (Optional) Enhanced Comprehensive School Health Program Should Not Exceed 25 Double-Spaced Pages

Enhanced program efforts designed to reach youth during their formative years may be included as a program component of a comprehensive capacity program. Describe planned activities for collaboration with the State education agency to develop a sustained effort with local education agencies and other relevant governmental and nongovernmental agencies to implement cardiovascular disease prevention strategies that address students, their families, school staff, and their communities. Effective strategies include policy and environmental changes, school food service, classroom instruction, and involvement of families and community agencies. Strategies should establish, strengthen, or expand education intended to increase regular physical activity and healthy dietary patterns and to prevent or reduce tobacco use; and should integrate such education into a coordinated school health program. Planned activities and strategies are expected to be fully coordinated between State education and health programs and to enhance school health programs. Applicants may establish qualified staffing in the State department of education as well as the State health department.

Supporting material such as organizational charts, tables, resumes, position descriptions, relevant publications, letters of support, memorandums of agreement, etc., may be appended to the narrative portion of the application and are not included in the page limitation.

Special Guidelines for Technical Assistance Workshop

Technical assistance will be available for potential applicants in Atlanta, Georgia, beginning at 1:00 EDT on June 29 and ending at noon EDT on June 30. The purpose of the workshop is to help potential applicants to:

1. Understand the scope and intent of the Program Announcement for the State Cardiovascular Health Programs;
2. Plan coordinated approaches to assist the nation's health agencies in efforts to prevent cardiovascular diseases and related risk factors;
3. Understand the role of policy and environmental changes in improving cardiovascular health;
4. Be familiar with the Public Health Services funding policies and application and review procedures.

Attendance at this workshop is not mandatory. Attendees must pay their travel, per diem, and all other expenses related to attending the workshop. The workshop will be held only if 10 or more persons sign-up to attend.

Each potential applicant may send not more than two representatives to this workshop. Please provide the names of the attendees to Nancy B. Watkins, Division of Adult and Community Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, telephone (770) 488–5425; fax (770) 488–5964 within ten days after the publication date of the program announcement.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

I. Core Capacity Program (Total 100 Points)

A. Staffing (10 Points)

The degree to which the proposed staff have the relevant background, qualifications, and experience; and the degree to which the organizational structure supports staffs' ability to conduct proposed activities. The degree of coordination between relevant programs within the State health department.

B. Facilities (5 Points)

The adequacy of the applicant's facilities and resources.

C. Background and Need (15 Points)

The extent to which the applicant identifies specific needs and resources available for Core Capacity activities.

The extent to which the funds will successfully fill the gaps in State capabilities. The extent to which the applicant demonstrates a review of journals and other publications particularly for policy and environmental strategies.

D. Core Capacity Work Plan (60 Points)

1. (20 Points) The extent to which the plan for achieving the proposed activities appears realistic and feasible and relates to the stated program requirements and purposes of this cooperative agreement.

2. (20 Points) The extent to which the proposed methods for achieving the activities appear realistic and feasible and relate to the stated program requirements and purposes of the cooperative agreement.

3. (10 Points) The extent to which the proposed plan for evaluating progress toward meeting objectives and assessing impact appears reasonable and feasible.

4. (10 Points) The degree to which partnerships are demonstrated through collaborative activities or letters of support.

E. Objectives (10 Points)

The degree to which objectives are specific, time-phased, measurable, realistic, and related to identified needs, program requirements, and purpose of the program.

F. Budget (Not Scored)

The extent to which the budget appears reasonable and consistent with the proposed activities and intent of the program.

G. Human Subjects Research (Not Scored):

If the proposed project involves human subjects, whether or not exempt from the DHHS regulations, the extent to which adequate procedures are described for the protection of human subjects.

H. (Optional) Enhanced School Health Program (100 Points—Scored Separately)

1. Work Plan (60 Points)

The extent to which the plan for achieving the proposed activities appears realistic and feasible and relates to the stated purposes of the optional Enhanced School Health Program. The extent to which objectives and plans increase the State's overall capability to address cardiovascular disease prevention and control; will reach youth during their formative years; promote collaboration and coordination between the State health department and the education agency; and propose to integrate appropriate cardiovascular-related health education into a coordinated school health program.

2. Objectives (10 Points)

The degree to which objectives are specific, time-phased, measurable, realistic, and related to identified needs and purpose of the program.

3. Evaluation (15 Points)

The extent to which the proposed plan for evaluating progress toward meeting objectives and assessing impact appears reasonable and feasible.

4. Partnerships (15 Points)

The degree to which partnerships are demonstrated through collaborative activities or letters of support.

Content of Noncompeting Continuation Applications submitted within the project period need only include:

A. A brief progress report that describes the accomplishments of the previous budget period.

B. Any new or significantly revised items or information (objectives, scope of activities, operational methods, evaluation, key personnel, work plans, etc.) not included in year 01 or subsequent continuation applications.

C. An annual budget and justification. Existing budget items that are unchanged from the previous budget period do not need rejustification. Simply list the items in the budget and indicate that they are continuation items.

However, States receiving Core Capacity Program funding may submit a competitive application for Comprehensive Program funding at the end of any budget period within the 5-year project period, provided new funds are available to fund additional Comprehensive Programs. These applications must successfully address the application Evaluation Criteria for the Comprehensive Program; and, if successful, they will move from Core Capacity funding to Comprehensive funding. If unsuccessful, they will continue with Core Capacity funding.

II. Comprehensive Program (Total 100 points):

A. Background and Need (10 Points)

The extent to which the funds will fill the gaps in the State's cardiovascular disease prevention activities. The extent to which the applicant identifies specific needs in relation to geographic and demographic distribution of cardiovascular diseases with particular emphasis on Priority Populations; identifies trends in mortality and risk factors; identifies barriers to successful program implementation; and describes existing policy and environmental influences in terms of their affect on public awareness and the risk factors for cardiovascular diseases.

B. Staffing (10 points)

The degree to which the proposed staff have the relevant background, qualifications, and experience; the degree to which the organizational structure supports staffs' ability to conduct proposed activities; the degree of staff coordination between relevant program within the State health department.

C. Comprehensive Work Plan (50 Points)

1. (20 Points) The extent to which the plan for achieving the proposed activities appears realistic and feasible and relates to the stated program requirements and purposes of this cooperative agreement. The extent to which the plan addresses the needs of the State, the feasibility of the plan and the appropriateness of the planned interventions to the cardiovascular disease problem, and the adequacy of the plan to identify and address the needs of Priority Populations. If applicable, the degree to which the applicant has met the CDC policy requirements regarding the inclusion of women, ethnic, and racial groups in proposed research. This includes: (a) the proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation; (b) the proposed justification when representation is limited or absent; (c) a statement as to whether the design of the study is adequate to measure differences when warranted; and (d) documentation of plans for recruitment and outreach for study participants that includes the process of establishing partnerships with community(ies) and recognition of mutual benefits.

2. (20 points) The extent to which the State Cardiovascular Diseases Plan addresses the problem through policy and environmental strategies and other appropriate population-based approaches and the extent of program activities that use work sites, the media, schools, community-based organizations, organizations of faith, the community at large.

3. (10 Points) The extent to which collaboration of State nutrition, physical activity, health promotion, and other chronic disease programs with external partners is used to deliver the program; the extent to which coordination with other State chronic disease programs and other State agencies enhances the cardiovascular disease program; and the

extent of involvement of community-based organizations in the implementation of the program.

D. Evaluation (15 Points)

The extent to which the evaluation plan appears capable of monitoring progress toward meeting specific project objectives, assessing the impact of the program on the general population, assessing changes in the Priority Populations, monitoring utilization of secondary prevention strategies, and assessing the implementation of policy and environmental strategies.

E. Professional Education (5 Points)

The extent of experience and history of the applicant in conducting professional education, to include the involvement of or delivery of education by health professions organizations, medical societies, organized health care providers, medical universities, and purchasers of health care. The adequacy of the staff and plan to coordinate, affect, or deliver professional education related to the overall State Cardiovascular Disease Plan.

F. Objectives (10 Points)

The degree to which the objectives are specific, time-phased, measurable, realistic, and relate to identified needs and purposes of the program, for both the general population as well as the targeted populations.

G. Budget (Not Scored)

The extent to which the budget appears reasonable and consistent with the proposed activities and intent of the program.

H. Human Subjects Research (Not Scored)

If the proposed project involves human subjects, whether or not exempt from the DHHS regulations, the extent to which adequate procedures are described for the protection of human subjects.

I. (Optional) Enhanced School Health Program: (Total 100 Points—Scored Separately)

1. Work Plan (60 Points)

The extent to which the plan for achieving the proposed activities appears realistic and feasible and relates to the stated purposes of the optional Enhanced School Health Program. The extent to which objectives and plans increase the State's overall capability to address cardiovascular disease prevention and control; will reach youth during their formative years; promote collaboration and coordination between the State health department and the education agency; and propose to integrate appropriate cardiovascular-related health education into a coordinated school health program.

2. Objectives (10 Points)

The degree to which objectives are specific, time-phased, measurable, realistic, and related to identified needs and purpose of the program.

3. Evaluation (15 Points)

The extent to which the proposed plan for evaluating progress toward meeting objectives and assessing impact appears reasonable and feasible.

4. Partnerships (15 Points)

The degree to which partnerships are demonstrated through collaborative activities or letters of support.

Content of Noncompeting Continuation Applications submitted within the project period need only include:

A. A brief progress report that describes the accomplishments of the previous budget period.

B. Any new or significantly revised items or information (objectives, scope of activities, operational methods, evaluation, key personnel, work plans, etc.) not included in year 01 or subsequent continuation applications.

C. An annual budget and justification. Existing budget items that are unchanged from the previous budget period do not need rejustification. Simply list the items in the budget and indicate that they are continuation items.

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372, which sets up a system for State and local government review of proposed federal assistance applications. Applicants (other than federally recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC for each affected State. A current list of SPOCs is included in the application kit. If SPOCs have any State process recommendations on applications submitted to CDC, they should send them to Sharron P. Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 255 East Paces Ferry Road, NE., Room 300, Mailstop E–18, Atlanta, GA 30305, no later than 30 days after the application deadline date. The Program Announcement Number and Program Title should be referenced on the document. The granting agency does not guarantee to ''accommodate or explain'' State process recommendations it receives after that date.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.988.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by the cooperative agreement for cardiovascular health program will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations, 45 CFR Part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit. Should human subjects review be required, the proposed work plan should incorporate time lines for such development and review activities.

Women, Racial and Ethnic Minorities

It is the policy of the Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR) to ensure that individuals of both sexes and the various racial and ethnic groups will be included in CDC/ATSDR-supported research projects involving human subjects, whenever feasible and appropriate. Racial and ethnic groups are those defined in OMB Directive No. 15 and include American Indian or Alaskan Native, Asian, Black or African American, Hispanic or Latino, Native Hawaiian or other Pacific Islander.

Applicants shall ensure that women, racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where clear and compelling rationale exist that inclusion is inappropriate or not feasible, this situation must be explained as part of the application. This policy does not apply to research studies when the investigator cannot control the race, ethnicity and/or sex of subjects. Further guidance to this policy is contained in the **Federal Register**, Vol. 60, No. 179, pages 47947–47951, dated Friday, September 15, 1995.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 (Revised 5/96) or CDC Form 0.1246(E) must be submitted to Sharron P. Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 255 East Paces Ferry Road, NE., Room 300, Mailstop E–18, Atlanta, GA 30305, on or before August 5, 1998.

1. Deadline. Applications shall be considered as meeting the deadline if they are either: a. Received on or before the deadline date. b. Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing).

2. Late applications: Applications that do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

A complete program description, information on application procedures, an application package, and business management technical assistance may be obtained from G. Locke Thompson, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–18, Atlanta, GA 30305; telephone 404–842–6595, fax (404) 842–6513, or the Internet or CDC WONDER electronic mail at <lxt1@cdc.gov>. Programmatic technical assistance may be obtained from Nancy B. Watkins, Division of Adult and Community Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, telephone (770) 488–5425; fax (770) 488–5964, or the Internet or CDC WONDER electronic mail at <naw1@cdc.gov>.

You may obtain this and other CDC announcements from one of two Internet sites on the actual publication date: CDC's homepage at http://www.cdc.gov or at the Government Printing Office homepage (including free on-line access to the **Federal Register** at http://www.access.gpo.gov).

Please refer to Program Announcement Number 98084 when requesting information and submitting an application on the Request for Assistance.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) referenced in the ''Introduction'' through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: June 11, 1998.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–16046 Filed 6–16–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Availability of the HRSA Competitive Grants Preview

AGENCY: Health Resources and Services Administration, HHS.

ACTION: General notice.

SUMMARY: HRSA announces the availability of the HRSA Competitive Grants Preview publication for Summer 1998. This edition of the Preview is a review of HRSA's programs which anticipate awarding grants on or before December 31, 1998. The next Preview scheduled to be published in November, will be a comprehensive issue of HRSA's Fiscal Year (FY) 1999 discretionary grant programs.

The purpose of the Preview is to provide the general public with a single source of program and application information related to the Agency's annual grant planning review. The Preview is designed to replace multiple **Federal Register** notices which traditionally advertised the availability of HRSA's discretionary funds for its various programs. In this edition of the Preview, the HRSA's program which provides funding for loan repayments has been included in the section ''Additional HRSA Programs.'' It should be noted that other program initiatives responsive to new or emerging issues in the health care area and unanticipated at the time of publication of the Preview, may be announced through the **Federal Register** from time-to-time.

The Preview includes instructions on how to access the Agency for information and receive application kits for all programs announced. Specifically, the following information is included in the Preview: (1) Program Title; (2) Legislative Authority; (3) Purpose; (4) Eligibility; (5) Estimated Amount of Competition; (6) Estimated Number of Awards; (7) Funding Priorities and/or Preferences; (8) Application Deadline; (9) Projected Award Date; (10) Estimated Project Period; (11) Application Kit Availability; (12) Catalog of Federal Domestic Assistance (CFDA) program identification number; and (13) Programmatic Contact.

This Summer 1998 issue of the Preview relates to funding under HRSA discretionary authorities and programs as follows:

Health Professions Programs

- Center for Health Workforce Distribution Studies: A Federal-State Partnership.
- Geriatric Education Centers.
- Public Health Traineeships.
- Residencies and Advanced Education in the Practice of General Dentistry.
- Nursing Special Projects.
- Nursing Education Opportunities for Individuals from Disadvantaged Backgrounds.
- Nurse Practitioner/Nurse Midwifery.
- Professional Nurse Traineeships.
- Advanced Nurse Education.
- Nurse Anesthetists: (1) Program Grants (2) Traineeships; and (3) Fellowships.
- Graduate Training in Family Medicine.
- Faculty Development in Family Medicine.
- Predoctoral Training in Family Medicine.
- Departments of Family Medicine.
- Residency Training in General Internal Medicine and General Pediatrics.
- Faculty Development in General Internal Medicine and General Pediatrics.

- Basic Core Area Health Education Centers.
- Model State-Supported Area Health Education Centers.
- Health Education and Training Centers.

Maternal and Child Health Programs

- Healthy Start National Resource Center.
- Maternal and Child Health Research.
- Long Term Training in Leadership Education in Neurodevelopmental and Related Disabilities.
- National Blood Lead and Erythrocyte Protoporphyrin Proficiency Testing Program.

Primary Health Care Programs

- Community and Migrant Health Centers.
- Public Housing Primary Care.
- Healthy Schools, Healthy Communities.
- Health Care for the Homeless.

Additional HRSA Programs

- Nursing Education Loan Repayment Program.

Certain other information including how to obtain and use the Preview, and grant terminology also may be found in the Preview.

ADDRESSES: Individuals may obtain the HRSA Preview by calling toll free number, 1–888–333–HRSA. The HRSA Preview may also be accessed on the World Wide Web on the HRSA Homepage at: http://www.hrsa.dhhs.gov

Dated: June 9, 1998.

Claude Earl Fox,

Administrator.

Attachment A

Message from our Administrator

* * *

It is my pleasure to let you know that Secretary Shalala has appointed me to be HRSA's Administrator, effective May 10. Acting in the position over the past year has been one of the most challenging and productive endeavors of my career. I look forward to maintaining the momentum as I serve as HRSA Administrator.

All of our worth is the products and services we provide through our partners, the grantees and the people we seek to serve. I strongly encourage you to apply for HRSA grants.

This issue of the Preview provides funding opportunities for the first quarter of Fiscal Year (FY) 1999. I encourage you to visit HRSA's Homepage (http://www.hrsa.dhhs.gov) especially the HRSA News Room and the Spanish version of the Summer 1998 Preview.

These new services assist us as we continue together to open access to essential health care for millions of Americans.

Estimados colegas:

Me complace anunciarles que la edición de ''Preview'' del verano de 1998 ya se encuentra a su disposición en el nuevo Website de HRSA en español (http://www.hrsa.dhhs.gov) Esperamos que su acceso a ''Preview'' en español aumente su participación en los Programas de HRSA. Si desea hacer alguna pregunta o comentario en español, por favor comuníquese con la Sra. Laura Shepherd, en la Office of Minority Health, (lshepherd@hrsa.dhhs.gov)

(Colleagues: I am pleased to announce that the Summer 1998 Preview is available in Spanish at HRSA's Homepage (http://www.hrsa.dhhs.gov). It is hoped that the availability of the Preview in Spanish increases your access to HRSA programs. Questions or comments in Spanish about our programs may be directed to Laura Shepherd, Office of Minority Health, lshepherd@hrsa.dhhs.gov)

Claude Earl Fox.

PROGRAMS AT A GLANCE

Program	Deadline
Health Professions Programs	
Center for Health Workforce Distribution Studies: A Federal-State Partnership	08/01/1998
Geriatric Education Centers	12/21/1998
Public Health Traineeships	08/10/1998
Residencies and Advanced Education in the Practice of General Dentistry	10/15/1998
Nursing Special Projects	12/14/1998
Nursing Education Opportunities for Individuals from Disadvantaged Backgrounds	11/16/1998
Nurse Practitioner/Nurse Midwifery	12/07/1998
Professional Nurse Traineeships	11/02/1998
Advanced Nurse Education	12/21/1998
Nurse Anesthetist Program Grants	12/21/1998
Traineeships, and Fellowships	11/02/1998
Graduate Training in Family Medicine	09/14/1998
Faculty Development in Family Medicine	09/28/1998
Predoctoral Training in Family Medicine	11/09/1998
Departments of Family Medicine	03/15/1999
Residency Training in General Internal Medicine and General Pediatrics	09/30/1998
Faculty Development in General Internal Medicine and General Pediatrics	09/14/1998
Basic Core Area Health Education Centers	01/11/1999
Model State-Supported Area Health Education Centers	01/11/1999
Health Education and Training Centers	02/08/1999
Maternal and Child Health Programs	
Healthy Start National Resource Center	07/15/1998
Maternal and Child Health Research	08/01/1998
Long Term Training in Leadership Education in Neurodevelopmental and Related Disabilities	10/01/1998
Nationwide Blood Lead and Erythrocyte Protoporphyrin Proficiency Testing Program	10/30/1998
Primary Health Care Programs	
Community and Migrant Health Centers	Varies by service area
Public Housing Primary Care	Varies by service area
Healthy Schools, Healthy Communities	07/15/1998

PROGRAMS AT A GLANCE—Continued

Program	Deadline
Health Care for the Homeless	Varies by service area
Additional HRSA Programs	
Nursing Education Loan Repayment Program	08/31/1998

How To Obtain and Use the Preview

It is recommended that you read the introductory materials, terminology section, and individual program category descriptions before contacting the general number 1–888–333–HRSA. Likewise, we urge applicants to fully assess their eligibility for grants before requesting kits. This will greatly facilitate our ability to assist you in placing your name on the mailing list and identifying the appropriate application kit(s) or other information you may wish to obtain. As a general rule, no more than one kit per category will be mailed to applicants.

To Obtain a Copy of the Preview

To have your name and address added to or deleted from the Preview mailing list, please call the toll free number 1–888–333–HRSA or e-mail us at hrsa.gac@ix.netcom.com

To Obtain an Application Kit

Upon review of the program descriptions, please determine which category or categories of application kit(s) you wish to receive and contact the 1–888–333–HRSA number to register on the specific mailing list. Application kits are generally available 60 days prior to application deadline. If kits are already available, they will be mailed immediately.

World Wide Web Access

The Preview is available on the HRSA Homepage via World Wide Web at: http://www.hrsa.dhhs.gov Application materials are currently available for downloading in the current cycle for some HRSA programs. HRSA's goal is to post application forms and materials for all programs.

You can download this issue of the Preview in Adobe Acrobat format (.pdf) from HRSA's web site at: http://www.hrsa.dhhs.gov/preview.htm Also, you can register on-line to be sent specific grant application materials by following the instructions on the web page. Your mailing information will be added to our database and material will be sent to you when it becomes available.

Grant Terminology

Application Deadlines

Applications will be considered ''on time'' if they are either received on or before the established deadline date or postmarked on or before the deadline date given in the program announcement or in the application kit materials.

Authorizations

The citations of provisions of the laws authorizing the various programs are provided immediately preceding groupings of program categories.

CFDA Number

The Catalog of Federal Domestic Assistance (CFDA) is a government-wide compendium of Federal programs, projects, services, and activities which provide assistance. Programs listed therein are given a CFDA Number.

Cooperative Agreement

A financial assistance mechanism used when substantial Federal programmatic involvement with the recipient during performance is anticipated by the Agency.

Eligibility

Authorizing legislation and programmatic regulations specify eligibility for individual grant programs. In general, assistance is provided to nonprofit organizations and institutions, State and local governments and their agencies, and occasionally to individuals. For-profit organizations are eligible to receive awards under financial assistance programs unless specifically excluded by legislation.

Estimated Amount of Competition

The funding level listed is provided for planning purposes and is subject to the availability of funds.

Funding Priorities and/or Preferences

Special priorities or preferences are those which the individual programs have identified for the funding cycle. Some programs give preference to organizations which have specific capabilities such as telemedicine networking, or established relationships with managed care organizations. Preference also may be given to achieve an equitable geographic distribution and other reasons to increase the effectiveness of the programs.

Key Offices

The Grants Management Office serves as the focal point for business matters. A ''key'' symbol indicates the appropriate office for each program area and the main telephone number for the office.

Matching Requirements

Several HRSA programs require a matching amount, or percentage of the total project support to come from sources other than Federal funds. Matching requirements are generally mandated in the authorizing legislation for specific categories. Also, matching requirements may be administratively required by the awarding office.

Project Period

The total time for which support of a discretionary project has been programmatically approved.

Review Criteria

The following are generic review criteria applicable to HRSA programs:

- That the estimated cost to the Government of the project is reasonable considering the anticipated results.
- That project personnel or prospective fellows are well qualified by training and/or experience for the support sought and the applicant organization or the organization to provide training to a fellow, has adequate facilities and manpower.
- That, insofar as practical, the proposed activities (scientific or other), if well executed, are capable of attaining project objectives.
- That the project objectives are capable of achieving the specific program objectives defined in the program announcement and the proposed results are measurable.
- That the method for evaluating proposed results includes criteria for determining the extent to which the program has achieved its stated objectives and the extent to which the accomplishment of objectives can be attributed to the program.

• That, in so far as practical, the proposed activities, when accomplished are replicable, national in scope and include plans for broad dissemination.

The specific review criteria used to review and rank applications are included in the individual guidance material provided with the application kits. Applicants should pay strict attention to addressing these criteria as they are the basis upon which their applications will be judged.

Technical Assistance

Most programs provide technical assistance. There are also programs which have scheduled workshops and conference calls as indicated by the ''magnifying glass''. A contact person is listed for each program and their e-mail address provided. If you have questions concerning individual programs or the availability of technical assistance, please contact the person listed.

Frequently Asked Questions (FAQs)

1. HRSA lists many telephone numbers and E-mail addresses. Who do I phone or E-mail and when?

Phone 1–888–333–HRSA to register for application kits. It will be helpful to the information specialist if you have the CFDA Number and title of the program handy for reference.

If, before you register, you want to know more about the program, an E-mail contact is listed. This contact can provide information concerning the specific program's purpose, scope and goals; and eligibility criteria. Usually, you will be encouraged to request the application kit so that you clearly will have comprehensive and accurate information available to you. The application kit lists telephone numbers for a program expert and a grants management specialist who will provide technical assistance concerning your specific program, if you are unable to find the information within the materials provided.

2. The dates listed in the Preview and the dates in the application kit do not agree. How do I know which is correct?

First, register at 1–888–333–HRSA for *each* program that you are interested in as shown in the Preview.

Preview dates for application kit availability and application receipt deadline are based upon the best known information at the time of publication, often nine months in advance of the competitive cycle. Occasionally, the grant cycle does not begin as projected and dates must be adjusted. The deadline date stated in your application kit is correct. If the application kit has been made available and subsequently the date changes, a **Federal Register** notice will be issued and notification of the change will be mailed to known recipients of the application kit. Therefore, if you are registered at 1–888–333–HRSA, you will receive the most current information.

3. Are programs announced in the Preview canceled?

Infrequently programs announced may be withdrawn from competition. If this occurs a cancellation notice will be published in the **Federal Register** and the Preview at the HRSA Homepage (http://www.hrsa.dhhs.gov) will be noted.

Health Professions Programs

The Bureau of Health Professions (BHPr) is developing strategies to achieve a diverse, culturally competent health professions workforce. In FY 1999, all applicants are encouraged to work with school systems, through the high school level, where there is a high percentage of minority and disadvantaged students. The objectives of developing this working relationship are to: (1) Encourage and inform minority and disadvantaged teenage students of educational and career opportunities in health professions and (2) assist minority and disadvantaged students in planning and preparing for post secondary education in the health care professions. To strengthen the strategy in FY 2000, the BHPr may require applicants to develop such working relationships with school systems.

Grants Management Office

1–301–443–6880

Center for Health Workforce Distribution Studies: a Federal-State Partnership

Authorization

Section 792 of the Public Health Service Act, 42 U.S.C. 295k.

Purpose

The purpose of the cooperative agreement is to provide support for a research center for Health Workforce Distribution Studies. The Center will support research and analysis at the State level, including issues regarding the impact of Federal initiatives aimed at improving health professionals training and meeting national workforce goals pertaining to the following: (1) data on allied health professions, including distribution; (2) distribution of dentists, including educational background and practice in medically underserved communities; (3) designation of nursing shortage areas at the State level; (4) distribution of physicians, with emphasis on underserved areas and specialty services, and addressing issues of substitution by non-physician providers; (5) establishment of collaboration(s) between schools of public health and State and local public health agencies to assess public health workforce, to develop educational strategies and workforce planning to address imbalances of public health personnel.

Eligibility

Eligible applicants include States and other public and nonprofit entities.

Funding Priorities and/or Preferences: None.

Review Criteria: Final criteria are included in the application kit.

Estimated Amount of This Competition: $342,000.

Estimated Number of Awards: 1.

Estimated Project Period: 3 Years.

Application Availability: 06/01/1998.

To Obtain an Application Kit

CFDA Number: 93.222A.

Contact: 1–888–333–HRSA.

Application Deadline: 08/01/1998.

Projected Award Date: 09/1998.

Contact Person: Herbert Traxler, htraxler@hrsa.dhhs.gov.

Geriatric Education Centers

Authorization

Section 777(a) of the Public Health Service Act, 42 U.S.C. 294o.

Purpose

These are grants to support the development of collaborative arrangements involving several health professions schools and health care facilities. Geriatric Education Centers (GECs) facilitate training of health professional faculty, students, and practitioners in the diagnosis, treatment, and prevention of disease, disability, and other health problems of the aged. Health professionals include allopathic physicians, osteopathic physicians, dentists, optometrists, podiatrists, pharmacists, nurse practitioners, physician assistants, chiropractors, clinical psychologists, health administrators, and other allied health professionals. Projects supported under these grants must offer training involving four or more health professions, one of which must be allopathic or osteopathic medicine, and must address one or more of the following statutory purposes: (a) Improve the training of health professionals in geriatrics; (b) develop and disseminate curricula relating to the treatment of health problems of elderly individuals; (c) expand and strengthen instruction in methods of such

treatment; (d) support the training and retraining of faculty to provide such instruction; (e) support continuing education of health professionals and allied health professionals who provide such treatment; and (f) establish new affiliations with nursing homes, chronic and acute disease hospitals, ambulatory care centers, and senior centers in order to provide students with clinical training in geriatric medicine.

Eligibility

Grants may be made to accredited health professions schools as defined by Section 799(1), or programs for the training of physician assistants as defined by Section 799(3), or schools of allied health as defined in Section 799(4), or schools of nursing as defined by Section 853(2).

Funding Priorities and/or Preferences: None.

Review Criteria: Final criteria are included in the application kit.

Estimated Amount of this Competition: $1,400,000.

Estimated Number of Awards: 9.

Estimated Project Period: 3 years.

Application Availability: 10/05/1998.

To Obtain an Application Kit

CFDA Number: 93.969.

Contact: 1–888–333–HRSA.

Application Deadline: 12/21/1998.

Projected Award Date: 04/1999.

Contact Person: Barbara Broome, bbroome@hrsa.dhhs.gov.

Public Health Traineeships

Authorization

Section 761 of the Public Health Service Act, 42 U.S.C. 294.

Purpose

The purpose is to award grants to accredited Schools of Public Health and to other public or nonprofit private institutions accredited to provide graduate or specialized training in public health, for the purpose of providing training to individuals pursuing a course of study in a public health profession in which there is a severe shortage of health professionals including epidemiology, environmental health, biostatistics, toxicology, public health nutrition, maternal and child health. Traineeships are used to recruit students in the cited public health professions where there is documented shortages. The traineeships are used to prepare graduates for employment in underserved areas.

Eligibility

Eligible organizations include: (1) schools and programs of Public Health and other public or nonprofit private educational entities accredited by the Council on Education for Public Health; and (2) other public or nonprofit private institutions accredited by a body recognized for this purpose by the Secretary of the Department of Education.

Funding Priorities and/or Preferences

Traineeships are targeted to ''severe shortage'' fields/professions of public health, nutrition, epidemiology, environmental health sciences, biostatistics, toxicology, and maternal and child health and to increase the ethnic and racial diversity of the public health workforce, especially under-represented minorities.

Review Criteria: Final criteria are included in the application kit.

Estimated Amount of this Competition: $2,300,000.

Estimated Number of Awards: 30–35.

Estimated Project Period: 3 years.

Application Availability: 07/13/1998.

To Obtain an Application Kit

CFDA Number: 93.964.

Contact: 1–888–333–HRSA.

Application Deadline: 08/10/1998.

Projected Award Date: 03/1999.

Contact Person: Elizabeth Simon, esimon@hrsa.dhhs.gov.

Residencies and Advanced Education in the Practice of General Dentistry

Authorization

Section 749 of the Public Health Service Act, 42 U.S.C. 239m.

Purpose

This program strives to increase the number of training opportunities in postdoctoral general dentistry, and to improve program quality. This program places particular emphasis on support of applications which encourage: practice in underserved areas; provision of a broad range of clinical services; coordination and integration of care; meeting the needs of special populations; and recruitment and retention of under-represented minorities.

Eligibility

To be eligible for a Grant for Residency Training and Advanced Education in the General Practice of Dentistry, the applicant shall: (1) be a public or nonprofit private school of dentistry or an accredited postgraduate dental training institution (hospital, medical center, or other entity) and be accredited by the appropriate accrediting body, and (2) be located in any one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

Funding Preferences and/or Priorities

As provided in Section 791(a) of the Public Health Service Act, preference will be given to any qualified applicant that: (A) has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This preference will only be applied to applications that rank above the 20th percentile of proposals recommended for approval by the peer review group.

Special Considerations

Community linkages, establishment of new post graduate year 1 (PGY–1) training positions, innovative training methods are factors which will be given special consideration during peer review. (See application kit for further information.)

Review Criteria: Final criteria are included in the application kit.

Estimated Amount of This Award: $1,900,000.

Estimated Number of Awards: 12.

Estimated Project Period: 3 years.

Application Availability: 07/01/1998.

To Obtain an Application Kit

CFDA Number: 93.897.

Contact: 1–888–333–HRSA.

Application Deadline: 10/15/1998.

Projected Award Date: 03/1999.

Contact Person: Kathy Hayes, khayes@hrsa.dhhs.gov.

Nursing Special Projects

Authorization

Section 820 of the Public Health Service Act, 42 U.S.C. 296k.

Purpose

This program is authorized to improve nursing practice through projects that increase the knowledge and skills of nursing personnel, enhance their effectiveness in primary health care delivery, and increase the number of qualified professional nurses. Grant support may be sought under four separate/individual purposes: (a) Expand Enrollment in Professional Nursing Programs; (b) Primary Health Care in Noninstitutional Settings; (c) Continuing Education for Nurses in Medically Underserved Communities;

and (d) Long-Term Care Fellowships for Certain Paraprofessionals.

Eligibility

Eligible applicants for projects under Section 820(a) are public and nonprofit private schools of nursing with programs of education in professional nursing.

Eligible applicants for projects under Section 820(b) are public and nonprofit private schools of nursing. To receive support under 820(b) the program proposed must be operated and staffed by the faculty and students of the school and must be designed to provide at least 25 percent of the students of the school with a structured clinical experience in primary health care.

Eligible applicants for projects under Section 820(c) are public and nonprofit private entities.

Eligible applicants for projects under Section 820(d) are public and nonprofit private entities that operate accredited programs of education in professional nursing, or State-board approved programs of practical or vocational nursing. To receive support under 820(d), the applicant must agree that, in providing fellowships, preference will be given to eligible individuals who (A) are economically disadvantaged individuals, particularly such individuals who are members of a minority group that is underrepresented among registered nurses; or (B) are employed by a nursing facility that will assist in paying the costs or expenses. The applicant must also agree that the fellowships provided will pay all or part of the costs of (A) the tuition, books, and fees of the program of nursing with respect to which the fellowship is provided; and (B) reasonable living expenses of the individual during the period for which the fellowship is provided.

Funding Priorities and/or Preferences

Statutory Funding Preferences: In making awards of grants under section 820(a), preference will be given to any qualified school that provides students of the school with clinical training in the provision of primary health care in publicly-funded (A) urban or rural outpatient facilities, home health agencies, or public health agencies; or (B) rural hospitals.

In making awards of grants under Section 820(d), preference will be given to any qualified applicant operating an accredited program of education in professional nursing that provides for the rapid transition to status as a professional nurse from status as a nursing paraprofessional.

Established Funding Priorities: A priority will be given to schools that offer generic baccalaureate programs. A priority will also be given to schools that offer both generic baccalaureate nursing programs and RN completion programs. These priorities apply to applications for grants under Section 820(a).

A funding priority will be given to programs which demonstrate either substantial progress over the last three years or a significant experience of 10 or more years in enrolling and graduating trainees from those minority or low-income populations identified as at-risk of poor health outcomes. This priority applies to applications for grants under Sections 820(a), 820(b), and 820(d).

Finally, a funding priority will be given to applications for continuing education programs for nurses from medically underserved communities to increase their knowledge and skills in care of persons who are HIV positive or who have AIDS. This priority applies to applications for grants under Section 820(c).

Matching Requirements

To receive support under 820(a) the school must agree to make available non-Federal contributions in an amount that is at least 10 percent of the project costs for the first fiscal year, at least 25 percent of the project costs for the second fiscal year, at least 50 percent of the project costs for the third fiscal year, and at least 75 percent of the project costs for the fourth or fifth fiscal years.

Review Criteria: Final criteria are included in the application kit.

Estimated Amount of this Competition: $1,340,000.

Estimated Number of Awards: 8.

Estimated Project Period: 3 years.

Application Availability: 07/13/1998.

To Obtain an Application Kit

CFDA Number: 93.359.

Contact: 1–888–333–HRSA.

Application Deadline: 12/14/1998.

Projected Award Date: 04/30/1999.

Contact Person: David W. Kelly, dkellyw@hrsa.dhhs.gov.

Nursing Education Opportunities For Individuals From Disadvantaged Backgrounds

Authorization

Section 827 of the Public Health Service Act, 42 U.S.C. 296r.

Purpose

This program provides funds to meet the costs of special projects to increase nursing education opportunities for individuals from disadvantaged backgrounds by: (a) identifying, recruiting and selecting such individuals; (b) facilitating the entry of such individuals into schools of nursing; (c) providing services designed to assist such individuals to complete their nursing education; (d) providing preliminary education, prior to entry into the regular course of nursing, designed to assist in completion of the regular course of nursing education; (e) paying such stipends as the Secretary may determine; (f) publicizing, especially to licensed vocational or practical nurses, existing sources of financial aid; and (g) providing training, information, or advice to the faculty on encouraging such individuals to complete their nursing education.

Eligibility

Public and nonprofit private schools of nursing and other public or nonprofit private entities are eligible for grant support.

Funding Priorities and/or Preferences: None.

Review Criteria: Final criteria are included in the application kit.

Estimated Amount of this Competition: $1,400,000.

Estimated Number of Awards: 5–10.

Estimated Project Period: 3 Years.

Application Availability: 07/13/1998.

To Obtain an Application Kit

CFDA Number: 93.178.

Contact: 1–888–333–HRSA.

Application Deadline: 11/16/1998.

Projected Award Date: 05/28/1999.

Contact Person: Elaine G. Cohen, ecohen@hrsa.dhhs.gov.

Nurse Practitioner/Nurse Midwifery

Authorization

Section 822 of the Public Health Service Act, 42 U.S.C. 296m.

Purpose

Grants are awarded to assist eligible institutions to meet the costs of projects to plan, develop and operate new programs, maintain, or significantly expand existing programs for the education of nurse practitioners and nurse-midwives to effectively provide primary health care in settings such as homes, ambulatory care and long term care facilities and other health care institutions. Programs must adhere to regulations and guidelines for nurse practitioner and nurse-midwifery education as prescribed by the Secretary of Health and Human Services which require at a minimum that each program extend for at least one academic year and consist of supervised clinical practice directed toward preparing nurses to deliver primary health care; and at least four months (in the

aggregate) of classroom instruction that is so directed; and have an enrollment of not less than six full-time equivalent students.

Eligibility

Eligible applicants are public and nonprofit private schools of nursing or other public and nonprofit private entities. Eligible applicants must be located in a State.

Funding Priorities and/or Preferences

Preference will be given to any qualified applicant that agrees to expend the award to plan, develop, and operate new programs or to significantly expand existing programs.

Statutory General Preference: As provided in Section 860(e)(1) of the Public Health Service Act, preference will be given to any qualified applicant that: (A) has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This preference will only be applied to applications that rank above the 20th percentile of proposals recommended for approval by the peer review group.

''High rate'' and ''significant increase in the rate'' have been redefined for this program. *High rate* is defined as a minimum of 35 percent of graduates in academic year 1995–1996, academic year 1996–1997, or academic year 1997–1998, who spend at least 50 percent of their work time in clinical practice in the specified settings. Public health nurse graduates can be counted if they identify a primary work affiliation at one of the qualified work sites. Graduates who are providing care in a medically underserved community as a part of a fellowship or other educational experience can be counted.

Significant increase in the rate means that, between academic years 1996–1997 and 1997–1998, the rate of placing graduates in the specified settings has increased by a minimum of 50 percent and not less than 15 percent of graduates from the most recent year are working in these settings.

Statutory Special Considerations: Special consideration will be given to qualified applicants that agree to expend the award to educate individuals as nurse practitioners and nurse-midwives who will practice in health professional shortage areas designated under Section 332.

Established Funding Priority: Funding priority will be given to applicant institutions which demonstrate either substantial progress over the last three years or a significant experience of ten or more years in enrolling and graduating trainees from those minority or low-income populations identified as at-risk of poor health outcomes.

Review Criteria: Final criteria are included in the application kit.

Estimated Amount of this Competition: $5,880,000.

Estimated Number of Awards: 20.

Estimated Project Period: 3 Years.

Application Availability: 07/06/1998.

To Obtain an Application Kit

CFDA Number: 93.298.

Contact: 1–888–333–HRSA.

Application Deadline: 12/07/1998.

Projected Award Date: 03/31/1999.

Contact Person: Irene Sandvold, isandvold@hrsa.dhhs.gov.

Professional Nurse Traineeships

Authorization

Section 830 of the Public Health Service Act, 42 U.S.C. 297.

Purpose

Professional Nurse Traineeships are awarded to eligible institutions to meet the cost of traineeships for individuals in advanced degree nursing education programs. Traineeships are awarded to individuals by the participating educational institutions offering master's and doctoral degree programs to serve in and prepare for practice as nurse practitioners, nurse midwives, nurse educators, public health nurses, or in other clinical nursing specialties determined by the Secretary to require advanced education.

Eligibility

Eligible applicants are public or private nonprofit entities which provide (1) advanced-degree programs to educate individuals as nurse practitioners, nurse-midwives, nurse educators, public health nurses or as other clinical nursing specialists; or (2) nurse-midwifery certificate programs that conform to guidelines established by the Secretary under Section 822(b). Applicants must agree that: (a) in providing traineeships, the applicant will give preference to individuals who are residents of health professional shortage areas designated under Section 332 of the Public Health Service Act; (b) the applicant will not provide a traineeship to an individual enrolled in a master's of nursing program unless the individual has completed basic nursing preparation, as determined by the applicant; and (c) traineeships provided with the grant will pay all or part of the costs of the tuition, books, and fees of the program of nursing with respect to which the traineeship is provided and reasonable living expenses of the individual during the period for which the traineeship is provided.

Funding Priorities and/or Preferences

In making awards of grants under this Section, preference will be given to any qualified applicant that: (A) has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings.

''High rate'' and ''significant increase in the rate'' have been redefined for this program. *High rate* is defined as a minimum of 35 percent of graduates in academic year 1995–1996, academic year 1996–1997, or academic year 1997–1998, who spend at least 50 percent of their work time in clinical practice in the specified settings. Public health nurse graduates can be counted if they identify a primary work affiliation at one of the qualified work sites. Graduates who are providing care in a medically underserved community as a part of a fellowship or other educational experience can be counted.

Significant increase in the rate means that, between academic years 1996–97 and 1997–1998, the rate of placing graduates in the specified settings has increased by a minimum of 50 percent and not less than 15 percent of graduates from the most recent year are working in these settings.

Statutory Special Consideration: Special consideration will be given to applications for traineeship programs for nurse practitioner and nurse midwife programs which conform to guidelines established by the Secretary under Section 822(b)(2) of the Public Health Service Act.

Established Funding Priority: A funding priority will be given to programs which demonstrate either substantial progress over the last three years or a significant experience of ten or more years in enrolling and graduating students from those minority populations identified as at-risk of poor health outcomes.

Review criteria: Final criteria are included in the application kit.

Estimated Amount of this Competition: $15,500,000.

Estimated Number of Awards: 270—Formula Program, all eligible schools will receive awards.

Estimated Project Period: 3 years.

Application Availability: 07/13/1998.

To Obtain an Application Kit

CFDA Number: 93.358.
Contact: 1–888–333-HRSA.
Application Deadline: 11/02/1998.
Projected Award Date: 03/31/1999.
Contact Person: Marcia Starbecker, mstarbecker@hrsa.dhhs.gov.

Advanced Nurse Education

Authorization

Section 821 of The Public Health Service Act, 42 U.S.C. 296.

Purpose

Grants are awarded to assist eligible institutions plan, develop and operate new programs, or significantly expand existing programs leading to advanced degrees that prepare nurses to serve as nurse educators or public health nurses, or in other clinical nurse specialties determined by the Secretary to require advanced education.

Eligibility

Eligible applicants are public and nonprofit private collegiate schools of nursing.

Funding Priorities and/or preferences

Statutory General Preference: As provided in Section 860(e)(1) of the Public Health Service Act, preference will be given to any qualified applicant that: (A) has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This preference will only be applied to applications that rank above the 20th percentile of proposals recommended for approval by the peer review group.

''High rate'' and ''significant increase in the rate'' have been redefined for this program. *High rate* is defined as a minimum of 35 percent of graduates in academic year 1995–1996, academic year 1996–1997, or academic year 1997–1998, who spend at least 50 percent of their work time in clinical practice in the specified settings. Graduates who are providing care in a medically underserved community as a part of a fellowship or other educational experience can be counted.

Significant increase in the rate means that, between academic years 1996–1997 and 1997–1998, the rate of placing graduates in the specified settings has increased by a minimum of 50 percent and not less than 15 percent of graduates from the most recent year are working in these settings.

Established Funding Priorities: A funding priority will be given to applications which develop, expand or implement course(s) concerning ambulatory, home health care and/or inpatient case management services for individuals with HIV disease.

In determining the order of funding of approved applications a funding priority will be given to applicant institutions which demonstrate either substantial progress over the last three years or a significant experience of ten or more years in enrolling and graduating trainees from those minority or low-income populations identified as at-risk of poor health outcomes.

Review criteria: Final criteria are included in the application kit.

Estimated amount of the competition: $4,000,000.

Estimated number of awards: 20.

Estimated project period: 3 years.

Application Availability: 07/13/1998.

To Obtain an Application Kit

CFDA Number: 93.299.
Contact: 1–888–333–HRSA.
Application Deadline: 12/21/1998.
Projected Award Date: 04/30/1999.
Contact Person: Karen Pane, kpane@hrsa.dhhs.gov.

Nurse Anesthetist Program; (1) Program Grants (2) Traineeships; and (3) Fellowships

Authorization

Section 831 of The Public Health Service Act, 42 U.S.C. 297–1

Purpose

Grants are awarded to assist eligible institutions to meet the costs of: (a) Projects for the education of nurse anesthetists; (b) traineeships for licensed registered nurses to become nurse anesthetists; and (c) fellowships to enable Certified Registered Nurse Anesthetist (CRNA) faculty members to obtain advanced education relevant to their teaching functions.

Eligibility

Eligible applicants are public or private nonprofit institutions which provide registered nurses with full-time nurse anesthetist training and are accredited by an entity or entities designated by the Secretary of Education.

Funding Priorities and/or Preferences

Statutory Funding Preference: As provided in Section 860(e) of the Public Health Service Act, preference will be given to qualified applicants that: (A) have a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) have achieved, during the 2-year period preceding the fiscal year for which such an award is sought, a significant increase in the rate of placing graduates in such settings. This preference will only be applied to education program applications that rank above the 20th percentile of proposals recommended for approval by the peer review group.

''High rate'' and ''significant increase in the rate'' have been redefined for this program. High rate is defined as a minimum of 35 percent of graduates in academic year 1995–1996, academic year 1996–1997, or academic year 1997–1998, who spend at least 50 percent of their work time in clinical practice in the specified settings. Graduates who are providing care in a medically underserved community as a part of a fellowship or other educational experience can be counted.

Significant increase in the rate means that, between academic years 1996–1997 and 1997–1998, the rate of placing graduates in the specified settings has increased by a minimum of 50 percent and not less than 15 percent of graduates from the most recent year are working in these settings.

Statutory Rural Preference for Traineeship Program Grants: A preference is given to those applicants carrying out traineeships whose participants gain significant experience in providing health service in rural health facilities.

Established Funding Priority for Traineeship and Education Program Grants: A funding priority will be given to programs which demonstrate either substantial progress over the last 3 years or a significant experience of 10 or more years in enrolling and graduating students from those minority populations identified as at-risk of poor health outcomes.

Established Funding Preference for Faculty Fellowship Grants: A funding preference will be given first to faculty who will be completing degree requirements before or by the end of the funded budget year, second to faculty who are full-time students, and third to faculty who are part-time students.

Review Criteria: Final criteria are included in the application kit.

Estimated Amount of this Competition: $1,480,000.

Estimated Number of Awards:

2 Programs ($400,000)
70 Traineeships ($900,000)
7 Fellowships ($180,000).

Estimated Project Period:

Program and Traineeships—3 years
Fellowships—1 year

Application Availability: 07/13/1998.

To Obtain an Application Kit

CFDA Number:
Traineeships—93.124
Fellowships—93.907
Program—93.916

Contact: 1–888–333–HRSA.
Application Deadlines: 11/02/1998 for Fellowships and Traineeships; 12/21/1998 for Education Program.
Projected Award Date: 04/30/1999.
Contact Person: Marcia Starbecker mstarbecker@hrsa.dhhs.gov.

Graduate Training in Family Medicine

Authorization

Section 747 of The Public Health Service Act, 42 U.S.C. 293k.

Purpose

Grants are awarded to assist family medicine residency programs in the promotion of graduate education of physicians who are trained for and will enter the practice of family medicine. The program assists approved graduate training programs in the field of family medicine in meeting the cost of planning, developing, and operating or participating in graduate medical education. This includes the cost of supporting trainees in such programs who plan to specialize or work in the practice of family medicine. Supported programs must emphasize the provision of longitudinal, preventive, and comprehensive care to families.

Eligibility

Accredited schools of medicine or osteopathic medicine, public or private nonprofit hospitals, or other public or private nonprofit entities.

Funding Priorities and/or Preferences

As provided in Section 791(a) of the Public Health Service Act, statutory preference will be given to any qualified applicant that: (A) has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.
Review Criteria: Final criteria are included in the application kit.
Estimated Amount of This Competition: $4,500,000.
Estimated Number of Awards: 30.
Estimated Project Period: 3 Years.
Technical Assistance Conference Call: August 11, 1998. To participate contact Ellie Grant by July 30 at 301–443–1467 or by e-mail at egrant@hrsa.dhhs.gov.
Application Availability: 07/13/1998.

To Obtain an Application Kit

CFDA Number: 93.379.
Contact: 1–888–333–HRSA.
Application Deadline: 09/14/1998.
Projected Award Date: 04/1999.
Contact Person: Ellie Grant, egrant@hrsa.dhhs.gov.

Faculty Development in Family Medicine

Authorization

Section 747 (A) of the Public Health Service Act, 42 U.S.C. 293k.

Purpose

Grants are awarded to eligible entities to increase the supply of physician faculty available to teach in family medicine programs and to enhance the pedagogical skills of faculty presently teaching in family medicine.

Eligibility

Public or private nonprofit hospital; an accredited public or nonprofit school of allopathic medicine or of osteopathic medicine; or a public or private nonprofit health and education institution.

Funding Priorities and/or Preferences

As provided in Section 791(a) of the Public Health Service Act, statutory preference will be given to any qualified applicant that: (A) has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.
Review Criteria: Final criteria are included in the application kit.
Estimated Amount of this Competition: $4,500,000.
Estimated Number of Awards: 30.
Estimated Project Period: 3 Years.
Technical Assistance Conference Call: August 13, 1998. To participate contact Elsie Quinones by August 3 at 301–443–1467 or by e-mail at equinones@hrsa.dhhs.gov.
Application Availability: 07/13/1998.

To Obtain an Application Kit

Contact: 1–888–333–HRSA.
CFDA Number: 93.895.
Application Deadline: 09/28/1998.
Projected Award Date: 04/1999.
Contact Person: Elsie Quinones, equinones@hrsa.dhhs.gov.

Predoctoral Training in Family Medicine

Authorization

Section 747(A) of the Pubic Health Service Act, 42 U.S.C. 293k.

Purpose

Grants are awarded to accredited schools of medicine or osteopathic medicine to promote the predoctoral training of allopathic and osteopathic medical students in the field of family medicine. Supported programs emphasize the provision of longitudinal, preventive, and comprehensive care to families. The program assists schools in meeting the cost of planning, developing and operating or participating in approved predoctoral training programs in the field of family medicine. Support may be provided both for the program and for the trainees. Assistance may be requested for any of the following purposes: curriculum development; clerkships; preceptorships; and/or student assistantships. The programs should be part of an integrated institutional strategy to provide education and training in family medicine. The intent is to design programs which encourage graduates to seek residency training in family medicine and eventually to enter a career in family medicine.

Eligibility

Public, or private nonprofit, accredited schools of medicine or osteopathic medicine.

Funding Priorities and/or Preferences

As provided in Section 791(a) of the Public Health Service Act, statutory preference will be given to any qualified applicant that: (A) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.
Review Criteria. Final criteria are included in the application kit.
Estimated Amount of this Competition: $2,700,000.
Estimated Number of Awards: 20.
Estimated Project Period: 3 Years.

Technical Assistance Conference Call: October 15, 1998. To participate contact Betty Ball by October 1 at 301–443–1467 or by e-mail at bball@hrsa.dhhs.gov.

Application Availability: 07/13/1998.

To Obtain an Application Kit

CFDA Number: 93.896.
Contact: 1–888–333–HRSA.
Application Deadline: 11/09/1998.
Projected Award Date: 03/31/1999.
Contact Person: Betty Ball, bball@hrsa.dhhs.gov.

Departments of Family Medicine

Authorization

Section 747(b) of the Public Health Service Act, 42 U.S.C. 293k.

Purpose

To establish, maintain, or improve academic administrative units to provide clinical instruction in family medicine; to plan and develop model educational predoctoral, faculty development, and graduate medical education programs in family medicine which will meet the requirements of Section 747(a) by the end of the project period of Section 747(b) support; to support academic and clinical activities relevant to the field of family medicine; and to strengthen the administrative base and structure responsible for the planning, direction, organization, coordination, and evaluation of all undergraduate and graduate family medicine activities.

Eligibility

Public, or private nonprofit accredited schools of medicine or osteopathic medicine.

Funding Priorities and/or Preferences

As provided in Section 791(a) of the Public Health Service Act, statutory preference will be given to any qualified applicant that: (A) has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

Under Section 747(b), a funding preference is provided for qualified applicants that agree to expend the award for the purpose of: (1) establishing an academic administrative unit defined as a department, division, or other unit, for programs in family medicine; or (2) substantially expanding the programs of such a unit.

Review Criteria: Final criteria are included in the application kit.

Estimated Amount of this Competition: $3,600,000.

Estimated Number of Awards: 20.

Estimated Project Period. 3 Years.

Technical Assistance Conference Call: February 15, 1999. Contact Shelby Biedenkapp by January 29 to participate, 301–443–1467 or e-mail sbiedenkapp@hrsa.dhhs.gov.

Application Availability: 10/09/1998.

To Obtain an Application Kit

CFDA Number: 93.984.
Contact: 1–888–333–HRSA.
Application Deadline: 03/15/1999.
Projected Award Date: 08/1999.
Contact Person: Shelby Biedenkapp, sbiedenkapp@hrsa.dhhs.gov.

Residency Training in General Internal Medicine and General Pediatrics

Authorization

Section 748 of the Public Health Service Act, 42 U.S.C. 2931.

Purpose

The program assists in the promotion of graduate education of physicians who are trained for and will enter the practice of general internal medicine or general pediatrics. Programs supported by these grants will emphasize continuity, ambulatory, preventive and psychosocial aspects of the practice of medicine. The grant program will assist schools of medicine and osteopathic medicine, public or private nonprofit hospitals and any other public or nonprofit entity to meet the costs of projects to plan, develop and operate approved residency training programs which will emphasize the training of residents for the practice of general internal medicine or general pediatrics.

Eligibility

Accredited schools of medicine or osteopathic medicine, public or private nonprofit hospitals, or other public or private nonprofit entities.

Funding Priorities and/or Preferences

As provided in Section 791(a) of the Public Health Service Act, statutory preference will be given to any qualified applicant that: (A) has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

Review Criteria: Final criteria are included in the application kit.

Estimated Amount of This Competition: $5,200,000.

Estimated Number of Awards: 24.

Estimated Project Period: 3 Years.

Technical Assistance Conference Call: September 1, 1998. To participate contact Brenda Williamson by August 18 at 301–443–1467 or by e-mail at bwilliamson@hrsa.dhhs.gov

Application Availability: 07/13/1998.

To Obtain an Application Kit

CFDA Number: 93.884.
Contact: 1–888–333-HRSA.
Application Deadline: 09/30/1998.
Project Award Date: 04/1999.
Contact Person: Brenda L. Williamson, bwilliamson@hrsa.dhhs.gov.

Faculty Development in General Internal Medicine and General Pediatrics

Authorization

Section 748 of the Public Health Service Act, 42 U.S.C. 293l.

Purpose

Grants are awarded to eligible entities to increase the supply of physician faculty available to teach in General Internal Medicine or General Pediatrics and to enhance the pedagogical skills of faculty presently teaching in General Internal Medicine or General Pediatrics.

Eligibility

Public or private nonprofit hospitals; accredited schools of medicine and osteopathic medicine; and nonprofit health and educational institutions.

Funding Priorities and/or Preferences

As provided in section 791(a) of the Public Health Service Act, statutory preference will be given to any qualified applicant that: (A) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

Review Criteria: Final criteria are included in the application kit.

Estimated Amount of This Competition: $1,900,000.

Estimated Number of Awards: 10–15.
Estimated Project Period: 3 Years.
Technical Assistance Conference Call: August 27, 1998. To participate contact Elsie Quinones by August 17 at 301–443–1467 or by e-mail: equinones@hrsa.dhhs.gov
Application Availability: 07/13/1998.

To Obtain an Application Kit

CFDA Number: 93.900.
Contact: 1–888–333–HRSA.
Application Deadline: 09/14/1998.
Projected Award Date: 04/1999.
Contact Person: Elsie Quinones, equinones@hrsa.dhhs.gov.

Basic/Core Area Health Education Centers

Authorization

Section 746(a)(1) of the Public Health Service Act, 42 U.S.C. 293j.

Purpose

The program assists schools to improve the distribution, supply and quality of health personnel in the health services delivery system, by encouraging the regionalization of health professions schools. Emphasis is placed on community-based training of primary care oriented students, residents, and providers. The Area Health Education Centers (AHEC) program assists schools in the planning, development, and operation of AHEC Centers to initiate educational system incentives, to attract and retain health care personnel in scarcity areas. By linking the academic resources of the university health science center with local planning, educational and clinical resources, the AHEC program establishes a network of community-based training sites to provide educational services to students, faculty and practitioners in underserved areas and ultimately, to improve the delivery of health care in the service area. The program embraces the goal of increasing the number of health professions graduates who ultimately will practice in underserved areas.

Eligibility

Public or private nonprofit, accredited schools of medicine or osteopathic medicine are eligible applicants.

Funding Priorities and/or Preferences

Funds shall be awarded to approved applicants in the following order: (1) Competing continuations; (2) new starts in States with no AHEC program; (3) other new starts; and (4) competing supplementals. Applications reviewed and scored in the lowest 25th percentile may be partially funded or may not be funded.

Matching Requirements

The awardees must provide matching funds from non-Federal sources at a minimum of 25 percent of the total program expenditures.
Review Criteria: Final criteria are included in the application kit.
Estimated Amount of This Competition: $7,625,000.
Estimated Number of Awards: 8.
Estimated Project Period: 3 Years.
Application Availability: 10/09/1998.

To Obtain an Application Kit

Contact: 1–888–333–HRSA.
CFDA Number: 93.824.
Application Deadline: 01/11/1999.
Projected Award Date: 05/31/99.
Contact Person: Louis D. Coccodrilli, lcoccodrilli@hrsa.dhhs.gov.

Model State-Supported Area Health Education Centers

Authorization

Section 746(a)(3) of the Public Health Service Act, 42 U.S.C. 201.

Purpose

The program assists schools to improve the distribution, supply, and quality of health personnel in the health services delivery system, by encouraging the regionalization of health professions schools. Emphasis is placed on community-based training of primary care oriented students, residents, and providers. The Area Health Education Centers (AHEC) program assists schools in the development, and operation of AHEC Centers to implement educational system incentives to attract and retain health care personnel in scarcity areas. By linking the academic resources of the university health science center with local planning, educational and clinical resources, the AHEC program establishes a network of health-related institutions to provide educational services to students, faculty and practitioners and ultimately, to improve the delivery of health care in the service area. These programs are collaborative partnerships which address current health workforce needs within a region of a State, or in an entire State.

Eligibility

Public or private nonprofit, accredited schools of medicine or osteopathic medicine are eligible applicants.

Funding Priorities and/or Preferences

Funds shall be awarded to approved applicants in the following order: (1) competing continuations; (2) new starts in States with no AHEC program; (3) other new starts; and (4) competing supplementals. Applications reviewed and scored in the lowest 25th percentile may be partially funded or may not be funded.

Matching Requirements

In Model State-Supported AHEC Programs, non-Federal contributions in cash shall consist of not less than 50 percent of the total costs of operating the program.
Review Criteria: Final criteria are included in the application kit.
Estimated Amount of this Competition: $2,500,000.
Estimated Number of Awards: 8.
Estimated Project Period: 3 years.
Application Availability: 10/09/1998.

To Obtain an Application Kit

CFDA Number: 93.107.
Contact: 1–888–333–HRSA.
Application Deadline: 01/11/1999.
Projected Award Date: 05/31/1999.
Contact Person: Joseph West, jwest@hrsa.dhhs.gov.

Health Education and Training Centers

Authorization

Section 746 (f) of the Public health Service Act. 42 U.S.C. 293j.

Purpose

The program assists schools to improve the distribution, supply, quality and efficiency of personnel providing health services in the State of Florida or along the border between the United States and Mexico and in other urban/rural areas of the United States to any population group that has demonstrated serious unmet health care needs. The program encourages health promotion and disease prevention through public education in border and non-border areas. Each Health Education and Training Center (HETC) project will: (a) conduct or support not less than one training and educational program for physicians and one for nurses for at least a portion of the clinical training of such students in the proposed service area; (b) conduct or support training in health education services. A school of public health located in the HETC service area shall participate in the HETC program if the school requests to participate.

Eligibility

Public or nonprofit private accredited schools of allopathic or osteopathic medicine are eligible applicants.

Funding Priorities and/or Preferences

Fifty percent of the appropriated funds each year must be made available for approved applications for Border HETCs. The amount allocated for each

approved Border HETC application shall be determined in accordance with a formula. Approved non-Border HETC applications scored in the lowest 25th percentile may be partially funded or may not be funded. The following funding priorities are being applied in FY 1999: (1) Implementation of HETC Programs training a minimum of 50 under-represented minority trainees annually for service to medically underserved populations; (2) Implementation of a substantial public health training experience between 4 to 8 weeks for a minimum of 25 trainees annually; (3) As part of their advisory group, a proposed project must have representation from a health department from the area being served.

Review Criteria: Final criteria are included in the application kit.

Estimated Amount of this Competition: $3,550,000.

Estimated Number of Awards: 10–15.

Estimated Project Period: 3 years.

Application Availability: 10/09/1998.

To Obtain an Application Kit

CFDA Number: 93.189.

Contact: 1–888–333–HRSA.

Application Deadline: 02/08/1999.

Projected Award Date: 06/30/1999.

Contact Person: Eleanor A. Crocker, ecrocker@hrsa.dhhs.gov.

Health Professions Program Notes

- The Bureau of Health Professions anticipates additional program announcements in the November Preview.
- Depending on the availability of funds, the Division of Nursing may announce special initiatives in FY 1999.
- Competitive cycles for FY 1999 are not anticipated for the following Health Professions Programs:

CFDA 93.117—Residency Training in Preventive Medicine and Dental Public Health
CFDA 93.156—Geriatric Fellowships
CFDA 93.188—Public Health Special Projects
CFDA 93.212—Chiropractic Demonstration Grants
CFDA 93.962—Health Administration Traineeships and Special Projects
CFDA 93.181—Podiatric Primary Care Residency Training
CFDA 93.886—Physician Assistant Training

Maternal and Child Health Programs

Grants Management Office

1–301–443–1440

Healthy Start National Resource Center

Authorization

Section 301 of the Public Health Service Act, 42 U.S.C.

Purpose

The purpose of the Healthy Start program is to reduce infant mortality and improve the systems of perinatal care by targeting communities with high infant mortality rates and directing resources and interventions to improve access to, utilization of, and full participation in comprehensive maternal and infant care services. The Healthy Start National Resource Center will serve the Healthy Start communities and community-based organizations; professional, academic, and provider organizations; and, the general public. The Resource Center will focus on the following functions: library and research development, dissemination, communication and continuing education.

Eligibility

Public and private nonprofit institutions are eligible for this program.

Funding Priorities and/or Preferences

Institutions of higher learning with proposed activities to be carried out by or in close coordination with schools and/or institutes of health education, public health, public policy or health professions.

Review Criteria: Final criteria are included in the application kit.

Estimated Amount of this Competition: $1,000,000.

Estimated Number of Awards: 1.

Estimated Project Period: 1–3 Years.

Application Availability: 06/01/1998.

To Obtain an Application Kit

CFDA Number: 93.926D.

Contact: 1–888–333–HRSA.

Application Deadline: 07/15/1998.

Projected Award Date: 09/1998.

Contact Person: Bernice Young, byoung@hrsa.dhhs.gov

** Eligibility*

42 CFR Part 51a.3.

(a) With the exception of training and research, as described in paragraph (b) of this section, any public or private entity, including Indian tribe or tribal organization (as those terms are defined at 25 U.S.C. 450b) is eligible to apply for Federal funding under this Part.

(b) Only public or nonprofit private institutions of higher learning may apply for training grants. Only public or nonprofit institutions of higher learning and public or private nonprofit agencies engaged in research or in programs relating to maternal and child health and/or services for children with special health care needs may apply for grants, contracts or cooperative agreements for research in maternal and child health services or in services for children with special health care needs.

Maternal and Child Health Research

Authorization

Title V of the Social Security Act, 42 U.S.C. 701.

Purpose

This program encourages applied research in maternal and child health which has the potential for ready transfer of findings to health care delivery programs.

Eligibility

42 CFR Part 51a.3.*

Funding Priorities and/or Preferences

None.

Special Considerations

Special consideration for funding will be given to projects which: (1) Seek to develop measures of racism and study its consequences for the health of mothers and children; (2) investigate the role that fathers play in caring for and nurturing the health, growth, and development of children; and (3) evaluate the impact of health care reform and managed care on access to, use of, and quality of maternal and child health services.

Review Criteria: Final criteria are included in the application kit.

Estimated Amount of this Competition: $1,900,000.

Estimated Number of Awards: 10.

Estimated Project Period: 1 Year.

Application Availability: Continuous.

To Obtain an Application Kit

CFDA Number: 93.110RS.

Contact: 1–888–333–HRSA.

Application Deadline: 08/01/1998.

Projected Award Date: 01/1999.

Contact Person: Gontran Lamberty, glamberty@hrsa.dhhs.gov.

Long Term Training in Leadership Education in Neurodevelopmental and Related Disabilities (LEND)

Authorization

Title V of the Social Security Act, 42 U.S.C. 701.

Purpose

The purpose of the Maternal and Child Health Interdisciplinary Leadership Education in Neurodevelopmental and Related Disabilities (LEND) program is to improve the health status of infants, children, and adolescents with, or at-risk for, neurodevelopmental and related disabilities, including mental retardation, neurodegenerative and acquired neurological disorders, and multiple handicaps. The educational curricula emphasize the integration of

services supported by States, local agencies, organizations, private providers and communities. The LEND programs will prepare health professionals to assist children and their families to achieve their developmental potentials by forging a community-based partnership of health resources and community leadership.

Eligibility: 42 CFR Part 51a.3.*

Funding Priorities and/or Preferences: None.

Review Criteria: Final criteria are included in the application kit.

Estimated Amount of this Competition: $8,019,000.

Estimated Number of Awards: 17.

Estimated Project Period: 3 Years.

Application Availability: 04/15/1998.

To Obtain an Application Kit.

CFDA Number: 93.110TM.

Contact: 1–888–333-HRSA.

Application Deadline: 10/01/1998.

Projected Award Date: 07/1999.

Contact Person: Shelley Benjamin, sbenjamin@hrsa.dhhs.gov.

Nationwide Blood Lead and Erythrocyte Protoporphyrin (EP) Proficiency Testing Program

Authorization

Title V of the Social Security Act, 42 U.S.C. 701.

Purpose

The purpose of this program is to improve nationwide the performance of laboratories which are providing erythrocyte protoporphyrin (EP) screening tests and blood lead determinations for childhood lead poisoning prevention programs. Applicants must be able to prepare, distribute and process proficiency testing samples for more than 300 laboratories and demonstrate an ability to provide consultation and technical assistance nationwide, as requested.

Eligibility: 42 USC Part 51a.3.*

Funding Priorities and/or Preferences: None.

Review Criteria: Final criteria are included in the application kit.

Estimated Amount of this Competition: $215,000.

Estimated Number of Awards: 1.

Estimated Project Period: 1 Year.

Application Availability: 09/01/1998.

To Obtain an Application Kit

CFDA Number: 93.110AA.

Contact: 1–888–333–HRSA.

Application Deadline: 10/30/1998.

Project Award Date: 01/1999.

Contact Person: Stuart Swayze, sswayze@hrsa.dhhs.gov

Primary Health Care Programs

Grants Management Office

1–301–594–4235

Community and Migrant Health Centers

Authorization

Section 330 of the Public Health Service Act, 42 U.S.C 254b and 254b(g).

Purpose

The Community Health Center and Migrant Health Center (C/MHC) programs are designed to promote the development and operation of community-based primary health care service systems in medically underserved areas for medically underserved populations. Assuming the availability of sufficient appropriated funds in FY 1999, it is the intent of HRSA to continue to support health services in these areas, given the unmet need inherent in their provision of services to a medically underserved population. HRSA will open competition for awards under Section 330 of the Public Health Service Act (U.S.C. 254b for CHCs and U.S.C. 254b(g) for MHCs) to support health services in the areas currently served by these grants. Forty-one C/MHC grantees will reach the end of their project periods during the first half of FY 1999; additional opportunities will appear in the fall Preview.

Estimated Amount of this Competition: $49,000,000.

Estimated Number of Awards: 41.

CFDA Number:

93.224 Community Health Centers Program

93.246 Migrant Health Centers Program.

Deadline: Deadline dates vary by area throughout FY 1999.

Limited Competition

Applicants are limited to currently funded programs whose project periods expire in FY 1999 and new organizations proposing to serve the same populations currently being served by these existing programs.

Field Office

Communication with Field Office staff is essential for interested parties in deciding whether to pursue Federal funding as a C/MHC. Technical assistance and detailed information about each service area, such as census tracts, can be obtained by contacting the HRSA Field Office.

State	City	Application deadline
HRSA Field Office I (617) 565–1482		
MA	Roxbury	10/01/1998
HRSA Field Office II (212) 264–2664		
NY	Brockport	09/01/1998
	Rushville	09/01/1998
	Bronx	10/01/1998 (3)
	Brooklyn	10/01/1998
HRSA Field Office III (215) 596–1885		
PA	Hyndman	10/01/1998
	Chester	10/01/1998
HRSA Field Office IV (404) 562–2996		
MS	Mound Bayou	08/01/1998
AL	Tuscaloosa	08/01/1998
FL	Dade City	08/01/1998
AL	Huntsville	08/01/1998
NC	Kinston	08/01/1998
FL	W. Palm Beach	09/01/1998
GA	Decatur	09/01/1998
TN	Tiptonville	10/01/1998
	Nashville	10/01/1998
FL	Immokalee	10/01/1998
	Wewahitchka	12/01/1998
HRSA Field Office V (312) 353–1715		
IL	Chicago	08/01/1998
OH	Akron	08/01/1998
MN	Minneapolis	09/01/1998
WI	Milwaukee	09/01/1998
MN	Minneapolis	09/01/1998
IL	Chicago	10/01/1998
MI	Flint	12/01/1998
HRSA Field Office VI (214) 767–3872		
TX	Houston	09/01/1998
	Newton	12/01/1998
HRSA Field Office VII (816) 426–5296		
MO	St. Louis	10/01/1998
NE	Omaha	10/01/1998
KS	Wichita	12/01/1998
HRSA Field Office VIII (303) 844–3203		
CO	Denver b	09/01/1998 (2)
	Greeley	12/01/1998
WY	Laramie	12/01/1998
HRSA Field Office IX (415) 437–8090		
CA	Fresno	08/01/1998
NV	Las Vegas	09/01/1998
CA	Salinas	09/01/1998
AZ	Green Valley	10/01/1998
HRSA Field Office X (206) 615–2491		
OR	Hood River	10/01/1998
	Woodburn	12/01/1998

Public Housing Primary Care

Authorization

Section 330 (i) of the Public Health Service Act, 42 U.S.C. 254d.

Purpose

This program is designed to increase access to health care and improve the health status of public housing residents by providing comprehensive primary health care services in or near public housing developments, directly or through collaborative arrangements with existing community based programs/providers. It is the intent of HRSA to continue to support health services to the public housing populations in the same areas/locations.

Deadline

The application deadline for the service area listed is October 1.

Limited Competition

Applicants are limited to currently funded programs whose project period expire in FY 1999, and new organizations proposing to serve the same populations currently being served by this existing program.

Estimated Amount of This Competition: $400,000.

Estimated Number of Awards: 1.

CFDA Number: 93.927.

Contact Person: Charles Woodson, cwoodson@hrsa.dhhs.gov.

Field Office

Communications with Field Office staff is essential for interested parties in deciding whether to pursue Federal funding. Technical assistance and detailed information about the service area can be obtained by contacting the HRSA Field Office.

HRSA FIELD OFFICE I (617) 565–1482

State	City	Application deadline
MA	Roxbury	10/01/1998

Healthy Schools, Healthy Communities

Authorization

Title III of the Public Health Service Act, 42 U.S.C. 241 *et seq.*

Purpose

The Healthy Schools, Healthy Communities (HS, HC) program supports community-based primary health care providers with experience in this area as demonstrated by having entered into partnerships with schools or school districts to establish school-based health centers that provide comprehensive primary and preventive health care services.

Eligibility: Public and private nonprofit organizations are eligible.

Funding Priorities and/or Preferences: See application materials.

Review Criteria: Final criteria are included in the application kit.

Estimated Amount of This Competition: $1,000,000.

Estimated Number of Awards: 5.

Estimated Project Period: 3 Years.

Application Availability: 06/01/1998.

To Obtain an Application Kit

CFDA Number: 93.151A.

Contact: 1–888–333-HRSA.

Application Deadline: 07/15/1998.

Projected Award Date: 09/20/1998.

Contact Person: Theresa Watkins-Bryant, M.D. twatkins-bryant@hrsa.dhhs.gov.

Health Care for the Homeless

Authorization

Section 330 of the Public Health Service Act, 42 U.S.C 254b(h).

Purpose

The Health Care for the Homeless (HCH) program is designed to increase the homeless populations access to cost-effective, case managed, and integrated primary care and substance abuse services provided by existing community-based programs/providers. Assuming the availability of sufficient appropriated funds in FY 1999, it is the intent of HRSA to continue to support health services to the homeless populations in these areas/locations given the continued need for cost-effective, community-based primary care services for these medically underserved populations within these geographic areas. Six HCH grantees will reach the end of their project periods during FY 1999.

Deadline

Deadline dates vary by service area.

Limited Competition

Applicants are limited to currently funded programs whose project periods expire in FY 1999 and new organizations proposing to serve the same populations currently being served by these existing programs.

Field Office

Communication with Field Office staff is essential for interested parties in deciding whether to pursue Federal funding as an HCH. Detailed information about each service area, such as census tracts, can be obtained by contacting the appropriate HRSA Field Office listed below:

CFDA Number: 93.151.

State	City	Application deadline
HRSA Field Office II (212) 264–2664		
NJ	Jersey City	12/01/1998
HRSA Field Office III (215) 596–1885		
VA	Richmond	08/01/1998
HRSA Field Office V (312) 353–1715		
MI	Flint	12/01/1998
HRSA Field Office VII (816) 426–5296		
NE	Omaha	10/01/1998
MO	St. Louis	10/01/1998
HRSA Field Office IX (415) 437–8090		
NV	Las Vegas	09/01/1998

Other HRSA Programs

Nursing Education Loan Repayment Program

Authorization

Section 846(h) of The Public Health Service Act, 42 U.S.C. 297.

Purpose

Under the Nursing Education Loan Repayment Program (NELRP), registered nurses are offered the opportunity to enter into a contractual agreement with the Secretary, under which the Public Health Service agrees to repay up to 85 percent of the nurse's indebtedness for nursing education loans. In exchange, the nurse agrees to serve for a specified period of time in certain types of health facilities identified in statute.

Eligibility

Applicants must have completed all of their training requirements for registered nursing and be licensed prior to beginning service. Individuals eligible to participate must: (a) Have received, prior to the start of service, a baccalaureate or associate degree in nursing, a diploma in nursing, or a graduate degree in nursing; (b) have unpaid educational loans obtained for nurse training; (c) be a citizen or national of the U.S.; (d) have a current unrestricted license in the State in which they intend to practice; and (e) agree to be employed for not less than two years in a full-time clinical capacity in an Indian Health Service health center; a Native Hawaiian health center, a public hospital (operated by a State, county, or local government); a health center funded under Section 330 of the Public Health Service Act (including

migrant, homeless, and public housing health centers), a rural health clinic (Section 1861(aa)(2) of the Social Security Act); or a public or nonprofit private health facility determined by the Secretary to have a critical shortage of nurses.

Funding Priorities and/or Preferences

In making awards under this Section, preferences will be given to qualified applicants who: (1) have the greatest financial need and (2) agree to serve in the types of health facilities described above, that are located in geographic areas determined by the Secretary to have a shortage of and need for nurses.

Review Criteria: Awards are determined by formula.

Estimated Amount of Competition: $2,251,000.

Estimated Number of Awards: 200.

Application Availability: 11/01/1997.

CFDA Number: 93.908.

Contact: (301) 594–4400, (301) 594–4981 (FAX), Toll-Free: 1–800–435–6464.

Application Deadline: 08/31/1998.

Project Award Date: 09/30/1998.

Contact Person: Sharley Chen, 4350 East-West Highway, 10th Floor, Bethesda, Maryland 20814, schen@hrsa.dhhs.gov.

Y2K (Year 2000)

Y2K compliance is a priority for HRSA. On February 4, 1998, the President issued Executive Order 13073 addressing Year 2000 Conversion activities. Because of a design feature in many electronic systems which displayed the year as a two-digit number, a large number of activities in the public and private sectors could be at-risk beginning in the year 2000.

Federal Policies for Agencies addressed in Executive Order 13073 include:

Assurance that no critical Federal program experience disruption due to a Y2K problem;

Assistance and cooperation with State, local and tribal governments where those governments depend on Federal information or the Federal Government is dependent on those governments to perform critical missions; and

Cooperation with the private sector operators of critical national and local systems, including the banking and financial system, the telecommunications system, the public health system, the transportation system, and the electric power generation system.

In keeping with this Executive Order, HRSA has assigned Y2K a high priority for its external customers. As an applicant or grantee of the public health system, you should address your plans and status of your organization's efforts to become Year 2000 compliant as part of business or operational plan.

More information about Y2K is available at the following web sites: http://www.y2k.gov and HRSA's http://www.hrsa.dhhs.gov.

Internet Connections at-a-Glance

HRSA Home Page: http://www.hrsa.dhhs.gov/
DHHS Home Page: http://www.os.dhhs.gov/
Grantsnet: http://www.dhhs.gov/progorg/grantsnet/index.html
PHS Grant Policy Statement: http://www.nih.gov/grants/policy/gps/
Code of Federal Regulations: http://www.access.gpo.gov/nara/cfr/cfr-table-search.html
OMB Circulars: http://www.whitehouse.gov/WH/EOP/OMB/html/circular-top.html
Federal Register http://www.access.gpo.gov/su__docs/aces/aces140.html
Catalog of Federal Domestic Assistance: http://www.gsa.gov/fdac/
Healthfinder: http://www.healthfinder.gov/
Fedworld Information Network: http://www.fedworld.gov/

Look for HRSA at the Following Meetings/Conferences

Event: 12th World AIDS Conference.

Date: June 28-July 3, 1998.

Location: Geneva, Switzerland.

HRSA Contact: Dorothy Bailey (301) 443–1745.

Event: National Conference of State Legislatures.

Date: July 20–24, 1998.

Location: Las Vegas Convention Center, Las Vegas, NV.

HRSA Contact: Ms. Linda Redmond, (301) 443–4568.

Event: National Association of Local Boards of Health.

Dates: July 29-August 1, 1998.

Location: St. Charles, IL.

HRSA Contact: Steven Merrill (301) 443–3376.

Event: Joint Annual Meeting of the Association of State and Territorial Health Officials and the National Association of County and City Health Officials.

Dates: September 23–26, 1998.

Location: Regal Riverfront Hotel, St. Louis, MO.

HRSA Contact: Steven Merrill (301) 443–3376.

Event: American Public Health Association Annual Meeting/Convention.

Dates: November 15–19, 1998.

Location: Washington Convention Center, Washington, D.C.

HRSA Contact: Steven Merrill (301) 443–3376.

[FR Doc. 98–15877 Filed 6–16–98; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., as amended. Applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of person privacy.

Name of Committee: National Cancer Institute Review Group Subcommittee F—Manpower and Training.

Dates: June 17–19, 1998.

Times: June 17, 1998—4:00 p.m. to Recess; June 18, 1998—8:00 a.m. to Recess; June 19, 1998—8:00 a.m. to Adjournment.

Place: Holiday Inn—Georgetown, 2101 Wisconsin Avenue, NW, Washington, DC 20007.

Agenda: To review and evaluate grant proposals.

Contact Person: Mary Bell, Scientific Review Administrator, National Cancer Institute, NIH, 6130 Executive Blvd., EPN, Room 611A, Bethesda, MD 20892–7405, Telephone: 301–496–7978.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower, 93.399, Cancer Control)

Dated: June 9, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–16097 Filed 6–16–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Allergy and Infectious Diseases Special Emphasis Panel (SEP) meeting:

Name of SEP: Costimulation Blockade for Primate Renal Transplantation and Transplant Tolerance: Costimulation, Cytokines & Chimersim.

Date: July 14, 1998.

Time: 8:30 a.m. to Adjournment.

Place: Hotel Complexe Desjardins, Argenteuil Room 4, Complexe Desjardins, Montreal, Quebec H5B 1E5, Canada, (514) 514–285–1450.

Contact Person: Dr. Vassil Georgiev, Scientific Review Adm., 6003 Executive Boulevard, Solar Bldg., Room 4C04, Bethesda, MD 20892, (301) 496–8206.

Purpose/Agenda: To evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: June 9, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–16096 Filed 6–16–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Acquired Immunodeficiency Syndrome Research Review Committee.

Date: June 17–18, 1998.

Time: June 17, 1998, 8:30 am to recess.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Hotel, 14th & K Streets, NW., Washington, DC 20005.

Time: June 18, 1998, 8:30 am to adjournment.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Hotel, 14th & K Streets, NW., Washington, DC 20005.

Contact Person: Paula S. Strickland, Phd, Division of Extramural Activities.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 10, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–16098 Filed 6–16–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4356–N–09]

Notice of Proposed Information Collection: Comment Request

AGENCY: Office of the Assistant Secretary for Housing, Federal Housing Commissioner, 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:* August 17, 1998.

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: Oliver Walker, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW, Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Contact person, Oliver Walker, (202) 708–1694 X2144 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department is submitting 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 affecting 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: Section 202 Supportive Housing for the Elderly, Application Submission Requirements FR–3904–HUD–92015–CA.

OMB Control Number, if applicable: 2502–0267.

Description of the need for the information and proposed use: This information is required in connection with the application submission requirements for the Section 202 Supportive Housing Program for the Elderly. The information is necessary to assist HUD in determining applicant eligibility and capacity to develop housing for the elderly within statutory and program criteria.

Agency form numbers, if applicable: Form HUD–92015–CA.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number or respondents are 600, hours per response 41.3 hours per response, and the frequency of responses is

Status of the proposed information collection: Reinstatement of previously approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 3, 1998.

Ira G. Pepercorn,

General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. 98–16041 Filed 6–16–98; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. RF–4356–N–08]

Notice of Proposed Information Collection: Comment Request

AGENCY: Office of the Assistant Secretary for Housing, Federal Housing Commissioner, 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: *Comment due date:* August 17, 1998.

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: Oliver Walker, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW, Room 9116, Washington DC 20410.

FOR FURTHER INFORMATION CONTACT: Oliver Walker, (202) 708–1694 X2144 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department is submitting 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 affecting 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: Section 811 Supportive Housing for Persons with Disabilities, Application Submission Requirements—FR–3903.

OMB Control Number, if applicable: 2502–0462.

Description of the need for the information and proposed use: This information is necessary to assist HUD in determining applicant eligibility and ability to develop housing for disabled within statutory and program criteria. A thorough evaluation of an applicant's qualifications and capabilities is critical to protect the Government's financial interest and to mitigate any possibility of fraud, waste, or mismanagement of public funds.

Agency form number, if applicable: Form HUD–92016–CA.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents are 400, 41.2 hours per response, and the frequency of responses is 1.

Status of the proposed information collection: Reinstatement of previously approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 3, 1998.

Ira G. Peppercorn,

General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. 98–16043 Filed 6–16–98; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4356–N–10]

Notice of Proposed Information Collection: Comment Request

AGENCY: Office of the Assistant Secretary for Housing, Federal Housing Commissioner, 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:* August 17, 1998.

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: Oliver Walker, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW., Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Contact person, Oliver Walker, (202) 708–1694 X2144 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department is submitting 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 affecting 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: Certificate of Need (Con) for Health Facilities and Assurance of Enforcement of State Standards.

OMB Control Number, if applicable: 2502–0210.

Description of the need for the information and proposed use: This notice requests and extension of the use of Form HUD–2576–HF, Certificate of Need for Health Facility and Assurance of Enforcement of State Standards as authorized by Sections 232, 242 of the National Housing Act. These certifications are prepared by the State Agencies designated in accordance with Section 604(a)(1) or Section 1521 of the Public Health Service Act. Section 232 and 242 require State certification that

there is a need for the facility, that there are minimum standards of licensure and for operating the project, and that the standards will be enforced for the insured project.

Agency form numbers, if applicable: Form HUD–2576–HF.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents are 100, 40 hours per response, and the frequency of responses is 1.

Status of the proposed information collection: Reinstatement of previously approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 3, 1998.

Ira G. Peppercorn,

General Deputy, Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 98–16044 Filed 6–16–98; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Application to Amend an Endangered Species Act Incidental Take Permit: Inclusion of Bull Trout on the Washington Department of Natural Resources Permit for Western Washington

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Permit Amendment Application.

SUMMARY: This notice advises the public that the Fish and Wildlife Service (Service) has received a request to add bull trout (*Salvelinus confluentus*) to the species covered by an incidental take permit PRT–812521, issued to the Washington Department of Natural Resources under the Endangered Species Act (Act) on January 30, 1997. This request is pursuant to the Implementation Agreement for the Habitat Conservation Plan (Plan) accompanying incidental take permit PRT–812521. The Department of Natural Resources has requested the Service add bull trout to their permit.

DATES: Written comments regarding the application to add bull trout to the Department of Natural Resources' permit must be received on or before July 17, 1998.

ADDRESSES: Written comments should be addressed to Mr. John Engbring, Fish and Wildlife Service, 510 Desmond Drive, S.E., Suite 101, Lacey, Washington 98503; facsimile (360) 534–9331. Documents cited in this notice and comments received will be available for public inspection at the above office by appointment during normal business hours (8 a.m. to 5 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: William Vogel, Wildlife Biologist, Fish and Wildlife Service, 510 Desmond Drive, S.E., Suite 101, Lacey, Washington 98503; telephone (360) 753–4367.

SUPPLEMENTARY INFORMATION:

Background

On January 30, 1997, the Service issued an incidental take permit (PRT–812521) to the Department of Natural Resources, pursuant to Section 10(a)(1)(B) of the Endangered Species Act (Act) of 1973, as amended (16 USC 1531 *et seq.*). This permit authorizes the incidental take of the threatened northern spotted owl (*Strix occidentalis caurina*) and other listed species in the course of the otherwise lawful forest management and other land-use activities within the range of the spotted owl. Pursuant to the Plan and the Implementation Agreement, the Department of Natural Resources received assurances from the Service that then-unlisted species occurring on their lands west of the Cascade Crest would be added to the permit upon listing of those species, in accordance with the Act, the Plan, and the Implementation Agreement.

On June 8, 1998 (63 FR 31647), the Service published the final rule to list the Columbia River distinct population segment of bull trout as a threatened species. On May 20, 1998, the Service received a request from the Department of Natural Resources that bull trout be added to its incidental take permit (PRT 812521). The purpose of this notice is to seek public comment on the Department of Natural Resources' application to add bull trout to its permit.

According to the Implementation Agreement for the Department of Natural Resources permit, if any species that was unlisted at the time of permit issuance subsequently becomes listed under the Act, the Department of Natural Resources may request a permit amendment to have that species added to their permit. Under the terms of the Plan and the Implementation Agreement, the Service would add the newly listed species to the Department of Natural Resources permit without requiring additional mitigation unless extraordinary circumstances exist.

Prior to adding bull trout to the Department of Natural Resources' permit, the Service will determine if extraordinary circumstances exist and will also reinitiate consultation under section 7 of the Act to determine whether adding bull trout to the Department of Natural Resources' permit would be likely to jeopardize the continued existence or destroy modify the critical habitat of any listed species.

Bull Trout Conservation

Bull trout rely on cold, clean water. They are most closely associated with complex habitats, including large woody debris, undercut banks, boulders, and pools. Cover provides critical rearing, foraging, and resting habitat, and protection from predators. Bull trout spawn in the fall and the young have a strong association with stream bottoms, thus making them particularly vulnerable to altered stream flow patterns and channel instability. Bull trout prefer cold, low-gradient streams with loose, clean gravels for spawning and rearing. There is also a correlation between increasing road densities and declines in the health of bull trout populations. These characteristics make bull trout particularly susceptible to effects of timber-management and other stream-side and forest management activities. Historic adverse impacts to bull trout from forest management and related land-use activities included removal of large woody debris from streams and riparian areas, inputs of sediment from upslope logging and road construction, elevated stream temperatures, and transportation of logs within the channel network.

Department of Natural Resources Plan Measures

The Department of Natural Resources' Plan utilizes a combination of conservation measures that are expected to adequately minimize or mitigate the impacts of any incidental take of bull trout. All fishbearing streams (Washington State Types 1 through 3) receive a conservatively managed buffer equal in width (measured horizontally from the 100-year floodplain) to a site-potential tree height (derived from 100-year site-index curves) or 150 feet, whichever is greater. The first 25 feet is a no-harvest zone. Perennial streams without fish (Type 4) receive a 100-foot buffer. Additional information, including a description of wind buffers, can be found in the Plan at pages IV 56–59.

Inner gorges and mass-wasting areas are protected by unstable hillslope and mass wasting protection provisions of

the Plan (IV 62) and it is expected that 50 percent of the seasonal streams (Type 5) will be protected as a result of the mass-wasting protection provisions. The other 50 percent of Type 5 streams receive interim protections as necessary and will be addressed within the Type 5 research and adaptive-management component to be completed within the first 10 years of the Plan. Watershed Analysis can only increase, not decrease, the level of protection these streams receive. Road management is another critical component of the Department of Natural Resources' Plan (IV 62–68).

Provisions for the Olympic Experimental State Forest are described in the Plan on pages IV 81–86, 106–121. In general, the strategy for the Olympic Experimental State Forest provides conservation very similar to the remainder of the Department of Natural Resources Plan, but a higher emphasis is placed on research, landscape assessments, and validation monitoring.

These minimization and mitigation measures described above represent the minimum level of riparian conservation the Department of Natural Resources will provide under the Plan. Several aspects of the Plan, including riparian protection, are subject to adaptive management. To ensure that the mitigation and minimization strategies are effective, the Plan incorporates a variety of aquatic monitoring components that will provide feedback for adaptive management and, if needed, increase riparian protection.

Dated: June 11, 1998.

Ronald E. Lambertson,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 98–16056 Filed 6–16–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–924–1430–01; MTM 41504]

Public Land Order No. 7340; Opening of Lands Under Section 24 of the Federal Power Act; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order opens 1,278.84 acres of public lands in Bureau of Land Management Powersite Classification No. 334, subject to the provisions of Section 24 of the Federal Power Act. This action will permit disposal of the lands through a pending exchange and retain the waterpower rights to the United States. The lands are temporarily closed to surface entry and mining due to the pending exchange. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: June 17, 1998.

FOR FURTHER INFORMATION CONTACT: Sandra Ward, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107–6800, 406–255–2949, or Susie Williams, BLM Headwaters Resource Area, P.O. Box 3388, Butte, Montana 59702–3388, 406–494–5059.

By virtue of the authority vested in the Secretary of the Interior by the Act of June 10, 1920, Section 24, as amended, 16 U.S.C. 818 (1994), and pursuant to the determination by the Federal Energy Regulatory Commission in DVMT–243 and DVMT–247, it is ordered as follows:

1. At 9:00 a.m. on June 17, 1998, the following described public lands withdrawn by the Secretarial Order dated February 18, 1943, which established Powersite Classification No. 334, will be opened to disposal by exchange, subject to the provisions of Section 24 of the Federal Power Act, and subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law:

Principal Meridian, Montana

T. 2 S., R. 9 E.,
Sec. 34, W½SE¼.
T. 3 S., R. 9 E.,
Sec. 2, lot 2, SW¼NW¼, and SW¼;
Sec. 10, all.
T. 4 S., R. 9 E.,
Sec. 20, W½SE¼ and SE¼SE¼;
Sec. 30, lots 3 and 4, and E½SW¼;
Sec. 32, NW¼SW¼.

The areas described aggregate 1,278.84 acres in Park County.

2. The State of Montana was afforded timely notice to file an application for a reservation to the State for any lands required as a right-of-way for a highway, or as a source of materials for the construction and maintenance of such highways in accordance with the provisions of Section 24 of the Federal Power Act of June 10, 1920, as amended, 16 U.S.C. 818 (1994).

Dated: June 4, 1998.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 98–16031 Filed 6–16–98; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

National Park Service

Keweenaw National Historical Park

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability.

SUMMARY: Availability of Final General Management Plan/Final Environmental Impact Statement for the Keweenaw National Historical Park in Houghton County, Michigan.

Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, the National Park Service (NPS) announces the availability of the final General Management Plan/Final Environmental Impact Statement (GMP/FEIS) for Keweenaw National Historical Park. The draft General Management Plan/Draft Environmental Impact Statement for the park was on a 60-day public review from August 29, 1997, to October 31, 1997.

The NPS will manage resources it owns in the Quincy and Calumet Units and provide interpretive and other services in conjunction with the programs of Keweenaw National Historical Park as described in the GMP/FEIS. The action is in response to a mandate by Congress in Public Law 102–543, an Act to establish Keweenaw National Historical Park (16 U.S.C. 410yy *et seq.*). The GMP/FEIS was prepared by the NPS.

The NPS's preferred alternative for Keweenaw National Historical Park is identified in the GMP/FEIS as Alternative 4 (The Proposed Action). Under the preferred alternative, the NPS would manage NPS-owned resources and work cooperatively with landowners, local and state government agencies, and others to protect cultural and historical resources associated with the copper-mining heritage of the park. Alternative 4 includes a combination of technical and financial assistance, and a traditional park concept. The goal is to create a dynamic national park area where the NPS has a strong public presence and, through community assistance, is a contributing member of a very organized and active partnership of local government and community groups. The park boundary will remain unchanged. Any recommendations to revise the park's boundary would be developed through a future boundary study process that would include public involvement. Congressional approval would be required for any boundary changes.

Three other alternatives are also considered: Alternative 1—No Action, projects a scenario of static or reduced fiscal resources available for the management of the park resulting in a caretaker mode of operation. Alternative 2—Community Assistance, emphasizes community assistance and partnership cooperation to manage and protect

resources; the local communities would be in the forefront of implementing preservation actions and interpretative and educational programs at sites throughout the park. Alternative 3—Traditional Park in the Core Industrial Areas emphasizes a much more traditional park experience in the core industrial areas. The NPS would invest substantially in each of the core industrial areas by acquiring significant properties, conducting resource preservation and interpretive programs, and adaptively using the structures.

DATES: The ''no-action'' period for this FEIS will end thirty (30) days after the Environmental Protection Agency has listed the availability of the document in the **Federal Register**. A record of decision will follow the no action period.

FOR FURTHER INFORMATION CONTACT: Superintendent, Keweenaw National Historical Park, Frank C. Fiala, P.O. Box 471, Calumet, Michigan 49913–0471, 906–337–3168.

SUPPLEMENTARY INFORMATION: The Keweenaw National Historical Park was established by Public Law 102–543 on October 27, 1992.

Dated: June 10, 1998.

William W. Schenk,

Regional Director, Midwest Region.

[FR Doc. 98–16084 Filed 6–16–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Niobrara National Scenic River Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets the schedule for the forthcoming meeting of the Niobrara National Scenic River Advisory Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

DATES: Saturday, July 18, 1998 at 2 p.m.

ADDRESSES: Smith Falls State Park, Nebraska Group Picnic Shelter.

AGENDA: Topics include: (1) Discussion of Niobrara Council Management activities for the Niobrara National Scenic River; (2) Update of NPS and other agency actions taken or planned within the scenic river corridor; and (3) Discussion regarding the extent of future meetings and/or activities of the advisory commission. This meeting is open to the public. Interested persons may make oral/written presentation to the Commission or file written statements. Requests for time for making presentations may be made to the Superintendent prior to the meeting or to the Chairman at the beginning of the meeting. In order to accomplish the agenda for the meeting, the Chairman may want to limit or schedule public presentations. The meeting will be recorded for documentation and a summary in the form of minutes will be transcribed for dissemination. The Commission members will make minutes of the meeting available to the public after approval. Copies of the minutes may be requested by contacting the Superintendent. An audio tape of the meeting will be available at the headquarters office of the Niobrara/Missouri National Scenic Riverways in O'Neill, Nebraska.

SUPPLEMENTARY INFORMATION: The law that established the Niobrara National Scenic River, Public Law 102–50 established The Advisory Commission. The purpose of the group, according to its charter, is to advise the Secretary of the Interior on matters pertaining to the development of a management plan, and management and operation of the Scenic River. The Niobrara National Scenic River segment runs from Borman Bridge, east of Valentine, Nebraska, 76 miles downstream to State Highway 137.

FOR FURTHER INFORMATION CONTACT: Superintendent Paul Hedren, Niobrara/Missouri National Scenic Riverways, P.O. Box 591, O'Neill, Nebraska 68763–0591 or at telephone number 402–336–3970.

Dated: June 10, 1998.

William W. Schenk,

Regional Director.

[FR Doc. 98–16083 Filed 6–16–98; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701-TA–372 (Final)]

Fresh Atlantic Salmon From Chile

AGENCY: United States International Trade Commission.

ACTION: Termination of investigation.

SUMMARY: On June 9, 1998, the Department of Commerce published notice in the **Federal Register** of a negative final determination of subsidies in connection with the subject investigation (63 FR 31437, June 9, 1998). Accordingly, pursuant to section 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), the countervailing duty investigation concerning fresh Atlantic salmon from Chile (investigation No. 701–TA–372 (Final)) is terminated.

EFFECTIVE DATE: June 9, 1998.

FOR FURTHER INFORMATION CONTACT: Woodley Timberlake (202–205–3188), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained 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).

Authority: This investigation is being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 201.10 of the Commission's rules (19 CFR 201.10).

Issued: June 12, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–16129 Filed 6–16–98; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–380–382 and 731–TA–797–804 (Preliminary)]

Certain Stainless Steel Sheet And Strip From France, Germany, Italy, Japan, The Republic Of Korea, Mexico, Taiwan, And The United Kingdom

AGENCY: United States International Trade Commission.

ACTION: Institution of countervailing duty and antidumping investigations, and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase countervailing duty investigations Nos. 701–TA–380–382 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from France, Italy, and the Republic of Korea (Korea) of

certain stainless steel sheet and strip,[1] that are alleged to be subsidized by the Governments of France, Italy, and Korea. The Commission also gives notice of institution of investigations and commencement of preliminary phase antidumping investigations Nos. 731–TA–797–804 (Preliminary) under section 733(a) of the Act (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from France, Germany, Italy, Japan, Korea, Mexico, Taiwan, and the United Kingdom of certain stainless steel sheet and strip, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach preliminary determinations in countervailing duty/antidumping investigations in 45 days, or in this case by July 27, 1998. The Commission's views are due at the Department of Commerce within five business days thereafter, or by August 3, 1998.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: June 10, 1998.

FOR FURTHER INFORMATION CONTACT: Diane J. Mazur (202–205–3184), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to petitions filed on June 10, 1998, by counsel for Allegheny Ludlum Corporation; Armco, Inc.; Washington Steel Division of Bethlehem Steel Corp., the United Steelworkers of America, AFL–CIO; Butler Armco Independent Union; and Zanesville Armco Independent Organization, Inc.

Participation in the investigations and public service list

Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission countervailing duty/antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to these investigations under the APO issued in these investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on July 1, 1998, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Diane Mazur (202–205–3184) not later than June 29, 1998, to arrange for their appearance. Parties in support of the imposition of countervailing/antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before July 6, 1998, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930, as amended; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: June 12, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–16130 Filed 6–16–98; 8:45 am]

BILLING CODE 7020–02–P

[1] The products covered by these investigations are stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip products are flat-rolled products in coils that are less than 4.75 mm in thickness, and that are annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip products may also be further processed (e.g., cold-rolled, polished, aluminized, coated, etc.) provided that they maintain the specified dimensions of sheet and strip following such processing. These products, if imported, are currently classified in the following subheadings of the Harmonized Tariff Schedule of the United States (HTS): 7219.13.00, 7219.14.00, 7219.32.00, 7219.33.00, 7219.34.00, 7219.35.00, 7219.90.00, 7220.12.10, 7220.12.50, 7220.20.10, 7220.20.60, 7220.20.70, 7220.20.80, 7220.20.90, and 7220.90.00.

INTERNATIONAL TRADE COMMISSION

[USITC SE–98–010]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: June 24, 1998 at 9:30 a.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–698 (Final) (Remand) (Magnesium from Ukraine)—briefing and vote.
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: June 11, 1998.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–16201 Filed 6–15–98; 10:27 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Extension of Information Collection Request Submitted for Public Comment and Recommendations

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and other federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of the collection of information included in the alternative method of compliance for certain simplified employee pensions regulation issued pursuant to the authority of section 110 of the Employee Retirement Income Security Act of 1974 (ERISA) which authorizes the Secretary to prescribe an alternative method of compliance with the reporting and disclosure requirements of Title I of ERISA for certain simplified pension plans as described in section 408(k) of the Internal Revenue Code of 1986 (the Code), as amended (29 CFR 2520.104–49). A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before August 17, 1998. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected;
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

ADDRESSES: Interested parties are invited to submit written comments regarding the collection of information of any or all of the Agencies. Send comments to Mr. Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW., Room N–5647, Washington, DC 20210. Telephone: (202) 219–4782 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

Section 110 of ERISA authorizes the Secretary to prescribe alternative methods of compliance with the reporting and disclosure requirements of Title I of ERISA for pension plans. Simplified employee pensions (SEPs) are established in section 408(k) of the Code. Although SEPs are primarily a development of the Code subject to its requirements, SEPs are also pension plans subject to the reporting and disclosure requirements of Title I of ERISA.

The Department previously issued a regulation under the authority of section 110 of ERISA (29 CFR 2520.104–49) that intended to relieve sponsors of certain SEPs from ERISA's Title I reporting and disclosure requirements by prescribing an alternative method of compliance. These SEPs are, for purposes of this Notice, referred to as ''non-model'' SEPs because they exclude those SEPs which are created through use of Internal Revenue Service (IRS) Form 5305–SEP, and those SEPs in which the employer influences the employees as to the choice of IRAs to which employer contributions will be made and prohibits withdrawals by participants. The disclosure requirements in this regulation were developed in conjunction with the Internal Revenue Service (IRS Notice 81–1). Accordingly, sponsors of ''non-model'' SEPs who satisfy the limited disclosure requirements of the regulation are relieved from otherwise applicable reporting and disclosure requirements under Title I of ERISA, including the requirements to file annual reports (Form 5500 Series) with the Department, and to furnish summary plan descriptions (SPDs) and summary annual reports (SARs) to participants and beneficiaries.

This ICR includes specific aspects of the limited disclosure requirements for eligible ''non-model'' SEPs. The ICR generally requires timely written disclosure to employees eligible to participant in ''non-model'' SEPs, including specific information concerning: Participation requirements; allocation formulas for employer contributions; designated contact persons for further information; and for employer recommended IRAs, specific terms of the IRAs such as rates of return and any restrictions on withdrawals. Moreover, general information is required that provides a clear explanation of: the operation of the ''non-model'' SEP; participation requirements and any withdrawal restrictions; and the tax treatment of the SEP-related IRA. Furthermore, statements must be provided that inform participants of: any other IRAs under ''non-model'' SEP other than that to which employer contributions are made; any options regarding rollovers and contributions to other IRAs; descriptions of IRS disclosure requirements to participants and information regarding social security integration (if applicable); and timely notification of any amendments to the terms of the ''non-model'' SEP.

II. Current Actions

The Office of the Management and Budget's approval of this ICR will expire on September 30, 1998. The existing

collection of information should be continued because the alternative disclosure arrangement provided through this regulation relieves sponsors of ''non-model'' SEPs of most of the reporting and disclosure requirements under Title I of ERISA. Also, the disclosure requirements set forth in this regulation, insure that administrators of ''non-model'' SEPs provide participants with specific written information concerning SEPs.

Agency: Department of Labor, Pension and Welfare Benefits Administration.

Title: Alternative Method of Compliance for Certain SEPs pursuant to 29 CFR 2520.104–49.

Type of Review: Extension of a currently approved collection.

OMB Numbers: 1210–0034.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Total Respondents: 1,393.

Total Responses: 1,393.

Frequency of Response: On occasion.

Total Annual Burden: 116 hours.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: June 10, 1998.

Gerald B. Lindrew,

Deputy Director, Pension and Welfare Benefits Administration Office of Policy and Research.

[FR Doc. 98–16088 Filed 6–16–98; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Extension of Information Collection Request Submitted for Public Comment and Recommendations; Summary Annual Report Requirement Under the Employee Retirement Income Security Act of 1974 (ERISA)

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, provides 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 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of a currently approved collection of information, the Summary Annual Report Requirement under the Employee Retirement Income Security Act of 1974 (ERISA). A copy of the proposed information collection request can be obtained by contacting the individual listed below in the contact section of this notice.

DATES: Written comments must be submitted on or before August 17, 1998.

The Department of Labor (Department) is particularly interested in comments which:

- evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Gerald B. Lindrew, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Washington, D.C. 20210, (202) 219–4782 (not a toll-free number), FAX (202) 219–4745.

SUPPLEMENTARY INFORMATION:

I. Background

Section 104(b)(3) of ERISA and regulations published in 29 CFR 2520.104b–10 require, with certain exceptions, that administrators of employee benefit plans furnish participants and beneficiaries annually with material which fairly summarizes the information included in the plan's latest annual report. The regulation prescribes the format for the summary annual report (SAR), and requires that the SAR be provided within nine months after the close of the plan year.

The SAR is required to be provided to plan participants and beneficiaries to ensure that they are informed concerning the financial operation and condition of their plans. These disclosures to plan participants assist the Department in its enforcement responsibilities by providing participants with sufficient information to exercise their rights under ERISA.

II. Current Actions

The Department of Labor, Pension and Welfare Benefits Administration, intends to request that the Office of Management and Budget extend the approval of the ICR included in the SAR regulation published at 29 CFR 2520.104b–10 beyond its September 30, 1998 expiration date. The basic requirement for summarizing the annual report for participants is established by ERISA section 104(b)(3), while the regulation offers specific guidance on the statutory requirement so that participants may be adequately and timely informed concerning the financial operation and condition of their benefit plans.

Type of Review: Extension.

Agency: Pension and Welfare Benefits Administration.

Title: ERISA Summary Annual Report Requirement.

OMB Number: 1210–0040.

Affected Public: Business or other for-profit, Not-for-profit institutions, Individuals.

Total Respondents: 794,205.

Frequency: Annually.

Total Responses: 222,320,138.

Estimated Total Burden Hours: 5,878,021.

Total Annual Cost (operating and maintenance): $83.7 million.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: June 11, 1998.

Gerald B. Lindrew,

Deputy Director, Pension and Welfare Benefits Administration, Office of Policy and Research.

[FR Doc. 98–16089 Filed 6–16–98; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts, Combined Arts Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463, as amended, notice is

hereby given that a meeting of the Combined Arts Panel, Music Section B (Creation & Presentation Category) to the National Council on the Arts will be held on July 21–24, 1998. The panel will meet from 9:00 a.m. to 6:00 p.m. on July 21 and 22, from 9:00 a.m. to 4:00 p.m. on July 23, and from 9:00 a.m. to 1:00 p.m. on July 24, in Room M–07 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506. A portion of this meeting, from 1:30 to 4:00 p.m. on July 24, will be open to the public for a policy discussion on field needs Leadership/ Millennium initiatives, and guidelines.

The remaining portions of this meeting, from 9:00 a.m. to 6:00 p.m. on July 21 and 22, from 9:00 a.m. to 1:30 p.m. on July 23, and from 9:00 a.m. to 1:00 p.m. on July 24, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 14, 1998, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: June 11, 1998.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 98–16070 Filed 6–16–98; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

National Endowment for the Arts, Combined Arts Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Panel, Music Section A (Creation & Presentation Category) to the National Council on the Arts will be held on July 13–16, 1998. The panel will meet from 9:00 a.m. to 6:00 p.m. on July 13 and 14, from 9:00 a.m. to 4:00 p.m. on July 15, and from 9:00 a.m. to 1:00 p.m. on July 16, in Room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, D.C., 20506. A portion of this meeting, from 1:30 to 4:00 p.m. on July 15, will be open to the public for a policy discussion on field needs, Leadership/Millennium initiatives, and guidelines.

The remaining portions of this meeting, from 9:00 a.m. to 6:00 p.m. on July 13 and 14, from 9:00 a.m. to 1:30 p.m. on July 15, and from 9:00 a.m. to 1:00 p.m. on July 16, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 14, 1998, these sessions will be closed to the public pursuant to subsection (c)(4),(6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, D.C. 20506, call 202/682–5691.

Dated: June 11, 1998.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations National Endowment for the Arts.

[FR Doc. 98–16071 Filed 6–16–1998; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts, Combined Arts Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that the time of the open session of the meeting of the Combined Arts Panel, Media Arts Section A (Creation & Presentation/Planning & Stabilization Categories) to the National Council on the Arts was listed incorrectly in the original announcement. The meeting will be open to the public from 9:00 to 10:30 a.m. on June 24.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, D.C., 20506, or call 202/682–5691.

Dated: June 11, 1998.

Kathy Plowitz-Worden,

Panel Coordinator/Panel Operations, National Endowment for the Arts.

[FR Doc. 98–16072 Filed 6–16–98; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* NRC Form 212, Qualifications Investigation, and NRC Form 212A, Qualifications Investigation Secretarial/Clerical.

3. *The form number if applicable:* NRC Form 212, NRC Form 212A.

4. *How often the collection is required:* Whenever Human Resources' specialists determine qualification investigations are required in conjunction with applications for employment related to vacancies.

5. *Who will be required or asked to report:* Supervisors, former supervisors, and/or other references of external applicants.

6. *An estimate of the number of responses:* NRC Form 212, 1400 annually, NRC Form 212A, 300 annually.

7. *The estimated number of annual respondents:* NRC Form 212, 1400 annually, NRC Form 212A, 300 annually.

8. *An estimate of the total number of hours needed annually to complete the requirement or request.* NRC Form 212, 350 hours (15 minutes per response), NRC Form 212A, 75 hours (15 minutes per response).

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Not applicable.

10. *Abstract:* Information requested on NRC Forms 212 and 212A is used to determine the qualifications and suitability of external applicants for employment in professional and secretarial or clerical positions with the NRC. The completed form may be used to examine, rate and/or assess the prospective employee's qualifications. The information regarding the qualifications of applicants for employment is reviewed by professional personnel of the Office of Human Resources, in conjunction with other information in the NRC files, to determine the qualifications of the applicant for appointment to the position under consideration.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov) under the FedWorld collection link on the home page tool bar. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer by July 17, 1998.

Erik Godwin, Office of Information and Regulatory Affairs (3150–0033 and 3150–0034), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 9th day of June 1998.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–16020 Filed 6–16–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–295/304–LA, ASLBP No. 98–744–04–LA]

Commonwealth Edison Company; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 F.R. 28710 (1972), and Sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717, 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to preside over the following proceeding.

Commonwealth Edison Company

Zion Nuclear Power Station

This Board is being established pursuant to a petition to intervene submitted by Edwin D. Dienethal. The petition was filed in response to a notice of a proposed determination that the issuance of a license amendment to the Commonwealth Edison Company for the Zion Nuclear Power Station would involve no significant hazards considerations. The license amendment would make several technical specification changes, reinstate license conditions that were deleted by a previous amendment and modify staffing requirements and management titles to reflect a shutdown status. The notice was published in the **Federal Register** at 63 FR 25101, 25105 (May 6, 1998).

The Board is comprised of the following administrative judges:

Thomas S. Moore, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dr. Jerry R. Kline, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Frederick J. Shon, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All correspondence, documents and other materials shall be filed with the Judges in accordance with 10 C.F.R. 2.701.

Issued at Rockville, Maryland, this 11th day of June 1998.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 98–16124 Filed 6–16–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–269 and 50–287]

Duke Energy Corporation; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity For a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–38 and DPR–55, issued to the Duke Energy Corporation (the licensee), for operation of the Oconee Nuclear Station, Units 1 and 3, respectively, located in Seneca, South Carolina.

If approved, the proposed amendments would amend the Oconee Nuclear Station, Units 1 and 3 Technical Specifications (TS) to allow continued operation with certain steam generator tubes that exceed their repair limit as a result of tube end anomalies (TEAs). These tubes would be temporarily exempt from the requirement for sleeving, rerolling, or removal from service until repaired during the next scheduled refueling outages for the respective unit or plant conditions that result in an extended cold shutdown of greater than 7 days.

Oconee TS Section 4.17.2, Steam Generator Tubing Surveillance Acceptance Criteria, requires that the steam generators be operable and all tubes that are examined and found to exceed their repair criteria be repaired by sleeving or rerolling, or removed from service. During the recent Unit 2 refueling outage, several indications of TEAs were found and repaired. As a result, a detailed reanalysis of the Unit 1 and 3 steam generator tube surveillance data that was obtained during the previous refueling outages for each unit was conducted. This reanalysis determined that 372

indications out of 2951 TEAs not previously repaired for Unit I and 61 out of 66 TEAs not previously repaired on Unit 3 extended beyond the upper surface of the tubesheet clad. These indications, if they had been found during the respective refueling outages, would have met the criteria for repair during the outage.

When these findings were discussed with the staff on June 3, 1998, a Notice of Enforcement Discretion was issued verbally on June 3, 1998, to exercise discretion not to enforce compliance with TS 4.17.2 for the Unit 1 and Unit 3 steam generator tubes that exceed the repair limit as a result of TEAs for the period from 12:25 p.m. on June 3, 1998, until issuance of the related amendments. The request for license amendments was submitted by letter dated June 4, 1998. Since the proposed amendments are designed to complete the review process and implement the proposed TS changes, pursuant to the NRC's policy regarding exercising discretion for an operating facility set out in Section VII.c of the ''General Statement of Policy and Procedures for NRC Enforcement Actions'' (Enforcement Policy), NUREG–1600, and be effective for the period until the issuance of the related TS amendments, these circumstances require that the amendments be processed under exigent circumstances.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

[This proposed change has been evaluated against the standards in 10 CFR 50.92 and has been determined to involve no significant hazards, in that operation of the facility in accordance with the proposed amendment would not:]

1. Involve a significant increase in the probability or consequences of an accident previously evaluated:

This evaluation addresses the potential effects of a missed surveillance and repair opportunity for steam generator tubes. As described in the technical justification, operating with some steam generator tubes with TEAs and repairable indications in Units 1 and 3 does not increase the probability of an accident evaluated in the SAR [Safety Analysis Report] because this condition is not an accident initiator. There is no physical change to the plant SSCs [structures, systems, components] or operating procedures. Neither electrical power systems, nor important to safety mechanical SSCs will be adversely affected. The steam generators have been evaluated as operable for normal and accident conditions. There are no shutdown margin, reactivity management, or fuel integrity concerns.

This activity will not adversely affect the ability to mitigate any SAR described accidents. The total evaluated main steam line break leakage from the areas evaluated is 0.023 gpm [gallons per minute] for Unit 1 which is the limiting unit. The resulting leakage was considerably less than that assumed in the off site dose analysis of 0.7 gpm for each unit. Therefore both Units 1 and 3 met the MSLB [Main Steamline Break] leakage requirements for steam generator integrity with no compensatory actions required. There is no adverse impact on containment integrity, radiological release pathways, fuel design, filtration systems, main steam relief valve setpoints, or radwaste systems.

There is no increase in accident initiation likelihood or consequences, therefore analyzed accident scenarios are not impacted.

2. Create the possibility of a new or different kind of accident from any kind of accident previously evaluated:

There is no increased risk of unit trip, or challenge to the RPS [Reactor Protection System] or other safety systems. There is no physical effect on the plant, i.e., none on RCS [Reactor Coolant System] temperature, boron concentration, control rod manipulations, core configuration changes, and no impact on nuclear instrumentation. There is no increased risk of a reactivity excursion. No new failure modes or credible accident scenarios are postulated from this activity. The MSLB scenario has been evaluated and the potential for damage to the steam generator tubes is not increased.

3. Involve a significant reduction in a margin of safety[:]

No function of any important to safety SSC will be adversely affected or degraded as a result of continued operation. No safety parameters, setpoints, or design limits are changed. There is no adverse impact to the nuclear fuel, cladding, RCS, or required containment systems. Therefore, the margins of safety as defined in the bases to any Technical Specifications are not reduced as a result of this change.

Duke [Duke Energy Corporation] has concluded, based on the above, that there are no significant hazards considerations involved in this amendment request.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 14-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By July 16, 1998, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for

Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendments are issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendments and make them immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mr. J. Michael McGarry, III, Winston and Strawn, 1200 17th Street, NW., Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(l)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated June 4, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina.

Dated at Rockville, Maryland, this 10th day of June 1998.

For the Nuclear Regulatory Commission.

David E. LaBarge,

Senior Project Manager, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–16019 Filed 6–16–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. IA 97–070; ASLBP No. 98–734–01–EA]

Atomic Safety and Licensing Board; Notice of Evidentiary Hearing

June 10, 1998.

In the Matter of: Magdy Elamir, M.D., Newark, New Jersey; Order Superseding Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately).

This proceeding concerns the request of Magdy Elamir, M.D., for a hearing with respect to the Order Superseding Order Prohibiting Involvement in NRC Licensed Activities (Effective Immediately), dated September 15, 1997, published at 62 FR 49536 (September 22, 1997). The parties to the proceeding are Dr. Elamir and the NRC Staff. The issue to be considered is whether the Superseding Order should be sustained—in particular, whether the NRC Staff's currently effective suspension of Dr. Elamir from engaging in NRC-licensed activities should be continued for a period of five years from July 31, 1997, as a result of alleged deliberate violations of NRC requirements.

Notice is hereby given that, as set forth in the Atomic Safety and Licensing Board's Memorandum and Order (Telephone Conference: Lifting of Stay; Schedules for Proceeding and Hearing), dated May 1, 1998, the evidentiary hearing in this proceeding will commence on Tuesday, July 14, 1998, beginning at 9:30 a.m., at Room 204–205

(second floor), 970 Broad Street (enter on Walnut Street), Newark, New Jersey 07102. The hearing will continue, to the extent necessary, on July 15–16, 1998, at that same location, beginning at 9:00 a.m. each day. (The sessions are expected to adjourn at approximately 5:00 p.m. daily.)

As provided by our May 1, 1998 Memorandum and Order, and consistent with 10 CFR 2.743(b)(3), written direct testimony of the parties need not be utilized, but the parties must have in our hands by Wednesday, July 8, 1998, lists of witnesses and documents they propose to use, together with statements of the qualifications of those witnesses (*curriculum vitae*). (If either of the parties elects to use prefiled written direct testimony, such testimony should be filed so as to be in our hands by July 8, 1998.)

Notice is also hereby given that, in accordance with 10 CFR 2.715(a), the Licensing Board will hear oral limited appearance statements on Tuesday, July 14, 1998, at the outset of the hearing and in the aforementioned hearing room. A person not a party to the proceeding will be permitted to make such a statement, setting forth his or her position on the issues. The number of persons making oral statements and the time allotted for each statement may be limited depending on the number of persons present at the designated time. (Normally, each oral statement may extend for up to five (5) minutes.) These statements do not constitute testimony or evidence but may assist the Licensing Board and parties in defining the scope of the issues in the proceeding.

Requests to make oral statements may be submitted to the Office of the Secretary, Docketing and Service Branch, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of each such request should also be submitted to Judge Charles Bechhoefer, Chairman of this Licensing Board, U.S. Nuclear Regulatory Commission, ASLBP, T–3 F23, Washington, D.C. 20555.

Documents relating to this proceeding are on file at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C. 20555, and at the Commission's Region I office, 475 Allendale Road, King of Prussia, Pennsylvania 19406–1415.

Rockville, Maryland, June 10, 1998.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman, Administrative Judge.

[FR Doc. 98–16013 Filed 6–16–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–387/50–388]

Pennsylvania Power and Light Company; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Pennsylvania Power and Light Company (the licensee) to withdraw its October 24, 1994, application for proposed amendment to Facility Operating License Nos. NPF–14 and NPF–22 for Susquehanna Steam Electric Station, Units 1 and 2, located in Luzerne County, Pennsylvania.

The proposed amendment would have revised the Technical Specifications pertaining to title/organizational changes.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on December 21, 1994 (59 FR 65820). However, by letter dated June 3, 1998, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated October 24, 1994, and the licensee's letter dated June 3, 1998, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Dated at Rockville, Maryland, this 11th day of June 1998.

For the Nuclear Regulatory Commission.

Victor Nerses,

Project Manager, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–16109 Filed 6–16–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–387/50–388]

Pennsylvania Power and Light Company; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Pennsylvania Power and Light Company (the licensee) to withdraw its February 29, 1996, application for proposed amendment to Facility Operating License Nos. NPF–14 and NPF–22 for Susquehanna Steam Electric Station, Units 1 and 2, located in Luzerne County, Pennsylvania.

The proposed amendment would have revised the Technical Specifications to delete the Rod Block Monitor.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on April 10, 1996 (61 FR 15994). However, by letter dated March 6, 1998, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated February 29, 1996, and the licensee's letter dated March 6, 1998, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Dated at Rockville, Maryland, this 11th day of June 1998.

For The Nuclear Regulatory Commission.

Victor Nerses,

Project Manager, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–16134 Filed 6–16–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket 72–16]

Virginia Electric and Power Company, Issuance of Environmental Assessment and Finding of No Significant Impact Regarding the Proposed Exemptions From Requirements of 10 CFR Part 72

By letter dated April 29, 1998, Virginia Electric and Power Company, (Virginia Power or applicant) requested exemptions, pursuant to 10 CFR 72.7, from the requirements of 10 CFR 72.44(d)(3) and 72.72(d). Virginia Power is seeking a Nuclear Regulatory Commission (NRC) license to construct and operate an independent spent fuel storage installation (ISFSI) at the site of its North Anna Power Station (NAPS) located in Louisa County, Virginia.

Environmental Assessment (EA)

Identification of Proposed Action

By letter dated May 9, 1995, as supplemented, and pursuant to 10 CFR Part 72, Virginia Power submitted an application for an NRC license for a North Anna ISFSI. This application is currently under consideration by the NRC staff. By letter dated April 29, 1998, the applicant requested an exemption from the requirements of 10 CFR 72.44(d)(3) and 77.72(d) for the North Anna ISFSI.

The requirements of 10 CFR 72.44(d)(3) states in part that ''An annual report be submitted to the appropriate regional office specified in Appendix A of Part 73 of this chapter, with a copy to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC, 20555, within 60 days after January 1 of each year, specifying the quantity of each of the principal radionuclides released to the environment in liquid and gaseous effluents during the previous 12 months of operation * * *'' Specifically, the applicant proposes to submit a single NAPS Effluent Release Report encompassing the North Anna power reactors licensed under 10 CFR Part 50 and the proposed ISFSI which would be licensed pursuant to 10 CFR Part 72. The applicant also proposes to submit that report by May 1 of each year rather than within 60 days of January 1 as prescribed in 10 CFR 72.44(d)(3).

The applicant also requested an exemption from the requirements of 10 CFR 72.72(d), which states in part that ''Records of spent fuel and high level radioactive waste in storage must be kept in duplicate. The duplicate set of records must be kept at a separate location sufficiently remote from the original records that a single event would not destroy both sets of records.'' The applicant proposes to maintain a single set of records of spent fuel in storage at a records storage facility that satisfies the standards set forth in ANSI N45.2.9–1974.

Separately, the staff is considering issuance of an exemption from the requirements of 10 CFR 72.124(b) which state that ''When practicable the design of an ISFSI or MRS [monitored retrievable storage installation] must be based on favorable geometry, permanently fixed neutron absorbing materials (poisons), or both. Where solid neutron absorbing materials are used, the design shall provide for positive means to verify their continued efficacy.'' Specifically, the staff is considering granting an exemption from the requirement to verify continued efficacy of neutron absorbing materials.

The proposed action before the Commission is whether to grant these exemptions pursuant to 10 CFR 72.7.

Need for the Proposed Action

The applicant is preparing to operate the North Anna ISFSI described in the May 9, 1995, application subject to issuance of an NRC license pursuant to 10 CFR Part 72. The applicant is implementing the necessary processes and procedures to operate the ISFSI and seeks to have those processes make efficient use of resources. With regard to annual effluent release reporting, the applicant already prepares and submits effluent release reports for the NAPS by May 1 of each year pursuant to the NAPS Technical Specifications. The NAPS effluent release report provides the same type of data and is generated by the same licensee program as would the annual effluent release report for the ISFSI. The applicant states that submittal of separate reports for the NAPS and the ISFSI would entail duplication of report preparation and verification data.

With regard to duplicate record storage for spent fuel records, the applicant stated that, pursuant to 10 CFR 72.140(d), the Virginia Power Operational Quality Assurance (QA) Program Topical Report will be used to satisfy the QA requirements for the ISFSI. The QA Program Topical Report states that QA records are maintained in accordance with commitments to ANSI N45.2.9–1974. ANSI N45.2.9–1974 allows for the storage of QA records in a duplicate storage location sufficiently remote from the original records or in a records storage facility subject to certain provisions designed to protect the records from fire and other adverse conditions. The applicant seeks to streamline and standardize recordkeeping procedures and processes for the NAPS and the North Anna ISFSI spent fuel records. The applicant states that requiring a separate method of record storage for ISFSI records diverts resources unnecessarily.

ANSI N45.2.9–1974 provides standards for the protection of nuclear power plant quality assurance records against degradation. It specifies design standards for use in the construction of record storage facilities when use of a single storage facility is desired. It includes specific standards for protection against degradation mechanisms such as fire, humidity and condensation. The standards in ANSI N45.2.9–1974 have been endorsed by the NRC in Regulatory Guide 1.88, ''Collection, Storage and Maintenance of Nuclear Power Plant Quality Assurance Records,'' as adequate for satisfying the record keeping requirements of 10 CFR 50, Appendix B. The standards of ANSI N45.2.9–1974 also satisfy the requirements of 10 CFR 72.72 by providing for adequate maintenance of records regarding the identity and history of the spent fuel in storage. Such records would be subject to, and need to be protected from the same types of degradation mechanisms, as nuclear power plant quality assurance records.

With regard to verification of neutron poison efficacy, the exemption is necessary to ensure that the licensing process for the North Anna ISFSI takes into account previous staff conclusions that fixed neutron poisons in the TN–32 storage cask will remain effective over the 20-year period of the license. Periodic verification of neutron poison effectiveness is not possible for the TN–32 cask and, consistent with the staff's conclusion described above, is not necessary.

Environmental Impacts of the Proposed Action

The Environmental Assessment (EA) for the license application for the North Anna ISFSI (62 FR 16202, April 4, 1997) considered the potential environmental impacts of construction and operation of an ISFSI at the North Anna site. The proposed actions now under consideration would not change the potential environmental effects assessed in the April 4, 1997, EA. Specifically, there are no environmental impacts associated with the submittal date for the annual effluent release report. Notwithstanding the fact that the ISFSI is not expected to generate any effluents under normal or accident conditions, the submittal date for the required effluent release report does not change the amount of effluent to be reported and, thus, has no impact on the environment.

With regard to record storage, elimination of the requirement to store ISFSI records at a duplicate facility has no impact on the environment. Storage of records does not change the methods by which spent fuel will be handled and stored at the NAPS and ISFSI and does not change the amount of any effluents, radiological or non-radiological, associated with the ISFSI.

With regard to verification of neutron absorber efficacy, the applicant has proposed to use the TN–32 cask at the North Anna ISFSI. The TN–32 cask design includes fixed neutron absorbers but does not provide for periodic verification of neutron absorber efficacy. The staff previously evaluated the efficacy of the TN–32 cask fixed neutron

absorbers. In NRC's November 7, 1996, safety evaluation of the TN–32 cask Safety Analysis Report, the staff concluded that fixed neutron poisons in the TN–32 cask will remain effective for the 20-year storage period. The applicant evaluated the criticality and radiological aspects of the North Anna ISFSI based on use of the TN–32 cask, as described in the North Anna ISFSI Safety Analysis Report. Consistent with the staff conclusions in the November 7, 1996, safety evaluation, the applicant did not propose any verification of TN–32 cask neutron absorber efficacy. The staff evaluated the environmental effects of the North Anna ISFSI and issued its findings in the April 4, 1997, EA. Granting an exemption from the requirements of 10 CFR 72.124(b) will have no environmental impact because the staff has determined, through its safety evaluation of the TN–32 cask, that periodic verification of the neutron absorber efficacy is not needed to assure that the fixed neutron poisons in the TN–32 cask will remain effective during the storage period.

Alternative to the Proposed Action

Since there are no environmental impacts associated with the proposed actions, alternatives are not evaluated other than the no action alternative. The alternative to the proposed action would be to deny approval of the exemption and, therefore, not allow (1) submittal of an annual effluent release report by May 1 rather than within 60 days of January 1, or (2) storage of ISFSI spent fuel records at a single qualified record storage facility, or (3) elimination of the requirement to verify the efficacy of neutron absorbing materials. These alternatives would have the same, or greater, environmental impacts.

Agencies and Persons Consulted

An official from the State of Virginia Bureau of Radiological Health was contacted about the EA for the proposed action and had no concerns.

Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR Part 51. Based upon the foregoing EA, the Commission finds that the proposed action of (1) granting an exemption from 10 CFR 72.44(d)(3) so that Virginia Power may submit an annual effluent release report by May 1 of each year, (2) granting an exemption from 10 CFR 72.72(d) so that Virginia Power may store records of spent fuel stored at the ISFSI in a single record storage facility which meets the standards of ANSI N45.2.9–1974, and (3) granting an exemption from 10 CFR 72.124(b) so that Virginia Power need not verify the efficacy of the neutron absorbing material in ISFSI storage casks will not significantly impact the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

This application was docketed under 10 CFR Part 72, Docket 72–16. For further details with respect to this action, see the application for an ISFSI license dated May 9,1995, and the request for exemption dated April 29, 1998, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20555, and the Local Public Document Room at the University of Virginia, Alderman Library, Charlottesville, Virginia 22903.

Dated at Rockville, Maryland, this 10th day of June 1998.

For the Nuclear Regulatory Commission.

William F. Kane,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98–16018 Filed 6–16–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Advanced Reactor Designs; Notice of Meeting

The ACRS Subcommittee on Advanced Reactor Designs will hold a meeting on July 6–7, 1998, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

A portion of the meeting may be closed to public attendance to discuss Westinghouse proprietary information per 5 U.S.C. 552b(c)(4) and safeguards information per 5 U.S.C. 552b(c)(3) related to the AP600 design.

The agenda for the subject meeting shall be as follows:

Monday, July 6, 1998—8:30 a.m. until the conclusion of business

Tuesday, July 7, 1998—8:30 a.m. until the conclusion of business

The Subcommittee will continue its review of the Westinghouse AP600 design. Specifically, the Subcommittee will review issues identified by ACRS members at previous meetings related to the AP600 design. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, Westinghouse Electric Company, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Mr. Noel F. Dudley (telephone 301/415–6888) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: June 11, 1998.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 98–16094 Filed 6–16–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on July 7, 1998, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss

organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows: Tuesday, July 7, 1998—12:15 p.m.—1:30 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. It may also discuss the qualifications of candidates for appointment to the ACRS. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff person named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting the cognizant ACRS staff person, Dr. John T. Larkins (telephone: 301/415–7360) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: June 11, 1998.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 98–16095 Filed 6–16–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

DATE: Weeks of June 15, 22, 29, and July 6, 1998.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of June 15

Wednesday, June 17

10:00 a.m.—Briefing by National Mining Association on Regulation of the Uranium Recovery Industry (PUBLIC MEETING)

11:30 A.M.—Affirmation Session (PUBLIC MEETING) (If needed)

2:00 p.m.—Meeting with Advisory Committee on Medical Uses of Isotopes (ACMUI) and Briefing on Part 35 QM Rule (PUBLIC MEETING) (Contact: Larry Camper, 301–415–7231)

Week of June 22—Tentative

Thursday, June 25

9:30 a.m.—Briefing by IG on Results of NRC Organization Safety Culture and Climate Survey (PUBLIC MEETING)

11:30 a.m.—Affirmation Session (PUBLIC MEETING) (If needed)

2:00 p.m.—Briefing on EEO Program (PUBLIC MEETING)

Week of June 29—Tentative

Tuesday, June 30

10:00 a.m.—Meeting with Commonwealth Edison (PUBLIC MEETING) (Contact: Bob Capra, 301–415–1430)

11:30 a.m.—Affirmation Session (PUBLIC MEETING) (if needed)

2:00 p.m.—Briefing on Performance Assessment Progress in HLW, LLW, and SDMP (PUBLIC MEETING)

Week of July 6—Tentative

Thursday, July 9

11:30 a.m.—Affirmation Session (PUBLIC MEETING) (if needed)

*THE SCHEDULE FOR COMMISSION MEETINGS IS SUBJECT TO CHANGE ON SHORT NOTICE TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING)—301) 415–1292. CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

* * * * *

ADDITIONAL INFORMATION: By a vote of 4–0 on June 5, the Commission determined pursuant to U.S.C. 552b(e) and 10 CFR Sec. 9.107(a) of the Commission's rules that ''Affirmation of (a) Hydro Resources, Inc. Docket No. 40–8968–ML, Memorandum and Order (Denying Motion for Stay and Request for Prior Hearing, Lifting Temporary Stay Denying Motions to Strike and for Leave for Reply), LBP–98–5, (b) Proposed Licenses to Export High Enriched Uranium (HEU) for Production of Medical Isotopes at the Canadian NRU (XSNM3012) and Maple Reactors (XSNM3013), and (c) Hydro Resources, Inc. Docket No. 40–8968–ML, Memorandum and Order (Denial Of Motion to Disqualify Presiding Officer), LBP–98–11'' be held on June 5, and on less than one week's notice to the public.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, DC 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

* * * * *

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 98–16175 Filed 6–12–98; 4:44 pm]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving no Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from May 22,

1998, through June 5, 1998. The last biweekly notice was published on June 3, 1998 (63 FR 30261).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed no Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administration Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By July 17, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact.

Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission,

Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Commonwealth Edison Company, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois
Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendment request: May 18, 1998.

Description of amendment request: Change various technical specification (TS) values to conservatively reflect design values. These TS values affect: (1) 125/250 volts direct current (Vdc) electrolyte temperature; (2) control rod drive accumulator pressure; (3) standby liquid control solution temperature; (4) ultimate heat sink minimum water level; (5) shutdown suppression chamber level (Quad Cities only); and (6) degraded voltage setpoint (Quad Cities only).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed changes to certain Technical Specification acceptance values are conservative and serve to ensure operability of equipment important to safety. By ensuring equipment availability, the probability or consequences of an accident previously evaluated are not increased. In addition, the proposed changes have no impact on any initial condition assumptions for accident scenarios. Onsite or offsite dose consequences resulting from an event previously evaluated are not affected by this proposed amendment request.

Accordingly, there is no significant change in the probability or consequences of an accident previously evaluated.

Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed license amendment provides changes in certain Technical Specification values to restore margin and ensure equipment operability. Each proposed change is conservative with respect to current requirements. The proposed amendment does not involve any plant physical changes that would create the possibility of a new or different kind of accident from any accident previously evaluated.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Does the change involve a significant reduction in a margin of safety?

The proposed change does not involve a significant reduction in a margin of safety. In fact, the proposed changes restore margin and ensure equipment operability. Since the changes maintain the necessary level of system reliability, they do not involve a significant reduction in the margin of safety.

Therefore, the change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: for Dresden, Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450; for Quad Cities, Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Project Director: Stuart A. Richards.

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station Unit No. 1, Oswego County, New York

Date of application for amendment: May 2, 1998, as supplemented May 21, and 23 (three letters), 1998.

Brief description of amendment: This amendment changed Technical Specification (TS) 3/4.6.2, ''Protective Instrumentation,'' and its associated Bases to reflect modifications to the initiation instrumentation for the Control Room Air Treatment System. It also changed TS 3.2.4a, ''Reactor Coolant Activity,'' and added an additional condition to the operating license.

Date of issuance: May 23, 1998.

Effective date: As of the date of issuance to be implemented prior to resumption of power operation.

Amendment No.: 161.

Facility Operating License No. DPR–63: Amendment revises the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: Yes (63 FR 27601 dated May 19, 1998. The notice recognized the existence of exigent circumstances pursuant to 10 CFR 50.91(a)(6) and provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. The notice published May 19, 1998, also provided for an opportunity to request a hearing by June 1, 1998 (this will be corrected to June 18, 1998, by a notice to be published in the near future), but indicated that if the Commission makes a final no significant hazards consideration determination, any such hearing would take place after issuance of the amendment. Subsequent to publishing the notice, and due to schedule improvements which have occurred at the plant, the Commission has determined that the amendment should be issued on an emergency basis pursuant to 10 CFR 50.91(a)(5). The Commission's related evaluation of the amendment, finding of emergency circumstances, consultation with the State of New York, and final no significant hazards consideration determination are contained in a Safety Evaluation date May 23, 1998.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State

University of New York, Oswego, New York 13126.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW, Washington, DC 20005–3502.

NRC Project Director: S. Singh Bajwa.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: May 14, 1998.

Description of amendment request: The proposed amendment would change the Technical Specifications (TSs) for the Reactor Protection System (RPS) and the Engineered Safety Features Actuation System (ESFAS) instrumentation by restricting the time most RPS and ESFAS actuation channels can be in the bypass position to 48 hours. The current TSs have no time limit. The proposed amendment would also modify the TS action requirements and the channel calibration requirements for the loss of turbine load reactor trip function, and the channel calibration requirements for the wide range logarithmic neutron flux monitors; add a note to exclude the neutron detectors from the channel calibration requirements; correct a reference to a TS surveillance requirement; and correct errors that have been identified.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to restrict the time most of the reactor protection or engineered safety feature actuation channels can be in the bypass position to 48 hours, from an indefinite period of time, has no effect on the design of the Reactor Protection System (RPS) or the Engineered Safety Feature Actuation System (ESFAS), and does not affect how these systems operate. In addition, this will minimize the susceptibility of these systems to the remote possibility of fault propagation between channels. The pressurizer high pressure reactor protection channels will not be required to be placed in the tripped condition after 48 hours. A failed pressurizer high pressure channel will be allowed to remain in the bypassed condition for up to 30 days. If the failed pressurizer high pressure channel was placed in the tripped condition, and then a high failure of another pressurizer high pressure channel occurred, the reactor would trip and both pressurizer power operated relief valves (PORVs) would open, resulting in an undesired loss of primary coolant. Limiting the time that a failed pressurizer high pressure reactor protection channel can be in bypass to 30 days will minimize the risk of the inadvertent opening of both PORVs, as well as the risk associated with fault propagation between channels. These systems will still function as designed to mitigate design basis accidents. Therefore, this change does not significantly increase the probability or consequences of an accident previously evaluated.

The proposed change to increase the time a second RPS or ESFAS channel can be removed from service (from 2 hours to 48 hours), provided one of the inoperable channels is placed in the tripped condition, has no effect on the design of the RPS or ESFAS and does not affect how these systems operate. These systems will still function as designed to mitigate design basis accidents.

However, one of the proposed changes will allow two pressurizer pressure reactor protection channels to be removed from service (one channel in the tripped condition and one channel in the bypassed condition) for 48 hours instead of the current 2 hour time limit. With a pressurizer pressure channel in the tripped condition, the high failure of a second pressurizer pressure channel would initiate a reactor trip, open both pressurizer PORVs, and cause an undesired loss of primary coolant. Thus, this change will increase the probability of occurrence of a previously evaluated accident (FSAR [Final Safety Analysis Report] Section 14.6.1—Inadvertent Opening of a Pressurized Water Reactor Pressurizer Pressure Relief Valve). However, since this configuration will only be allowed for an additional 46 hours, the increase in the probability of occurrence of a previously evaluated accident will be limited to an acceptable value. Therefore, this change does not significantly increase the probability or consequences of an accident previously evaluated.

The proposed change to apply a more restrictive action statement to the loss of turbine load reactor trip function has no effect on the design of this trip function and does not affect how this trip function operates. Also, this trip function is not assumed to operate to mitigate any design basis accident.

Therefore, this change does not significantly increase the probability or consequences of accident previously evaluated.

The proposed change to require a channel calibration every 18 months for the loss of turbine load reactor trip function and for the wide range logarithmic neutron flux monitors has no effect on the design of either the loss of turbine load reactor trip function or the wide range logarithmic neutron flux monitors. Also, neither of these are assumed to operate to mitigate any design basis accident. Therefore, this change does not significantly increase the probability or consequences of an accident previously evaluated.

The proposed change to exclude the neutron detectors from the channel calibration requirement has no effect on the design of the neutron detectors and has no significant effect on how these detectors operate. The detectors are passive devices with minimal drift. In addition, slow changes in the sensitivity of the linear power range flux detectors is compensated for by performing the daily calorimetric calibration and the monthly calibration using the incore detectors. These detectors will still function as designed to mitigate design basis accidents. Therefore, this change does not significantly increase the probability or consequences of an accident previously evaluated.

The proposed change to correct the surveillance requirement referenced in an action statement has no effect on the design of the ESFAS and does not affect how this system operates. The ESFAS will still function as designed to mitigate design basis accidents. Therefore, this change does not significantly increase the probability or consequences of an accident previously evaluated.

The proposed change to add a reference to the reactor coolant pump low speed reactor trip function to a note that states this trip may be bypassed when [less than] 5 [percent] power, and that the bypass must be automatically removed when [greater than or equal to] 5 [percent] power will not effect this reactor trip function. This bypass capability currently exists in the design of the Millstone Unit No. 2 RPS, and is the same bypass feature referenced for the reactor coolant flow low reactor trip function. Both of these reactor trip functions provide protection for a reduction in RCS [Reactor Coolant System] flow. The addition of this note will not result in any technical change to the Millstone Unit No. 2 RPS. The RPS will continue to function as before. Therefore, this change does not significantly increase the probability or consequences of an accident previously evaluated.

The proposed change to correct the power level high trip setpoint on Technical Specification Page 2–4 will not result in any change to the actual plant setpoint for this RPS trip function. As a result of this proposed change, the setpoint listed on Page 2–4 will agree with the setpoint previously approved by the NRC, and currently used by the RPS. The change has no effect on the design of the RPS and does not affect how this system operates. Therefore, this change does not significantly increase the probability or consequences of an accident previously evaluated.

The information added to the Bases of the Technical Specifications to provide a discussion of how the RPS and ESFAS are affected by the proposed changes, the effect the action statements have on the operation of the RPS and ESFAS, and to discuss the impact of surveillance testing on RPS operability will have no effect on equipment operation. The RPS and ESFAS will continue to function as designed to mitigate design basis accidents. Therefore, this change does not significantly increase the probability or consequences of an accident previously evaluated.

Thus, this License Amendment Request does not impact the probability of an accident previously evaluated nor does it involve a significant increase in the consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not alter the plant configuration (no new or different type of equipment will be installed) or require any new or unusual operator actions. They do not alter the way any structure, system, or component functions and do not alter the manner in which the plant is operated. The proposed changes do not introduce any new failure modes. They will not alter assumptions made in the safety analysis and licensing basis. The RPS and the ESFAS will still function as designed to mitigate design basis accidents.

Therefore, these changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed changes will not reduce the margin of safety since they have no impact on any safety analysis assumption. The proposed changes do not decrease the scope of equipment currently required to be operable or subject to surveillance testing, nor do the proposed changes affect any instrument setpoints or equipment safety functions.

The effectiveness of Technical Specifications will be maintained since the changes will not alter the operation of any RPS or ESFAS function. In addition, most of the changes are consistent with the Calvert Cliffs RPS and ESFAS Technical Specifications mode provided in Enclosure 3 of the NRC correspondence dated April 16, 1981 (R. A. Clark letter to W. G. Counsil, Evaluation of the Reactor Protection System Inoperable Channel Condition at Millstone Nuclear Power Station, Unit No. 2, dated April 16, 1981) and the new, improved Standard Technical Specifications (STS) for Combustion Engineering plants (NUREG–1432).

Therefore, there is no significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut.

NRC Deputy Director: Phillip F. McKee.

Power Authority of The State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: June 25, 1997.

Description of amendment request: The proposed amendment would change the Indian Point 3 Technical Specifications to allow the use of zirconium alloy or stainless steel filler rods in fuel assemblies to replace failed or damaged fuel rods.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Consistent with the criteria of 10 CFR 50.92, the enclosed application is judged to involve no significant hazards based on the following information:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously analyzed?

Response: The proposed changes modify the technical specification only to the extent that the reconstitution is recognized as acceptable under limited circumstances. Reconstitution is limited to substitution of zirconium alloy or stainless steel filler rods, and must be in accordance with approved applications of fuel rod configurations. Although these changes permit reconstitution to occur without the need for a specific technical specification change, use of an approved methodology is required prior to its application. Since the changes will allow substitution of filler rods for leaking, potentially leaking rods or damaged rods, the changes may actually reduce the radiological consequences of an accident. It is noted that the specific changes requested in this letter have previously been found acceptable by the NRC in GL [Generic Letter] 90–02, Supplement 1. For these reasons, we conclude that the changes will not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any previously evaluated?

Response: The proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated because they will only affect the assembly configuration and can only be implemented if demonstrated to meet current plant requirements in accordance with an NRC-approved methodology. The other aspects of plant design, operation limitations, and responses to events will remain unchanged. It is noted that the changes have previously been determined acceptable by the NRC in GL 90–02, Supplement 1.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response: The proposed change will not involve a reduction in a margin of safety because the changes can only be implemented if demonstrated to meet current plant requirements in accordance with an NRC-approved methodology. It is noted that the changes have previously been determined acceptable by the NRC in GL 90–02, Supplement 1.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied.

Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. David Blabey, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: S. Singh Bajwa.

Public Service Electric & Gas Company, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: April 28, 1998.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 3.4.2.1 to replace the plus or minus 1 percent setpoint tolerance limit for safety/relief valves (SRVs) with a plus or minus 3 percent setpoint tolerance limit. In addition, the proposed amendment would revise TS 4.4.2.2 to state that all SRVs must be certified to be within plus or minus 1 percent of the TS setpoint prior to returning the valves to service.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS revisions involve: (1) no significant hardware changes; (2) no significant changes to the operation of any systems or components in normal or accident operating conditions; and (3) no changes to existing structures, systems, or components. Therefore these changes will not increase the probability of an accident previously evaluated.

These proposed changes were developed in accordance with the provisions contained in an NRC Safety Evaluation Report, dated 3/8/93, for the ''BWR Owners Group Inservice Pressure Relief Technical Specification [Revision] Licensing Topical Report'', NEDC–31753P as described in General Electric report NEDC–32511P, ''Safety Review for Hope Creek [Generating Station] Safety/Relief Valve Tolerance Analyses''. Since the plant systems associated with these proposed changes will still be capable of: (1) meeting all applicable design basis requirements; and (2) retain the capability to mitigate the consequences of accidents described in the HC [Hope Creek] UFSAR [Updated Final Safety Analysis Report], the proposed changes were determined to be justified. Therefore, these changes will not involve a significant increase in the consequences of an accident previously evaluated.

(2) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Establishment of the [plus or minus] 3 [percent] SRV setpoint tolerance limit will not adversely impact the operation of any safety related component or equipment. Since the proposed changes involve: (1) no significant hardware changes; (2) no significant changes to the operation of any systems or components; and (3) no changes to existing structures, systems, or components, there can be no impact on the occurrence of any accident. These proposed changes were developed in accordance with the provisions contained in an NRC Safety Evaluation Report, dated 3/8/93, for the ''BWR Owners Group Inservice Pressure Relief Technical Specification [Revision] Licensing Topical Report'', NEDC–31753P as described in General Electric report NEDC–32511P, ''[Safety Review for Hope Creek Generating Station] Safety/Relief Valve Tolerance Analyses''. Furthermore, there is no change in plant testing proposed in this change request which could initiate an event. Therefore, these changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed change does not involve a significant reduction in a margin of safety.

Establishment of the [plus or minus] 3 [percent] SRV setpoint tolerance limit will not adversely impact the operation of any safety related component or equipment. General Electric analyses performed for Hope Creek and contained in General Electric report NEDC–32511P, ''[Safety Review for Hope Creek Generating Station] Safety/Relief Valve Tolerance Analyses,'' concluded that there is no significant impact on fuel thermal limits, no significant impact on safety related systems, structures or components, and no significant impact on the accident analyses associated with the proposed changes. Therefore, the changes contained in this request do not result in a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, NJ 08070.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Project Director: Robert A. Capra.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: May 8, 1998.

Description of amendment request: The proposed amendments would change the Vogtle Electric Generating Plant (VEGP) Technical Specification (TS) 5.5.7, ''Reactor Coolant Pump Flywheel Inspection Program,'' to provide an exception to the examination requirements of Regulatory Position C.4.b of Regulatory Guide (RG) 1.14, Revision 1, August 1975.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The safety function of the RCP [reactor coolant pump] flywheel is to provide sufficient rotational inertia to ensure reactor coolant flow through the core during coastdown following a loss of offsite power and subsequent reactor trip. FSAR [Final Safety Analysis Report] Chapter 15 analysis for a complete loss of forced reactor coolant flow demonstrates that the reactor trip together with the flow sustained by the inertia of the RCP impeller will be sufficient to prevent the most limiting fuel assembly from exceeding the DNBR [departure from nucleate boiling ratio] limits.

The maximum mechanical loading on the RCP motor flywheel results from overspeed following a LOCA [loss-of-coolant accident]. The analysis presented in WCAP–14535A demonstrates that the revised inspection program proposed by this license amendment will ensure the integrity of the RCP flywheels will be maintained.

Based upon the findings of WCAP–14535A, the ability of the RCP flywheel to perform its intended safety function will be unaffected by the license amendment and the FSAR Chapter 15 analysis will remain valid. Therefore, these proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed license amendment will not change the physical plant configuration nor the modes of operation of any plant equipment. Based upon the results of WCAP–14535A, no new failure mechanism will be introduced by the revised RCP flywheel inspection program. Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The operating limits and functional capabilities of the affected systems, structures, and components will be unchanged by the proposed amendment. The results of the RCP flywheel inspections performed throughout the industry and at VEGP have identified no indications which would affect its integrity. As presented in WCAP–14535A, detailed stress analysis and risk assessments have been completed with the results indicating that there would be no change in the probability of failure for RCP flywheels if all inspections were eliminated. Therefore, these changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia.

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia.

NRC Project Director: Herbert N. Berkow.

Tennessee Valley Authority, Docket No. 50–390 Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of amendment request: May 6, 1998.

Description of amendment request: The proposed amendment would replace the two percent penalty addressed in surveillance requirement (SR) 3.2.1.2(a) with a burnup-dependent factor to be specified in the Watts Bar Core Operating Limits Report (COLR). Specifically, the following changes are being proposed:

1. SR 3.2.1.2(a) and its associated BASES will have the phrase ''by a factor of 1.02'' deleted and replaced with the phrase ''by the appropriate factor specified in the COLR.''

2. Technical Specification (TS) Section 5.9.5(b)(3) would be updated to reference the revised WCAP (10216–P–A, Revision 1A, 1994) that details the analytical methods utilized for the new penalty factor.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change involves only the manner in which the penalty factors for $F_Q(Z)$ would be specified (i.e., burnup-dependent factor specified in the Core Operating Limits Report [COLR] versus a constant factor specified in the TS). This is simply used to account for the fact that $F_Q{}^C(Z)$ may increase between surveillance intervals. These penalty factors are not assumed in any of the initiating events for the accident analyses. Therefore the proposed change will have no effect on the probability of any accidents previously evaluated. The penalty factors specified in the COLR will be calculated using NRC-approved methodology and will continue to provide an equivalent level of protection as the existing TS requirement. Therefore, the proposed change will not affect the consequences of any accident previously evaluated.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not involve a physical alteration to the plant (no new or different kind of equipment will be installed) or alter the manner in which the plant would be operated. Thus, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The proposed change will continue to ensure that potential increases in $F_Q{}^C(Z)$ over a surveillance interval will be properly accounted for. The penalty factors will be calculated using an NRC-approved methodology. Therefore, the proposed change will not involve a reduction in margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, TN 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET l0H, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: May 1, 1998.

Description of amendment request: The proposed amendment would make several editorial changes to the Administrative Controls section of the Technical Specifications. The changes include revisions due to organizational changes, quality assurance changes, editorial changes, and typographical corrections.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Will the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

The administrative change proposed herein will have no effect on plant hardware, plant design, safety limit setting or plant system operation and therefore do[es] not modify or add any initiating parameters that would significantly increase the probability or consequences of any previously analyzed accident. The proposed amendment changes the reference to the VYNPS QA program and makes other

administrative changes, such as title changes and correction/clarification of errors. Therefore, there is no increase in the probability or consequence of an accident previously evaluated.

2. Will the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

This change does not affect any equipment nor does it involve any potential initiating events that would create any new or different kind of accident. The proposed change involves [ ] wording changes in the Technical Specifications identifying the name of the QA program and makes other administrative changes, such as title changes and corrective/clarification of errors. Therefore no new or different kind of accident has been introduced.

3. Will the proposed changes involve a significant reduction in a margin of safety?

This change does not affect any equipment involved in potential initiating events or safety limits. The proposed change has no significant impact on margin of safety, as it is comprised of only administrative changes.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

Attorney for licensee: Mr. David R. Lewis, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037–1128.

NRC Project Director: Cecil O.Thomas.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: September 1, 1995, as supplemented April 8, 1996, April 22, 1996, April 23, 1996, November 18, 1997, February 9, 1998, March 25, 1998 and May 5, 1998. This notice supersedes the **Federal Register** notice of September 27, 1995 (60 FR 49949)

Description of amendment request: The originally (September 1, 1995) proposed changes to the Technical Specifications (TS) would permit a single outage of up to 14 days for each emergency diesel generator (EDG) once every 18 months in order to perform preventive maintenance. The amended request will permit a single outage of up to 14 days for each EDG for any reason; TS change to incorporate a Configuration Risk Management Program (CRMP) in the Administrative Section in the TS, in support of the previous submittal for the 14-day Allowed Outage Time (AOT) for the EDGs and would permit an increase in the TS maintenance interval of the EDG from 18 to 24 months, based on the recommendation from the EDG owners group (Fairbanks Morse Owners Group).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. Specifically, operation of North Anna Power Station in accordance with the proposed Technical Specification changes will not:

a. Involve a significant increase in the probability or consequences of an accident previously evaluated.

A probabilistic safety analysis (PSA) has been performed which demonstrates that a 14-day AOT for each EDG, results in a small change in core damage frequency assuming adequate compensatory measures are in place. The compensatory measures include requirements that the other EDGs, off-site power supply, and the alternate A.C. diesel (AAC DG) be operable whenever the action statement is entered.

The effect of the proposed change has been calculated to be an increase in core damage frequency of approximately 1 E–6 per year from the baseline core damage frequency of 4.1 E–5. Considering that credit was not taken for the AAC DG previously in the IPE nor was the AAC DG specified in Technical Specifications, the proposed changes remain bounded by the core damage frequency identified in the Individual Plant Examination.

Credit for the AAC DG was previously not taken nor was the AAC DG previously included in the Technical Specifications. Furthermore, the probabilistic safety analysis (PSA) demonstrates that the increase in core damage frequency due to extending the EDG AOT of a 14-day period is not significant as long as the AAC DG is operable to act as a source of emergency power to replace the EDG. The period of time during which the EDG is unavailable is short enough to limit the impact of using the manually operated AAC DG as a replacement for the automatically operated EDG.

The plant design and operation are not changed by the incorporation of a CRMP into the Administrative Section of Technical Specifications. Further, with the proposed change to the preventive maintenance interval, the EDG reliability remains adequate to perform its function of supporting accident mitigation equipment with emergency electrical power.

Therefore, neither the probability of occurrence nor the consequences of an accident or malfunction of equipment important to safety previously evaluated in the safety analysis report are increased due [to] the proposed changes to permit a 14-day allowed outage time and a 24 month preventive maintenance interval for the EDGs.

b. Create the possibility of a new or different kind of accident from any accident previously evaluated.

No new initiators are defined as a result of a review of the PSA model. The proposed Technical Specifications changes only modify the AOT of an EDG. The UFSAR [Updated Final Safety Analysis Report] accidents are analyzed assuming that the EDG is the worst single failure. This assumption is more severe than the proposed Technical Specifications changes, which [replace] the EDG with the AAC DG. Similarly, the PSA performed to evaluate the proposed Technical Specifications changes considered all of the initiating events defined for the PSA performed for the Individual Plant Examination. No new initiators were defined as a result of a review of the PSA model.

Adding the CRMP and changing the EDG preventive maintenance interval in the Technical Specifications does not change any method of operation or create any new modes of operation or accident precursors.

Therefore, it is concluded that no new or different kind of accident or malfunction from any previously evaluated has been or will be created by the proposed changes to permit a 14-day allowed outage time and a 24 month preventive maintenance interval for the EDGs.

c. The proposed Technical Specifications changes do not result in a reduction in margin of safety as defined in the basis for any Technical Specifications.

The PSA was performed to evaluate the concept of a one-time outage. The results of the analyses show a small change in the core damage frequency. As described above the proposed Technical Specifications changes only modify the AOT of an EDG. Thus, operation with slightly increased EDG unavailability due to maintenance is acceptable given the operability of the AAC DG and the other EDG.

Incorporating the CRMP and changing the EDG preventive maintenance interval in the Technical Specifications

does not affect any accident analysis assumptions or change any Technical Specifications criteria.

Therefore, the margin of safety is not changed.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903–2498.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219.

NRC Project Director: Gordon E. Edison, Acting.

Wisconsin Public Service Corporation, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: May 7, 1998.

Description of amendment request: Technical Specification 5.4, ''Fuel Storage,'' would be changed to increase the allowable mass of uranium-235, per axial centimeter, for fuel storage in new fuel and spent fuel storage racks. This change will allow use of new Siemens heavy fuel assemblies.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change was reviewed in accordance with the provisions of 10 CFR 50.92 to show no significant hazards exist. The proposed change will not:

(1) Involve a significant increase in the probability or consequence of an accident previously evaluated.

The mass of the fuel assembly is increased by a small amount (30 pounds, or 2.4%), from that of the fuel assemblies now in the core. Even with this increase, the load on the fuel handling equipment is still well within design limits. Therefore, the probabilities of a fuel handling accident inside containment (FHAIC) and the fuel handling accident outside containment (FHAOC) are not changed.

The total core mass, with Siemens heavy fuel, is less than that assumed in the original plant safety analysis. The proposed change does not alter the plant configuration, operating set points, or overall plant performance. The probability of other accidents is therefore not changed.

Attachment 4 (of the application) shows that the consequences of a fuel handling accident or a large break loss of coolant accident are not significantly affected.

Any changes in the nuclear properties of the reactor core that may result from a higher mass of fuel U^{235} per axial centimeter will be analyzed and shown to meet acceptance criteria in the appropriate reload analysis, which would be completed prior to use.

(2) Create the possibility of a new or different kind of accident from any previously evaluated.

As discussed above, the only safety issue significantly affected by the proposed change is the criticality analysis of the spent fuel storage racks and new fuel storage racks. Since it has been demonstrated that k_{eff} remains below the k_{eff} acceptance criteria, no new or different accident would be created through the use of fuel with up to 56.067 grams of U^{235} per axial centimeter at the Kewaunee Nuclear Power Plant.

The proposed change does not alter the plant configuration, operating set points, or overall plant performance and therefore does not create a new or different kind of accident from any accident previously evaluated.

(3) Involve a significant reduction in the margin of safety.

The criticality analysis in Reference 3 (of the application) demonstrates that adequate margins to criticality can be maintained with up to 56.067 grams of U^{235} per axial centimeter stored in either the new fuel storage racks or the spent fuel storage racks.

The bounding cases of the analysis demonstrate that k_{eff} remains less than 0.95 in the spent fuel storage racks and the new fuel storage racks if flooded with unborated water. The bounding cases of the analysis also demonstrate that k_{eff} remains less than 0.98 in the new fuel storage racks if moderated by optimally misted moderator. Therefore, the 56.067 grams of U^{235} per axial centimeter limit is acceptable for storage in both the new fuel storage racks and the spent fuel storage racks.

Any changes in the nuclear properties of the reactor core that may result from a higher mass of fuel U^{235} per axial centimeter will be analyzed in the appropriate reload analysis to ensure compliance with applicable reload considerations and requirements.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Wisconsin, Cofrin Library, 2420 Nicolet Drive, Green Bay, WI 54311–7001.

Attorney for licensee: Bradley D. Jackson, Esq., Foley and Lardner, P.O. Box 1497, Madison, WI 53701–1497.

NRC Acting Project Director: Ronald R. Bellamy.

Wisconsin Electric Power Company, Docket No. 50–301, Point Beach Nuclear Plant, Unit 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: May 15, 1998 (NPL–98–0303).

Description of amendment request: The proposed amendment revises the schedule for implementing the boron concentration changes related to the planned conversion of Unit 2 to 18-month fuel cycles.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Operation of the Point Beach Nuclear Plant in accordance with the proposed amendment will not result in a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes are administrative only. There are no physical changes to the facility or its operation. All Limiting Conditions of Operation, Limiting Safety System Settings, and Safety Limits specified in the Technical Specification remain unchanged. Additionally, there are no changes in the Quality Assurance Program, Emergency Plan, Security Plan, and Operator Training and Requalification Program. Therefore, an increase in the probability or consequences of an accident previously evaluated cannot occur.

2. Operation of the Point Beach Nuclear Plant in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes are administrative only. No changes to the facility structures, systems and components or their operation will result. The design and design basis of the facility remain unchanged. The plant safety analyses remain current and accurate. No new or different failure mechanisms are introduced. Therefore,

the possibility of a new or different kind of accident from any accident previously evaluated is not introduced.

3. Operation of the Point Beach Nuclear Plant in accordance with the proposed amendment does not involve a significant reduction in a margin of safety.

The proposed [amendment is] administrative only. All safety margins established through the design and facility license including the Technical Specifications remain unchanged. Therefore, all margins of safety are maintained.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: The Lester Public Library, 1001 Adams Street, Two Rivers, Wisconsin 54241.

Attorney for licensee: John H. O'Neill, Jr., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Cynthia A. Carpenter.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed no Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: May 20, 1998 (NRC–98–0099).

Description of amendment request: The proposed amendment would modify the scram discharge volume (SDV) vent and drain valve action requirements to be consistent with those contained in NUREG–1433, Revision 1, ''Standard Technical Specifications General Electric Plants, BWR/4.''

Detroit Edison is requesting that this license amendment request be processed in an exigent manner in accordance with 10 CFR 50.91(a)(6) because delay in granting this amendment could lead to a plant shutdown.

Date of publication of individual notice in **Federal Register**: May 28, 1998 (63 FR 29254).

Expiration date of individual notice: Comments: June 11, 1998; hearing: June 29, 1998.

Local Public Document Room location: Monroe County Library System, Ellis Reference and Information Center, 3700 South Custer Road, Monroe, Michigan 48161.

Duke Energy Corporation, Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: May 22, 1998.

Description of amendment request: The proposed amendments would revise Surveillance Requirement Section 4.4.3.3 of the Technical Specifications. Section 4.4.3.3 currently requires that the emergency power supply for the pressurizer heaters be demonstrated OPERABLE at least once per 18 months by manually transferring power from the normal to the emergency power supply. The licensee proposed to delete the ''manual'' requirement because the power supply transfer at the unit was designed to be automatic. The proposed requirement is to verify that required pressurizer heaters are capable of being powered from an emergency power supply once per 18 months.

Date of publication of individual notice in **Federal Register**: June 1, 1998 (63 FR 29759).

Expiration date of individual notice: July 1, 1998.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina.

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station Unit No. 1, Oswego County, New York

Date of application for amendment: May 2, 1998.

Brief description of amendment: The amendment changes the Technical Specifications 3/4.6.2, ''Protective Instrumentation,'' to reflect modifications to the initiation instrumentation for the Control Room Air Treatment system.

Date of publication of individual notice in **Federal Register**: May 19, 1998 (63 FR 27601).

Expiration date of individual notice: June 18, 1998.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station Unit No. 1, Oswego County, New York

Date of application for amendment: May 15, 1998 (two letters).

Brief description of amendment: The amendment changes administrative sections of the Technical Specifications to reflect a restructuring of upper management organization.

Date of publication of individual notice in **Federal Register**: June 2, 1998 (63 FR 30026).

Expiration date of individual notice: July 2, 1998.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: May 12, 1998.

Brief description of amendment request: These amendments relocate certain requirements related to fire protection from the TSs to the Updated Final Safety Analysis Report. The TS sections to be relocated are: 3/4.3.7.9, Fire Detection Instrumentation; 3/4.7.6, Fire Suppression Systems; 3/4.7.7, Fire Rated Assemblies; and 6.2.2e, Fire Brigade Staffing. The amendments also replace License Condition 2.C.(6) for Unit 1 and License Condition 2.C.(3) for Unit 2. These amendments are consistent with the guidance of NRC Generic Letter (GL) 86–10, ''Implementation of Fire Protection Requirements,'' and GL 88–12, ''Removal of Fire Protection Requirements from Technical Specifications.''

Date of publication of individual notice in **Federal Register**: May 21, 1998 (63 FR 28010).

Expiration date of individual notice: June 22, 1998.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: March 31, 1997, as supplemented June 18, 1997, October 10, 1997, October 20, 1997, November 11, 1997, December 22, 1997, January 15, 1998, January 27, 1998, March 30, 1998, April 23, 1998, and April 27, 1998.

Brief description of amendment request: The proposed amendment would revise the Ginna Station Improved Technical Specifications to reflect a planned modification to the spent fuel pool storage racks.

Date of publication of individual notice in **Federal Register**: May 12, 1998 (63 FR 26213). This notice supersedes the March 31, 1997, application published on April 30, 1997 (62 FR 23502).

Expiration date of individual notice: June 11, 1998.

Local Public Document Room Location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Baltimore Gas and Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: January 31, 1997, as supplemented February 13, February 28, March 25, April 16, August 19, and September 29, 1997, January 22, March 17, April 8, April 21, 1998, and May 22, 1998.

Brief description of amendments: The amendments revise the TS for a reduction of the total reactor coolant system flow limit from 370,000 gallons per minute (gpm) to 340,000 gpm in support of increased steam generator tube plugging.

Date of issuance: May 23, 1998.

Effective date: As of the date of issuance Unit 1 to be implemented within 60 days and Unit 2 prior to startup from the spring 1999 refueling outage.

Amendment Nos.: 228 and 202.

Facility Operating License Nos. DPR–53 and DPR–69: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: February 26, 1997 (62 FR 8780).

The February 13, February 28, March 25, April 16, August 16, and September 29, 1997, January 22, March 17, April 8, and April 21, 1998, and May 22, 1998, letters provided clarifying information that did not change the initial proposed no significant hazards consideration.

The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated May 23, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Carolina Power & Light Company, et al., Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: July 18, 1997.

Brief description of amendments: The amendments revise the listed design suppression chamber temperature of 200°F to 220°F and the listed total water and steam volume of the reactor coolant system from 18,670 cubic feet to 18,320 cubic feet, respectively.

Date of issuance: May 27, 1998.

Effective date: May 27, 1998.

Amendment Nos.: 195 and 225.

Facility Operating License Nos. DPR–71 and DPR–62: Amendments revise the facility's Technical Specifications.

Date of initial notice in **Federal Register**: August 27, 1997 (62 FR 45454).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 27, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403–3297.

Carolina Power & Light Company, et al., Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: June 12, 1997, as supplemented February 2, 1998. The February 2, 1998, submittal contained clarifying information only and did not change the initial proposed no significant hazards consideration or expand the scope of the original **Federal Register** Notice.

Brief Description of amendments: The amendments consist of changes to the Technical Specifications (TS) to revise the Limiting Condition for Operation of the TS to limit the drywell average air temperature rather than primary containment air temperature. Additionally, the amendments require that the drywell average air temperature be maintained less than or equal to 150 °F during plant operation. The current primary containment average temperature limit is 135 °F.

Date of issuance: May 28, 1998.

Effective date: May 28, 1998.

Amendment Nos.: 196 and 226.

Facility Operating License Nos. DPR–71 and DPR–62: Amendments change the Technical Specifications.

Date of initial notice in **Federal Register**: August 27, 1997 (62 FR 45454) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 28, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403–3297.

Carolina Power & Light Company, et al., Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: October 28, 1997

Brief Description of amendments: The amendments revise certain instrumentation allowable values in the current technical specifications to the Improved Technical Specifications format.

Date of issuance: May 28, 1998.

Effective date: May 28, 1998.

Amendment Nos.: 197 and 227.

Facility Operating License Nos. DPR–71 and DPR–62: Amendments change the Technical Specifications.

Date of initial notice in **Federal Register**: December 31, 1997 (62 FR 68304)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 28, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403–3297.

Carolina Power & Light Company, et al., Docket Nos. 50–325 & 50–324, Brunswick Steam Electric Plant, Units 1 & 2, Brunswick County, North Carolina

Date of amendment request: November 15, 1995.

Brief description of amendment: The amendments modify the channel functional test interval in the Technical Specifications Surveillance Requirements for the Electrical Protective Assemblies in the Reactor Protection System.

Date of issuance: May 29, 1998.

Effective date: May 29, 1998.

Amendment No.: 198 and 228.

Facility Operating License Nos. DPR–71 and DPR–62: Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register**: July 3, 1996 (61 FR 34887).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 29, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403–3297.

Carolina Power & Light Company, et al., Docket Nos. 50–325 & 50–324, Brunswick Steam Electric Plant, Units 1 & 2, Brunswick County, North Carolina

Date of amendment request: November 16, 1994, as supplemented by letters dated February 14, 1995, and April 9, 1998.

Brief description of amendment: The amendments change the Technical Specifications (TS) for Units 1 and 2 to revise the basis for removing the suppression chamber water temperature monitoring instrumentation requirements from the TS. This change is being processed in parallel with the Improved Technical Specification conversion.

Date of issuance: May 29, 1998.

Effective date: May 29, 1998.

Amendment Nos.: 199 and 229.

Facility Operating License Nos. DPR–71 and DPR–62: Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register**: January 4, 1995 (60 FR 497)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 29, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403–3297.

Carolina Power & Light Company, et al., Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: April 4, 1996, as supplemented January 24, 1997, March 31, 1997, April 2, 1997, April 14, 1997, March 24, 1998, and May 20, 1998.

Brief Description of amendments: The amendments modify Technical Specifications (TS) 3.0.4, 4.0.3, and 4.0.4, and their associated Bases in accordance with the guidance provided in Generic Letter 87–09, ''Sections 3.0 and 4.0 of the Standard Technical Specifications (STS) on the Applicability of Limiting Conditions for Operation and Surveillance Requirements.''

Date of issuance: June 2, 1998.

Effective date: June 2, 1998.

Amendment Nos.: 200 and 230.

Facility Operating License Nos. DPR–71 and DPR–62: Amendments change the Technical Specifications.

Date of initial notice in **Federal Register**: July 17, 1996 (61 FR 37297).

The supplemental submittals contained clarifying information only, and did not change the initial no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 2, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403–3297

Carolina Power & Light Company, et al., Docket Nos. 50–325 & 50–324, Brunswick Steam Electric Plant, Units 1 & 2, Brunswick County, North Carolina

Date of amendment request: April 30, 1997, as supplemented October 28, 1997, and May 15, 1998.

Brief description of amendment: The amendments revise surveillance requirements 4.7.2.b.2 and 4.7.2.c to require testing of the control room emergency ventiliation system charcoal adsorber in accordance with the American Society for Testing and Material D3803–1989, ''Standard Test Method for Nuclear-Grade Activated Carbon.''

Date of issuance: June 2, 1998.

Effective date: June 2, 1998.

Amendment Nos.: 201 and 231.

Facility Operating License Nos. DPR–71 and DPR–62: Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register**: July 30, 1997 (62 FR 40846).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 2, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403–3297

Carolina Power & Light Company, et al., Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: April 3, 1998

Brief description of amendments: The amendments revise the specified total volume of the condensate storage tank capacity requirements from 150,000 gallons to 228,200 gallons to ensure the Core Spray System requirement of 50,000 gallons.

Date of issuance: June 5, 1998.

Effective date: June 5, 1998.

Amendment Nos.: 202 and 232.

Facility Operating License Nos. DPR–71 and DPR–62: Amendments revise the facility's Technical Specifications.

Date of initial notice in **Federal Register**: May 6, 1998 (63 FR 25103).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 5, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403–3297.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: October 29, 1997.

Brief description of amendment: This amendment changes Technical Specifications (TS) 3.8.1.1.a.3, 3.8.1.1.b.4, and 3.8.1.1.d.2 by eliminating the plant shutdown requirements in these TS, and allowing the applicable redundant feature TS to direct the plant shutdown when required.

Date of issuance: May 22, 1998.

Effective date: May 22, 1998.

Amendment No.: 78.

Facility Operating License No. NPF–63: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: December 31, 1997 (62 FR 68305).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 22, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: April 24, 1998, as supplemented by letter dated May 15, 1998.

Brief description of amendment: This amendment revises TS 3.3.2, ''Engineered Safety Features Actuation System Instrumentation,'' such that surveillance of the undervoltage relays may be performed without entry into TS 3.0.3. Specifically, the change modifies Table 3.3–3 to allow operation with more than one channel of the emergency bus undervoltage relays inoperable.

Date of issuance: June 3, 1998.

Effective date: June 3, 1998.

Amendment No.: 79.

Facility Operating License No. NPF–63: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: May 4, 1998 (63 FR 24574).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 3, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Commonwealth Edison Company, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: September 24, 1997.

Brief description of amendments: The amendments revise the surveillance frequency for the turbine throttle valves and the turbine governor valves from monthly to quarterly.

Date of issuance: May 26, 1998.

Effective date: Immediately, to be implemented within 30 days.

Amendment Nos.: 103 and 93.

Facility Operating License Nos. NPF–37, NPF–66, NPF–72 and NPF–77: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: March 11, 1998 (63 FR 11917).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 26, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: For Byron, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of application for amendment: January 28, 1998 (NRC–98–0006), as supplemented on March 10, 1998 (NRC–98–0036).

Brief description of amendment: The amendment revises technical specification surveillance requirement 4.4.3.2.2.a for the leak rate test of the pressure isolation valves, extending it from the current 18-month interval to a 24-month interval.

Date of issuance: May 28, 1998.

Effective date: May 28, 1998, with full implementation within 90 days.

Amendment No.: 118.

Facility Operating License No. NPF–43: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: February 25, 1998 (63 FR 9598).

The March 10, 1998, supplement requested a change in the implementation period. This information was within the scope of the original **Federal Register** notice and did not change the staff's initial proposed no significant hazards considerations determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 28, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of application for amendment: November 22, 1995 (NRC–95–0124), as supplemented February 19, April 19, May 3, June 12, and December 4, 1996, January 30 and August 7, 1997, and April 27 and May 22, 1998.

Brief description of amendment: The amendment revises technical specification (TS) 3.8.1.1 to change the emergency diesel generator (EDG) allowed outage time from 3 to 7 days and add a requirement to verify that combustion turbine-generator 11–1 is available prior to removing an EDG from service. In addition, in accordance with draft staff guidance for risk-informed amendments, a section is added to the Administrative Controls Section of the TS describing the licensee's configuration risk management program. The associated Bases are also revised. The November 22, 1995, submittal also requested changes to the testing and reporting requirements for the EDGs. These aspects were addressed in Amendment No. 107 to the TS issued on June 20, 1996. The staff's action on the licensee's request is now complete.

Date of issuance: June 2, 1998.

Effective date: June 2, 1998, with full implementation within 60 days.

Amendment No.: 119.

Facility Operating License No. NPF–43. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: February 28, 1996 (61 FR 7550) with a supplemental notice on May 1, 1998 (63 FR 24195).

The February 19, April 19, May 3, June 12, and December 4, 1996, August 7, 1997, and May 22, 1998, submittals provided clarifying information within the scope of the **Federal Register** notices and did not change the staff's initial proposed no significant hazards considerations determinations.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 2, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, Ellis Reference and Information Center, 3700 South Custer Road, Monroe, Michigan 48161.

Duquesne Light Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of application for amendments: March 17, 1998, as supplemented May 14, 1998.

Brief description of amendments: These amendments revise Action 34 of technical specification (TS) Table 3.3–3, ''Engineered Safety Feature Actuation System Instrumentation.'' Action 34 is applicable to Functional Units 6.b., ''Grid Degraded Voltage (4.16 kV Bus),'' and 6.c., ''Grid Degraded Voltage (480 v Bus).'' Revised Action 34 requires that with one degraded grid voltage monitoring channel inoperable, the inoperable channel be placed in the tripped condition within one hour; otherwise, immediately enter the applicable action statement(s) for the associated emergency diesel generator made inoperable by the degraded voltage start instrumentation. The revision to Action 34 also requires that with two degraded grid voltage monitoring channels inoperable, within one hour restore at least one of the channels to operable status and place the other channel in the tripped condition; otherwise, the associated emergency diesel generator would be declared inoperable and its applicable action statement(s) entered. Corresponding changes have also been made in the bases for TS 3/4.3.2 and the BVPS–2 TS Index pages.

Date of issuance: May 27, 1998.

Effective date: Effective immediately, to be implemented within 60 days (both units).

Amendment Nos.: 214 and 91.

Facility Operating License Nos. DPR–66 and NPF–73: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 22, 1998 (63 FR 19969).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 27, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Duquesne Light Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2, (BVPS–1 and BVPS–2) Shippingport, Pennsylvania

Date of application for amendments: March 16, 1998, as supplemented May 14, 1998.

Brief description of amendments: These amendments revise technical specification (TS) Table 4.3–1 to add footnote 6 to the channel calibration requirement for all instrument channels that are provided with an input from neutron flux detectors. Footnote 6 provides that neutron detectors may be excluded from channel calibrations. In addition, BVPS–1 TS Table 4.3–1 is being revised to add channel calibration requirements to items 2.b. (Power Range, Neutron Flux, Low Setpoint), 5. (Intermediate Range, Neutron Flux), 6. (Source Range, Neutron Flux (Below P–10)), and 23. (Reactor Trip System Interlocks P–6, P–8, P–9, and P–10). Furthermore, changes are being made to correct page numbers in the BVPS–2 TS Index and to add corresponding changes to the TS Bases for both units.

Date of issuance: May 28, 1998.

Effective date: Both units, effective immediately, to be implemented within 60 days.

Amendment Nos.: 215 and 92.

Facility Operating License Nos. DPR–66 and NPF–73: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 22, 1998 (63 FR 19969).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 28, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: January 9, 1998, as supplemented by letter dated April 20, 1998.

Brief description of amendments: The amendments permit the use of fuel with ZIRLO cladding.

Date of issuance: May 12, 1998.

Effective date: May 12, 1998.

Amendment Nos. 196 and 190.

Facility Operating Licenses Nos. DPR–31 and DPR–41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: February 25, 1998 (63 FR 9605).

The April 20, 1998 letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 12, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Florida International University, University Park, Miami, Florida 33199.

GPU Nuclear, Inc. et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: December 10, 1997.

Brief description of amendment: The amendment clarifies sections of the Technical Specifications that have been demonstrated to be unclear or conflicting.

Date of Issuance: June 4, 1998.

Effective date: June 4, 1998, to be implemented within 30 days.

Amendment No.: 195.

Facility Operating License No. DPR–16: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 28, 1998 (63 FR 4313).

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated June 4, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753.

Niagara Mohawk Power Corporation, Docket No. 50–410, Nine Mile Point Nuclear Station Unit No. 2, Oswego County, New York

Date of application for amendment: December 15, 1997, as supplemented by letter dated April 24, 1998.

Brief description of amendment: This amendment changes Technical Specifications 2.1.2 and 3.4.1.1 to revise the minimum critical power ratio safety limits for fuel operating cycle 7 for two-loop and single-loop recirculation operation.

Date of issuance: June 4, 1998.

Effective date: As of the date of issuance to be implemented before

startup of the Unit 2 reactor to begin fuel operating cycle 7.

Amendment No.: 82.

Facility Operating License No. DPR–63: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: January 28, 1998 (63 FR 4314).

The April 24, 1998, submittal provided clarifying information that did not alter the initial no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 4, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: September 2, 1997.

Brief description of amendment: The amendment corrects several compliance issues as identified in Licensee Event Report 97–022–00 ''Technical Specification Violations'' dated July 9, 1997, by rewording the text; changing terminology and numbering; combining two Technical Specifications (TSs) into one; changing the allowed outage times; specifying guidance for entering into TS 3.0.3; changing a definition; changing surveillance requirments, and updating the TS Bases section to reflect changes.

Date of issuance: May 26, 1998.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 215.

Facility Operating License No. DPR–65: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: September 24, 1997 (62 FR 50008).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 26, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut

Northeast Nuclear Energy Company, et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: October 15, 1997, as supplemented January 23 and April 8, 1998.

Brief description of amendment: The amendment revises the action statements and the instrumentation trip setpoint tables in the Technical Specifications for the reactor trip system and engineered safety feature actuation system instrumentation. In addition, the amendment (1) decreases the reactor trip setpoint for the reactor coolant pump low shaft speed (underspeed trip setpoint) from 95.8 percent to 92.4 percent of rated speed, (2) makes editorial changes, and (3) changes the Bases to reflect the new methodology.

Date of issuance: May 26, 1998.

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No.: 159.

Facility Operating License No. NPF–49: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: November 19, 1997 (62 FR 61842).

The January 23 and April 8, 1998, submittals provided clarifying and additional information that did not change the scope of the October 15, 1997, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 26, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Northeast Nuclear Energy Company, et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: April 7, 1998.

Brief description of amendment: The amendment replaces the pressurizer maximum water inventory requirement with a pressurizer maximum indicated level requirement. The amendment also makes editorial changes and modifies the associated Bases section.

Date of issuance: May 27, 1998.

Effective date: As of the date of issuance, to be implemented within 30 days.

Amendment No.: 160.

Facility Operating License No. NPF–49: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 23, 1998 (63 FR 20219).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 27, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Northeast Nuclear Energy Company, et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: April 14, 1998, as supplemented May 7, 1998, and two letters dated June 4, 1998.

Brief description of amendment: The amendment changes Technical Specification 3/4.4.4, Relief Valves, to ensure that the automatic capability of the power-operated relief valves (PORVs) to relieve pressure is maintained when these valves are isolated by closure of the block valves. The amendment also makes editorial changes, adds PORV surveillance requirements, and modifies the associated Bases section.

Date of issuance: June 5, 1998.

Effective date: As of the date of issuance, to be implemented within 30 days.

Amendment No.: 161.

Facility Operating License No. NPF–49: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 20, 1998 (63 FR 19532).

The May 7, 1998, letter and the two letters dated June 4, 1998, provide clarifying information that did not change the scope of the April 14, 1998, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 5, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the

Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: December 23, 1997.

Brief description of amendments: The amendments changed the combined Technical Specifications (TS) for the Diablo Canyon Power Plant (DCPP) Unit Nos. 1 and 2 to revise TS 3/4.7.1.1, Table 3.7–1, ''Maximum Allowable Power Range Neutron Flux High Setpoint With Inoperable Steam Line Safety Valves.'' The power range (PR) neutron flux high setpoints were changed based on revised calculational methodologies for 1, 2, or 3 inoperable MSSVs per steam generator (SG). The proposed TS change lowered the PR neutron flux high setpoints when 2 or 3 MSSV are inoperable per loop such that the maximum power level allowed would be within the heat removing capability of the remaining operable MSSVs. Although the method for calculating the maximum power level allowed when one MSSV per loop is inoperable was revised, the results were not and the limit remained the same. The associated Bases were also revised.

Date of issuance: May 28, 1998.

Effective date: May 28, 1998, to be implemented within 30 days of issuance.

Amendment Nos.: Unit 1–125; Unit 2–123.

Facility Operating License Nos. DPR–80 and DPR–82: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 22, 1998 (63 FR 19975).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 28, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Public Service Electric & Gas Company, Docket No. 50–272, Salem Nuclear Generating Station, Unit No. 1, Salem County, New Jersey

Date of application for amendment: March 26, 1998.

Brief description of amendment: The amendment revises Technical Specification 3.1.3.3, ''Rod Drop Time,'' to change the applicability from Mode 3 (hot shutdown) to Modes 1 and 2 (startup and power operation).

Date of issuance: June 4, 1998.

Effective date: As of date of issuance to be implemented within 60 days.

Amendment No.: 211.

Facility Operating License No. DPR–70: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 22, 1998 (63 FR 19978). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 4, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, NJ 08079.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: May 30, 1997, as supplemented April 1, 1998.

Brief description of amendments: The amendments revise the Technical Specification requirements to reflect a design modification that changes the power sources to valves associated with the low pressure coolant injection mode of the residual heat removal system.

Date of issuance: June 2, 1998.

Effective date: As of the date of issuance to be implemented prior to startup from the next refueling outage for both units.

Amendment Nos.: Unit 1–211; Unit 2–152.

Facility Operating License Nos. DPR–57 and NPF–5: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 16, 1997 (62 FR 38139).

The April 1, 1998, submittal provided clarifying information that did not change the scope of the May 30, 1997, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 2, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Southern Nuclear Power Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: November 20, 1997, as supplemented by letter dated April 16, 1998.

Brief description of amendments: The proposed changes to the Technical Specifications (TS): (1) Remove the inequalities applied to the ''Trip Setpoint'' column of TS Table 3.3.1–1, ''Reactor Trip System Instrumentation'' and TS Table 3.3.2–1, ''Engineered Safety Feature Actuation System Instrumentation'' and revise the ''Trip Setpoint'' column to read ''Nominal Trip Setpoint;'' (2) Add footnotes (n) and (i) to TS Tables 3.3.1–1 and 3.3.2–1, respectively, to include criteria for channel operability, reset, and calibration tolerance about the trip setpoint. These footnotes also allow for the trip setpoint to be set more conservatively than the Nominal Trip Setpoint value as necessary in response to plant conditions; (3) The Allowable Value for TS Table 3.3.1–1, Function 14.b, Turbine Trip—Turbine Stop Valve Closure, would be revised from ''[greater than or equal to] 96.7% open'' to ''[greater than or equal to] 90% open;'' (4) Revise footnotes (l) and (m) of TS Table 3.3.1–1 to refer to Nominal Trip Setpoint and delete the inequalities applied to the trip setpoints; (5) Delete the superscript ''(a)'' from the ''Trip Setpoint'' column on page 6 of 8 of Table 3.3.1–1; (6) Revise the inequality for the Engineered Safety Feature Actuation System Allowable Value for Steam Line Pressure—Low (Table 3.3.2–1, Function 1.e) from ''[less than or equal to]'' to ''[greater than or equal to];'' and (7) Revise associated TS Bases to reflect the TS revisions.

Date of issuance: June 1, 1998.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: Unit 1–101; Unit 2–79.

Facility Operating License Nos. NPF–68 and NPF–81: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 31, 1997 (62 FR 68318).

The supplement dated April 16, 1998, provided clarifying information that did not change the scope of the November 20, 1997, application and the initial proposed no significant hazards determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 1, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia.

TU Electric Company, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: May 1, 1995 (TXX–95090).

Brief description of amendments: These amendments revise section 3/4.8.1 of the Technical Specifications (TSs) to reduce the minimum fuel oil volume requirement during MODES 5 and 6 for an operable emergency diesel generator (EDG) and allow continued OPERABLE status of diesel generators during all MODES for 48 hours with greater than a 6 day supply of diesel fuel for a given EDG.

Date of issuance: May 22, 1998.

Effective date: May 22, 1998, to be implemented within 30 days.

Amendment Nos.: Unit 1—Amendment No. 60; Unit 2—Amendment No. 46.

Facility Operating License Nos. NPF–87 and NPF–89: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: June 21, 1995 (60 FR 32373).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 22, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, TX 76019.

Washington Public Power Supply System, Docket No. 50–397, Nuclear Project No. 2, Benton County, Washington

Date of application for amendment: December 4, 1997, as supplemented by letters dated January 28, 1998, March 3, 1998, March 9, 1998, and April 24, 1998.

Brief description of amendment: The amendment permits the continued used of the existing Siemens Power Corporation minimum critical power ratio (MCPR) safety limits for WNP–2 Fuel Cycle 14 and changes the ASEA Brown Boveri (ABB) MCPR safety limit for single loop operation from 1.08 for Cycle 13 to 1.09 for Cycle 14.

Date of issuance: May 29, 1998.

Effective date: May 29, 1998, to be implemented within 30 days from the date of issuance.

Amendment No.: 154.

Facility Operating License No. NPF–21: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 14, 1998 (63 FR 2284).

The January 28, 1998, March 3, 1998, March 9, 1998, and April 24, 1998, supplemental letters provided additional clarifying information and did not change the original no significant hazards consideration. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 29, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352.

Wisconsin Public Service Corporation, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: February 25, 1998.

Brief description of amendment: The amendment revises the Technical Specifications to implement performance-based containment leakage testing under Option B of 10 CFR 50, Appendix J.

Date of issuance: May 28, 1998.

Effective date: May 28, 1998.

Amendment No.: 136.

Facility Operating License No. DPR–43: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 8, 1998 (63 FR 17237).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 28, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Wisconsin, Cofrin Library, 2420 Nicolet Drive, Green Bay, WI 54311–7001.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: May 8, 1998, as supplemented by letter dated May 11, 1998.

Brief description of amendment: The amendment adds a new Action Statement to Technical Specification 3/4.3.2, Table 3.3–3, Functional Unit 7.b., Refueling Water Storage Tank Level—Low-Low Coincident With Safety Injection.

Date of issuance: May 28, 1998.

Effective date: May 28, 1998.

Amendment No.: 117.

Facility Operating License No. NPF–42: The amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes (63 FR 26829 dated May 14, 1998). The notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by June 15, 1998, but indicated that if the Commission makes a final no significant hazards consideration determination any such hearing would take place after issuance of the amendment. The Commission's related evaluation of the amendment, finding of exigent circumstances, consultation with the State of Kansas and final determination of no significant hazards consideration are contained in a Safety Evaluation dated May 28, 1998.

Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Attorney for Licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037.

NRC Project Director: William H. Bateman.

Dated at Rockville, Maryland, this 10th day of June 1998.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Acting Director, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–16012 Filed 6–16–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Meeting Between the American Society for Quality and NRC to Discuss Quality Assurance Principles

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of a meeting between the American Society for Quality, Energy and Environmental Division, Power Production Committee (ASQ EED) and the Nuclear Regulatory Commission (NRC) on quality assurance principles of mutual interest.

SUMMARY: The ASQ EED and the NRC have met periodically to discuss technical matters of mutual interest. Topics at this meeting will cover, codes and standards, graded QA, and more

detailed QA features found in QA standards.

DATES: The meeting will be held on June 25, 1998, from 8:00 am–5:00 pm, and on June 26, 1998, from 8:00 am–12:00 n.

ADDRESS: Conference Room O–4 B6, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Owen P. Gormley (301) 415–6793, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

SUPPLEMENTARY INFORMATION: The ASQ EED and NRC meet periodically to discuss topics of mutual interest concerning problems in achieving quality and means to correct the problems, or interpretations or problems in implementing activities found in QA standards and in most QA programs. Topics at this session will include codes and standards, graded QA, and more detailed QA features found in QA standards. The format of the meeting will consist of discussion between the ASQ EED and NRC on the topics noted above. Seating for the public will be on a first come, first-served basis.

Dated at Rockville, Maryland, this 10th day of June 1998.

For the Nuclear Regulatory Commission.

John W. Craig,

Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 98–16017 Filed 6–16–98; 8:45 am]

BILLING CODE 7590–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Comments should be submitted on or before August 17, 1998.

FOR FURTHER INFORMATION CONTACT: Curtis B. Rich, Management Analyst, Small Business Administration, 409 3rd Street, S.W., Suite 5000, Washington, D.C. 20416. Phone Number: 202–205–6629.

SUPPLEMENTARY INFORMATION:

Title: ''Business Coaches Application''.

Type of Request: New Collection.

Form No: 2063.

Description of Respondents: Current or former owners of Small Businesses who are willing to devote a minimum of four (4) hours per month coaching new Small Business owners in solving problems and in learning better methods to start, run and grow their business.

Annual Responses: 5,000.

Annual Burden: 417.

Title: ''Business Coaches Protégés. Application''.

Type of Request: New Collection.

Form No: 2064.

Description of Respondents: Small Business owners who are in need of coaching in order to solve problems they are experiencing in operations and in learning better methods to start, run and grow their business.

Annual Responses: 5,000.

Annual Burden: 417.

Comments: Send all comments regarding these information collections to Jane Boorman, Business Development Specialist, Office of Business Initiatives, Small Business Administration, 409 3rd Street S.W., Suite 6100, Washington, DC 204016 . Phone No: 202–205–7411. Send comments regarding whether these information collections are necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize these estimates, and ways to enhance the quality.

Dated: June 11, 1998.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 98–16057 Filed 6–16–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3082]

State of Kentucky; Amendment #3

In accordance with a notice from the Federal Emergency Management Agency dated June 3, 1998, the above-numbered Declaration is hereby amended to include Letcher County in the State of Kentucky as a disaster area due to damages caused by severe storms, tornadoes, and flooding beginning on April 16, 1998 and continuing through May 10, 1998.

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 June 28, 1998 and for economic injury the termination date is January 29, 1999.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 10, 1998.

Herbert L. Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 98–16059 Filed 6–16–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3085]

State of South Dakota

As a result of the President's major disaster declaration on June 1, 1998, and an amendment thereto on June 3, I find that Hanson and McCook Counties in the State of South Dakota constitute a disaster area due to damages caused by flooding, severe storms, and tornadoes beginning on April 25, 1998 and continuing.

Applications for loans for physical damages as a result of this disaster may be filed until the close of business on July 31, 1998, and for loans for economic injury until the close of business on March 1, 1999 at the address listed below or other locally announced locations:

Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Fort Worth, TX 76155.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Davison, Hutchinson, Lake, Miner, Minnehaha, Sanborn, and Turner in South Dakota may be filed until the specified date at the above location.

The interest rates are:

	Percent
Physical Damage:	
Homeowners With Credit Available Elsewhere	7.000
Homeowners Without Credit Available Elsewhere	3.500
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury	
Businesses and Small Agricultural Cooperatives Without Credit Available elsewhere	4.000

The number assigned to this disaster for physical damage is 308512 and for economic injury the number is 988100.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 5, 1998.

Herbert L. Mitchell,

Acting Associate, Administrator for Disaster Assistance.

[FR Doc. 98–16058 Filed 6–16–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Economic Injury Disaster #9882]

State of Washington

Clallam County and the contiguous Counties of Jefferson and San Juan in the State of Washington constitute an economic injury disaster area due to the effects of the warm water phenomenon known as El Nino beginning on May 1, 1997. Eligible small businesses and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance for this disaster until the close of business on March 5, 1999 at the address listed below or other locally announced locations:

Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853–4795.

The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: June 5, 1998.

Aida Alvarez,

Administrator.

[FR Doc. 98–16060 Filed 6–16–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3086]

Arkansas; (and Contiguous Counties in Texas and Parishes in Louisiana)

Miller County and the contiguous Counties of Hempstead, Lafayette, and Little River in Arkansas; Bowie and Cass Counties in Texas; and Bossier and Caddo Parishes in Louisiana constitute a disaster area as a result of damages caused by heavy rains and flash flooding that occurred on May 27 and 28, 1998. Applications for loans for physical damages caused by this disaster may be filed until the close of business on August 6, 1998 and for economic injury until the close of business on March 5, 1999 at the address listed below or other locally announced locations:

Business Administration, isaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	7.000
Homeowners Without Credit Available Elsewhere	3.500
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The numbers assigned to this disaster for physical damages are 308606 for Arkansas; 308706 for Texas; and 308806 for Louisiana. For economic injury the numbers are 988300 for Arkansas; 988400 for Texas; and 988500 for Louisiana.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 5, 1998.

Aida Alvarez,

Administrator.

[FR Doc. 98–16061 Filed 6–16–98; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Information Collection Activities: Proposed Collection Requests

This notice lists information collection packages that will require submission to the Office of Management and Budget (OMB), in compliance with PL. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. The information collection(s) listed below require(s) extension(s) of the current OMB approval(s) or are proposed new collection(s):

1. Notice Regarding Substitution of Party Upon Death of Claimant—Reconsideration of Disability Cessation—0960–0351. The Social Security Administration uses the form SSA–770 to obtain information from substitute parties regarding their intention to pursue the appeals process for an individual who has died. The respondents are such parties.

Number of Respondents: 1,200.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 200 hours.

2. Report of Student Beneficiary About to Attain Age 19— 0960–0274. The Social Security Administration uses the information collected on form SSA–1390 to determine whether a student beneficiary is entitled to benefits for the month of attainment of age 19 and subsequent months. The respondents are students about to attain age 19.

Number of Respondents: 50,000.

Frequency of Response: 1.

Average Burden Per Response: 3 minutes.

Estimated Annual Burden: 2,500 hours.

3. Supplement Security Income (SSI) Redetermination by Mail—0960–NEW. SSA will conduct a test of prototype form SSA–8204(TEST). This test will study the feasibility of using a questionnaire mailed to recipients as opposed to the current in person or telephone interview process. The information collected will be used to determine whether SSI recipients have met and continue to meet all requirements for continuing SSI program eligibility. The respondents for this study are randomly selected SSI recipients in the Atlanta and Kansas City regions.

Number of Respondents: 300.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 150 hours.

Written comments and recommendations regarding the information collection(s) should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the agency's burden estimate, we are soliciting comments on 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. To receive a copy of any of the forms or clearance packages, call the SSA Reports Clearance Officer on (410) 965–4125 or write to him at the address listed above.

Dated: June 9, 1998.

Frederick W. Brickenkamp,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 98–15942 Filed 6–16–98; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

[Public Notice No. 2838]

Overseas Security Advisory Council (OSAC) Meeting Notice; Closed Meeting

The Department of State announces a meeting of the U.S. State Department—Overseas Security Advisory Council on July 15 and 16, at the New York Palace Hotel in New York, New York. Pursuant to Section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c) (1) and (4), it has been determined the meeting will be closed to the public. Matters relative to classified national security information as well as privileged commercial information will be discussed. The agenda calls for the discussion of classified and corporate proprietary/security information as well as private sector physical and procedural security policies and protective programs at sensitive U.S. Government and private sector locations overseas.

For more information contact Nick Proctor, Overseas Security Advisory Council, Department of State, Washington, D.C. 20522–1003, phone: 202–663–0869.

Dated: June 3, 1998.

Peter E. Bergin,

Director of the Diplomatic Security Service.

[FR Doc. 98–16032 Filed 6–16–98; 8:45 am]

BILLING CODE 4710–24–M

DEPARTMENT OF STATE

[Public Notice No. 2828]

Shipping Coordinating Committee Subcommittee on Safety of Life at Sea Working Group on Safety of Navigation; Notice of Meeting

The Working Group on Safety of Navigation of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 9:30 am on Wednesday, July 1, 1998, in room 6103, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC.

The purpose of the meeting is to prepare for the 44th session of the Subcommittee on Safety of Navigation (NAV) of the International Maritime Organization (IMO) which is scheduled for July 20–24, 1998, at the IMO Headquarters in London.

Items of principal interest on the agenda are:

- Routing of ships, ship reporting, and related matters.
- Amendments to the International Regulations for Prevention of Collisions at Sea, 1972 (72 COLREGS).
- Revision of SOLAS Chapter V.
- Development of measures complementary to the Code for Safe Carriage of Irradiated Nuclear Fuel (INF).
- Navigational aids and related matters.
- International Telecommunication Union (ITU) matters including Radiocommunication ITU-R Study Group 8
- Operational aspects of wing in ground (WIG) craft: possible amendments to COLREGS
- Revision of the High Speed Craft (HSC) Code

Members of the public may attend these meetings up to the seating capacity of the room. Interested persons may seek information by writing: Mr. Edward J. LaRue, Jr., U.S. Coast Guard (G–MOV–3), Room 1407, 2100 Second Street SW, Washington, DC 20593–0001 or by calling: (202) 267–0416.

Dated: May 22, 1998.

Stephen M. Miller,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 98–16064 Filed 6–16–98; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF STATE

[Public Notice 2835]

Bureau of Political-Military Affairs; Revocation of Munitions Exports Licenses and Other Approvals for Pakistan

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that all licenses and other approvals to export or otherwise transfer defense articles and defense services from the United States to Pakistan, or transfer U.S. origin defense articles and defense services from a foreign destination to Pakistan, or temporarily import defense articles from Pakistan pursuant to Section 38 of the Arms Export Control Act are revoked immediately.

EFFECTIVE: May 30, 1998.

FOR FURTHER INFORMATION CONTACT: Rose Biancaniello, Deputy Director, Department of State, Office of Defense Trade Controls, Department of State, 703–812–2568.

SUPPLEMENTARY INFORMATION: On May 30, 1998, the President determined pursuant to Section 102 of the Arms Export Control Act (22 U.S.C. 2779aa–1) (''the Glenn Amendment'') that Pakistan a non-nuclear weapons state, detonated nuclear explosive devices on May 28, 1998, and directed the relevant United States Government agencies and instrumentalities to take the necessary actions to impose the sanctions described in Section 102(b)(2) of that Act. That provision of law provides for the termination to Pakistan of sales of defense articles, defense services, or design and construction services under the Arms Export Control Act, and termination of licenses for the export of any item on the United States Munitions List ((USML)). Consistent with such law and in furtherance of the foreign policy interests of the United States, the Department of State, through publication of this notice, is revoking all licenses and other approvals for the permanent and temporary export and temporary import of defense articles and defense services to or from Pakistan and will deny all applications and other requests for approval to export or otherwise transfer or retransfer defense articles and defense services to Pakistan. This revocation order includes all types of licenses/authorizations; manufacturing, technical assistance and distribution agreements; the use of any exemption in the International Traffic in Arms Regulations (ITAR); any authorization to retransfer from a foreign destination. This order also extends to the activities and authorizations concerning brokering covered by Part 129 of the ITAR.

Therefore, in accordance with Section 123.21 of the ITAR, licenses must be returned immediately to the Department of State, Office of Defense Trade Controls.

Dated: June 10, 1998.

Eric D. Newsom,

Acting Assistant Secretary, Bureau of Political-Military Affairs.

[FR Doc. 98–16026 Filed 6–16–98; 8:45 am]

BILLING CODE 4710–25–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determinations

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the object to be included in the exhibit ''A Living Memorial to the Holocaust''—Museum of Jewish Heritage in New York (See

list[1]), imported from abroad for temporary exhibition without profit within the United States, is of cultural significance. This object is imported pursuant to a loan agreement with the foreign lender. I also determine that the temporary exhibition or display of the listed exhibit object at the Museum of Jewish Heritage from on or about July 15, 1998 to on or about October 15, 1998, is in the national interest. Public Notice of this determination is ordered to be published in the **Federal Register.**

Dated: June 10, 1998.

Les Jin,

General Counsel.

[FR Doc. 98–16040 Filed 6–16–98; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported For Exhibition Determinations

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit ''Master Drawings from the State Hermitage Museum, St. Petersburg and The Pushkin State Museum of Fine Arts, Moscow'' (See list [1]), imported from abroad for temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the Pierpont Morgan Library from on or about September 25, 1998 to on or about January 10, 1999, is in the national interest. Public Notice of this determination is ordered to be published in the **Federal Register** .

Dated: June 10, 1998.

Les Jin,

General Counsel.

[FR Doc. 98–16042 Filed 6–16–98; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Ms. Jacqueline Caldwell, Assistant General Counsel, at (202) 619–6982. The address in U.S. Information Agency, 301 4th St., SW., Room 700, Washington, DC 20547–0001.

[1] A copy of this list may be obtained by contacting Ms. Neila Sheahan, Assistance General Counsel, at (202) 619–5030. The address is U.S. Information Agency, 301 4th St., SW, Room 700, Washington, DC 20547–0001.

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Education, Notice of Meeting

The Department of Veterans Affairs gives notice that a meeting of the Veterans' Advisory Committee on Education, authorized by 38 U.S.C. 3692, will be held on June 22 and June 23, 1998. The meeting will take place at the Department of Veterans Affairs, Veterans Benefits Administration Office, Room 542, 1800 G St., NW, Washington, DC 20420, from 8:30 a.m. to 4:30 p.m. on Monday, June 22, and from 8:30 a.m. to 3:00 p.m. on Tuesday, June 23. The purpose of the Committee is to assist in the evaluation of existing programs and services, and to recommend needed new programs and services. The agenda for both days will be devoted to discussion and making recommendations for revisions to the GI Bill education programs.

The meeting will be open to the public. Those wishing to attend should contact Mr. Bill Susling, Education Policy and Program Administration, (phone 202–273–7187) prior to the meeting.

Interested persons may attend, appear before, or file statements with the Committee. Statements, if in written form, may be filed before or within 10 days after the meeting. Oral statements will be heard at 12:30 p.m., Tuesday, June 23, 1998.

Dated: June 10, 1998.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 98–16039 Filed 6–16–98; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Wednesday
June 17, 1998

Part II

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Comprehensive Program Plan for Fiscal Year 1998 and Availability of Discretionary Program Announcements and Application Kit; Notice

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP(OJJDP)–1184]

RIN 1121–ZB21

Comprehensive Program Plan for Fiscal Year 1998 and Availability of Discretionary Program Announcements and Application Kit

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (OJJDP), Justice.

ACTION: Notice of final program plan for fiscal year 1998 and availability of the FY 1998 OJJDP Discretionary Program Announcements and the FY 1998 OJJDP application kit.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention is publishing its Final Program Plan for fiscal year (FY) 1998 and announces the availability of the FY 1998 OJJDP Discretionary Program Announcements and the FY 1998 OJJDP Application Kit.

FOR FURTHER INFORMATION CONTACT: Eileen M. Garry, Director, Information Dissemination Unit, at 202–307–5911. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is a component of the Office of Justice Programs in the U.S. Department of Justice. Pursuant to the provisions of Section 204(b)(5)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601 *et seq.* (JJDP Act), the Administrator of OJJDP published for public comment a Proposed Comprehensive Plan describing the program activities that OJJDP proposed to carry out during FY 1998. The Proposed Comprehensive Plan included activities authorized in Parts C and D of Title II of the JJDP Act, codified at 42 U.S.C. 5651–5665a, 5667, 5667a. The public was invited to comment on the Proposed Plan by March 23, 1998. The Administrator analyzed the public comments received, and that analysis is provided below. Taking these comments into consideration, the Administrator developed this Final Comprehensive Plan describing the particular program activities that OJJDP intends to fund during FY 1998, using in whole or in part funds appropriated under Parts C and D of Title II of the JJDP Act.

The FY 1998 OJJDP Discretionary Program Announcements and the FY 1998 OJJDP Application Kit are now available. They can be obtained from the Juvenile Justice Clearinghouse by calling 800–638–8736 or by sending an e-mail request to askncjrs@ncjrs.org. The publications are also available online at OJJDP's home page, Grants and Funding section, at www.ncjrs.org/ojjhome.htm.

Overview

After a decade of steady increases in juvenile crime and violence, the trend is being reversed. The United States has experienced a downturn in juvenile violent crime arrests for 2 straight years (3 years for murder arrests). Figures released in 1997 show that juvenile arrests for murder declined 14 percent 2 years in a row—and 3 percent the year before that. From 1995 to 1996, juvenile arrests for robbery declined 8 percent; for the previous year, they decreased 1 percent. The overall Violent Crime Index arrests of juveniles declined 6 percent in 1996, following a 3-percent drop in 1995.

The decreases in juvenile Violent Crime Index arrests must be kept in perspective, however. Even with the 2-year decline, the 1996 number was 60 percent above the 1987 level. In comparison, adult Violent Crime Index offense arrests rose 24 percent over the same period.

In the area of drug use violations, juveniles were involved in 14 percent of all drug arrests in 1996 (compared with 13 percent in 1995). However, arrests of juveniles for drug abuse violations increased 6 percent from 1995 to 1996, a smaller increase than the previous year's 18 percent. In addition, between 1992 and 1996, juvenile arrests for drug abuse violations increased 120 percent, compared with a 138-percent increase between 1991 and 1995.

Thus, in the second half of the 1990's, juvenile violent crime and drug use are still significantly higher than in the late 1980's but beginning to show signs of trending downward. The juvenile justice system needs to build on the positive momentum of these recent decreases by continuing to focus on programs and strategies that work. This requires a concerted effort on the part of Federal, State, and local government, in partnership with private organizations and community agencies, to ensure that available resources are used in a way that maximizes their impact; decreases juvenile crime, violence, and victimization; and increases community safety.

Federal leadership in responding to the problems confronting the Nation's juvenile justice system is vested in OJJDP. Established in 1974 by the JJDP Act, OJJDP is the Federal agency responsible for providing a comprehensive, coordinated approach to preventing and controlling juvenile crime and improving the juvenile justice system. OJJDP administers State Formula Grants, State Challenge Grants, and the Title V Community Prevention Grants programs in States and territories; funds gang and mentoring programs under Parts D and G of the JJDP Act; funds numerous projects through its Special Emphasis Discretionary Grant Program and its National Institute for Juvenile Justice and Delinquency Prevention; and coordinates Federal activities related to juvenile justice and delinquency prevention.

OJJDP also serves as the staff agency for the Coordinating Council on Juvenile Justice and Delinquency Prevention, coordinates the Concentration of Federal Efforts Program, and administers both the Title IV Missing and Exploited Children's Program and programs under the Victims of Child Abuse Act of 1990, as amended, 42 U.S.C. 13001 *et seq.*

In the FY 1998 Appropriations Act, Congress provided funding for two new OJJDP programs. These are not funded under Parts C and D of Title II of the JJDP Act, which are the focus of this Proposed Program Plan. However, mention of these new programs here, along with an additional program that OJJDP will administer, may help to alert those who work in the juvenile justice field to the existence of these new programs. Recognizing that, ''while crime is on the decline in certain parts of America, a dangerous precursor to crime, teenage drug use, is on the rise and may soon reach a 20-year high,'' Congress provided $5 million in funds for the development, demonstration, and testing of programs designed ''to reduce drug use among juveniles'' and ''to increase the perception among children and youth that drug use is risky, harmful, and unattractive.'' Funding for the drug prevention program is discretionary, and the Appropriations Act directs OJJDP to submit a program plan for the drug prevention program by February 1, 1998. This plan has been submitted. Twenty-five million dollars in funds were also provided for an underage drinking program. Much of the funding for the underage drinking program will be made available to the States and the District of Columbia through formula grants of $360,000 each (total $18.36 million), with $5 million in discretionary funding, and $1.64 million for training and technical assistance to support the program. OJJDP will also administer the Juvenile Accountability Incentive Block Grants program authorized in the FY 1998 Appropriations Act. Of the $250 million

available under this new block grant program, 3 percent is available for research, evaluation, and demonstration activities related to the program and 2 percent is available for related training and technical assistance activities. Program Announcements have been issued for the Juvenile Accountability Incentive Block Grants Program and for the Combating Underage Drinking Program. The Program Announcements are available from the Juvenile Justice Clearinghouse and online. See the information provided above on how to obtain copies of the FY 1998 OJJDP Discretionary Program Announcements and the FY 1998 OJJDP Application Kit. Further information on the Drug Prevention Program will be provided to the field in the near future. Solicitations for OJJDP's Mentoring program (Part G of the JJDP Act) and the Missing and Exploited Children's Program (Title IV of the JJDP Act, the Missing Children's Assistance Act, 42 U.S.C. 5771 *et seq.*) were published separately.

Cognizant of the trends in juvenile crime and violence and of its responsibilities and mission, OJJDP has developed a Program Plan for FY 1998 for activities authorized under Parts C and D of Title II of the JJDP Act, as described below.

Fiscal Year 1998 Program Planning Activities

The OJJDP program planning process for FY 1998 was coordinated with the Assistant Attorney General, Office of Justice Programs (OJP), and the four other OJP program bureaus: the Bureau of Justice Assistance (BJA), the Bureau of Justice Statistics (BJS), the National Institute of Justice (NIJ), and the Office for Victims of Crime (OVC). The program planning process involved the following steps:

- Internal review of existing programs by OJJDP staff.
- Internal review of proposed programs by OJP bureaus and Department of Justice components.
- Review of information and data from OJJDP grantees and contractors.
- Review of information contained in State comprehensive plans.
- Review of comments made by youth service providers, juvenile justice practitioners, and researchers to provide OJJDP with input in proposed new program areas.
- Consideration of suggestions made by juvenile justice policymakers concerning State and local needs.
- Consideration of all comments received during the period of public comment on the Proposed Comprehensive Plan.

Discretionary Program Activities

Discretionary Grant Continuation Policy

OJJDP has listed on the following pages continuation projects currently funded in whole or in part with Part C and Part D funds and eligible for continuation funding in FY 1998, either within an existing project period or through an extension for an additional project period. A grantee's eligibility for continued funding for an additional budget period within an existing project period depends on the grantee's compliance with funding eligibility requirements and achievement of the prior year's objectives. The amount of award is based on prior projections, demonstrated need, and fund availability.

The only projects described in the Proposed Program Plan were those that are receiving Part C or Part D FY 1998 continuation funding and programs that OJJDP was considering for new awards in FY 1998.

Consideration for continuation funding for an additional project period for previously funded discretionary grant programs was based upon several factors, including the following:

- The extent to which the project responds to the applicable requirements of the JJDP Act.
- Responsiveness to OJJDP and Department of Justice FY 1998 program priorities.
- Compliance with performance requirements of prior grant years.
- Compliance with fiscal and regulatory requirements.
- Compliance with any special conditions of the award.
- Availability of funds (based on appropriations and program priority determinations).

In accordance with Section 262 (d)(1)(B) of the JJDP Act, as amended, 42 U.S.C. 5665a, the competitive process for the award of Part C funds is not required if the Administrator makes a written determination waiving the competitive process:

1. With respect to programs to be carried out in areas in which the President declares under the Robert T. Stafford Disaster Relief and Emergency Assistance Act codified at 42 U.S.C. 5121 *et seq.* that a major disaster or emergency exists, or
2. With respect to a particular program described in Part C that is uniquely qualified.

Program Goals

OJJDP seeks to focus its assistance on the development and implementation of programs with the greatest potential for reducing juvenile delinquency and improving the juvenile justice system by establishing partnerships with State and local governments, American Indian and Alaska Native jurisdictions, and public and private agencies and organizations. To that end, OJJDP has set three goals that constitute the major elements of a sound policy that assures public safety and security while establishing effective juvenile justice and delinquency prevention programs:

- To promote delinquency prevention and early intervention efforts that reduce the flow of juvenile offenders into the juvenile justice system, the numbers of serious and violent offenders, and the development of chronic delinquent careers. While removing serious and violent juvenile offenders from the street serves to protect the public, long-term solutions lie primarily in taking aggressive steps to stop delinquency before it starts or becomes a pattern of behavior.
- To improve the juvenile justice system and the response of the system to juvenile delinquents, status offenders, and dependent, neglected, and abused children.
- To preserve the public safety in a manner that serves the appropriate development and best use of secure detention and corrections options, while at the same time fostering the use of community-based programs for juvenile offenders.

Underlying each of the three goals is the overarching premise that their achievement is vital to protecting the long-term safety of the public from juvenile delinquency and violence. The following discussion addresses these three broad goals.

Delinquency Prevention and Early Intervention

A primary goal of OJJDP is to identify and promote programs that prevent or reduce the occurrence of juvenile offenses, both criminal and noncriminal, and to intervene immediately and effectively when delinquent or status offense conduct first occurs. A sound policy for juvenile delinquency prevention seeks to strengthen the most powerful contributing factor to socially acceptable behavior—a productive place for young people in a law-abiding society. Delinquency prevention programs can operate on a broad scale, providing for positive youth development, or can target juveniles identified as being at high risk for delinquency with programs designed to reduce future juvenile offending. OJJDP prevention programs take a risk and protective factor-based delinquency prevention approach based

on public health and social development models.

Early interventions are designed to provide services to juveniles whose noncriminal misbehavior indicates that they are on a delinquent pathway or to first-time nonviolent delinquent offenders or nonserious repeat offenders who do not respond to initial system intervention. These interventions are generally nonpunitive but serve to hold a juvenile accountable while providing services tailored to the individual needs of the juvenile and the juvenile's family. They are designed to both deter future misconduct and reduce the negative or enhance the positive factors present in a child's life.

Improvement of the Juvenile Justice System

A second goal of OJJDP is to promote improvements in the juvenile justice system and facilitate the most effective allocation of system resources. This goal is necessary for holding juveniles who commit crimes accountable for their conduct, particularly serious and violent offenders who sometimes slip through the cracks of the system or are inappropriately diverted. Activities to support this goal include assisting law enforcement officers in their efforts to prevent and control delinquency and the victimization of children through community policing programs and coordination and collaboration with other system components and with child caring systems. Meeting this goal involves helping juvenile and family courts, and the prosecutors and public defenders who practice in those courts, to provide a system of justice that maintains due process protections. It requires trying innovative programs and carefully evaluating those programs to determine what works and what does not work. It includes a commitment to involving crime victims in the juvenile justice system and ensuring that their rights are considered. In this regard, OJJDP will continue to work closely with the Office for Victims of Crime to further cooperative programming, including the provision of services to juveniles who are crime victims or the provision of victims services that improve the operation of the juvenile justice system.

Improving the juvenile justice system also calls for strengthening its juvenile detention and corrections capacity and intensifying efforts to use juvenile detention and correctional facilities in appropriate circumstances and under conditions that maximize public safety, while at the same time providing effective rehabilitation services. It requires encouraging States to carefully consider the use of expanded transfer authority that sends the most serious, violent, and intractable juvenile offenders to the criminal justice system, while preserving individualized justice. It necessitates conducting research and gathering statistical information in order to understand how the juvenile justice system works in serving children and families. Finally, the system can only be improved if information and knowledge are communicated, understood, and applied for the purpose of juvenile justice system improvement.

Corrections, Detention, and Community-Based Alternatives

A third OJJDP goal is to maintain the public safety through a balanced use of secure detention and corrections and community-based alternatives. This involves identifying and promoting effective community-based programs and services for juveniles who have formal contact with the juvenile justice system and emphasizing options that maintain the safety of the public, are appropriately restrictive, and promote and preserve positive ties with the child's family, school, and community. Communities cannot afford to place responsibility for juvenile delinquency entirely on publicly operated juvenile justice system programs. A sound policy for combating juvenile delinquency and reducing the threat of youth violence makes maximum use of a full range of public and private programs and services, most of which operate in the juvenile's home community, including those provided by the health and mental health, child welfare, social service, and educational systems.

Coordination of the development of community-based programs and services with the development and use of a secure detention and correctional system capability for those juveniles who require a secure option is cost effective and will protect the public, reduce facility crowding, and result in better services for both institutionalized juveniles and those who can be served while remaining in their community environment.

In pursuing these three broad goals, OJJDP divides its programs into four broad categories: public safety and law enforcement; strengthening the juvenile justice system; delinquency prevention and intervention; and child abuse, neglect, and dependency courts. A fifth category, overarching programs, contains programs that have significant elements common to more than one category. Following the introductory section below, the programs that OJJDP proposes to fund in FY 1998 are listed and summarized within these five categories.

Summary of Public Comments on the Proposed Comprehensive Plan for Fiscal Year 1998

OJJDP published its Proposed Comprehensive Plan for FY 1998 in the **Federal Register** (Vol. 63, No. 25) on February 6, 1998, for a 45-day public comment period. OJJDP received 78 letters from 84 individuals commenting on the Proposed Plan. (Four of the letters were signed by two individuals, and one was signed by three persons.) All comments have been considered in the development of OJJDP's Final Comprehensive Plan for Fiscal Year 1998.

The majority of the letters provided positive comments about the overall plan or specific programs. A few letters criticized proposed programs or expressed concern about the failure of the plan to address certain program areas. The following is a summary of the substantive comments received and OJJDP's responses to the comments. Unless otherwise indicated, each comment was made by a single respondent. The total number of comments reported here is greater than the number of letters received because several letters included comments on two or more issues.

Many writers not only commented on the proposed program plan but also indicated interest in receiving funding for programs with which they were associated or ones which they plan to develop. In addition to responding to their comments on the Proposed Plan in individual letters to all commenters, OJJDP informed those interested in funding that program announcements requesting proposals for new programs would be published shortly after publication of the Final Comprehensive Plan and that copies of the program announcements could be obtained by calling OJJDP's Juvenile Justice Clearinghouse at 800–638–8736 or sending an e-mail request to askncjrs@ncjrs.org. Program announcements will also be available online at www.ncjrs.org/ojjhome.htm. Commenters interested in funding were also told that most of OJJDP's funding is not provided under Parts C and D but is distributed to the States and territories through OJJDP's Formula Grants, Challenge, and Title V (Community Prevention) programs. These writers were provided with contact information for the Juvenile Justice Specialists in their States, who can help them explore possible sources of funding. Writers expressing interest in arts-related programs were also given

contact information for the appropriate arts agency in their States.

Comment: Thirty-two letters were received in support of arts programming. Of these, 13 letters supported the Arts Programs in Juvenile Detention Centers, 9 supported the Arts and At-Risk Youth Program, and 10 supported both of the proposed programs.

Response: Solicitations for these two art-related programs will be issued. The title and focus of the Arts Programs in Juvenile Detention Centers will be expanded to Arts Programs in Juvenile Detention and Corrections. It came to the attention of OJJDP during the public comment period that the longer stays common in correctional settings maximize the opportunity for arts programs to make a difference in the lives of young people.

The solicitations are available in the *1998 OJJDP Discretionary Program Announcement: Discretionary Grant Program: Parts C and D.* Information on how to obtain a copy of the Program Announcement is provided above under **SUPPLEMENTARY INFORMATION.**

Comment: Five of the arts-related letters mentioned above (one that supported both arts programs and four that supported the Arts and At-Risk Youth Program) also indicated approval of the Youth-Centered Conflict Resolution Program. Another letter suggested that a social skills component should be included in the Conflict Resolution Program.

Response: OJJDP will continue to fund the Youth-Centered Conflict Resolution (YCCR) Program in FY 1998. As the Proposed Plan stated, the program will be carried out by the current grantee, the Illinois Institute for Dispute Resolution, and no additional applications will be solicited this year. OJJDP recognizes the importance of social (interpersonal) skills training as part of an effective conflict resolution education (CRE) program. The goal of OJJDP's YCCR Program is to help schools, juvenile facilities, and other youth-serving organizations select and implement quality CRE programming. As such, YCCR recommends that a social skills component should be one of the features to look for in considering which conflict resolution program to implement.

Comment: Thirteen letters favored the proposal for the National Juvenile Defender Training, Technical Assistance, and Resource Center. One of the 13 letters had 2 signatures and another one had 3.

Response: A solicitation for the National Juvenile Defender Training, Technical Assistance, and Resource Center will be issued as part of the *FY 1998 OJJDP Discretionary Program Announcement: Discretionary Grant Program: Parts C and D.* Information on how to obtain a copy of the Program Announcement is provided above under Supplementary Information.

Comment: Eight letters expressed support for the truancy reduction program.

Response: A solicitation will be issued for this program, which will be jointly funded by OJJDP and the Executive Office of Weed and Seed with the Office of Justice Programs at the U.S. Department of Justice and the Safe and Drug-Free Schools Program at the U.S. Department of Education. Information on how to obtain a copy of the Program Announcement containing this solicitation is provided above under Supplementary Information.

Comment: One letter, signed by two individuals, called on OJJDP to take more of a leadership role in addressing the mental health needs of juveniles in the juvenile justice system.

Response: OJJDP shares the concern about the needs of a large percentage of youth in the juvenile justice system who have mental health problems. To address these problems, OJJDP has undertaken several efforts. In 1995, OJJDP organized a Mental Health Task Group, consisting of several experts in the field, to assist in defining the problems and developing recommendations for action. Recommendations of this group to form partnerships to study mental health issues for at-risk and juvenile justice system youth have been addressed by OJJDP. These recommendations are part of the background that led to the joint programs outlined below.

To help to better understand the problems of youth, OJJDP has transferred funds to support two studies that are being conducted by the National Institute of Mental Health.

The first one, Risk Reduction Via Promotion of Youth Development, is a large-scale prevention study involving hundreds of children and several elementary schools located in lower socioeconomic neighborhoods of Columbia, South Carolina. The Centers for Disease Control and Prevention and the National Institute on Drug Abuse have also provided funding for the program. The grantee is the University of South Carolina. This large-scale project is designed to promote coping-competence and reduce risk for conduct problems, aggression, substance use, delinquency and violence, and school failure beginning in early elementary school. The project also seeks to alter home and school climates to reduce risk for adverse outcomes and to promote positive youth development.

The second study is of various treatment modalities for attention deficit/hyperactivity disorder (ADHD) in children. Expanded followup will assess substance abuse and use and related factors necessary for evaluating changes in ADHD children's risk for subsequent substance use and abuse attributable to their randomly assigned treatment conditions. In addition, the multimodal treatment study of children with ADHD affords the opportunity to assess the experience of study participants with the legal system, e.g., contacts with the juvenile justice system, acts of delinquency, court referrals, and other criminal and/or precriminal activities.

OJJDP staff have participated in the Federal National Partnership on Children's Mental Health, which was organized by the Center for Mental Health Services (CMHS), and the subgroups on early intervention and American Indian programs. As an outgrowth of this work, OJJDP has transferred money to CMHS to support technical assistance to the Comprehensive Children's Mental Health sites funded by CMHS. This technical assistance is designed to enhance the involvement of the sites with the juvenile justice system-involved youth who have mental health problems. Also, OJJDP has entered into a partnership with the National Institute of Corrections and the Substance Abuse and Mental Health Services Administration to support technical assistance on co-occurring disorders for juveniles in the juvenile justice system.

OJJDP will transfer funds to CMHS to support the newly announced Circles of Care program that CMHS will fund this fiscal year. OJJDP support will permit the funding of an additional site.

In addition, OJJDP is funding a demonstration effort to test the efficacy of Community Assessment Centers to determine if this approach will lead to more thorough and complete assessments and better service and more effective case management for at-risk and juvenile justice system-involved youth, including those with mental health and substance abuse disorders.

OJJDP is working with the National Mental Health Association to support the survey of mental health needs of juveniles in 17 States. This survey will be conducted by the GAINS Center.

On the issue of family involvement in developing policy and programs for their children with mental health needs in the juvenile justice system, OJJDP has been a strong advocate for this since the early 1980's when the Office developed

the first research and demonstration program to address juvenile violence. OJJDP recognizes that no program effort can be truly successful at turning troubled youth around unless it involves family, broadly defined, in the development of policy and programs.

To support the development of a system of care for at-risk children and delinquents and to test the efficacy of its Comprehensive Strategy, OJJDP has funded the SafeFutures program in six sites. This funding, $1.4 million per site, includes $200,000 for the enhancement of mental health services for at-risk and delinquent youth.

All of these programs represent OJJDP's commitment to addressing the mental health issues of at-risk and delinquent youth. OJJDP shares the concerns about this issue, as expressed in the letter. OJJDP recognizes that these programs will not take the development of policy and programs to the scale that will address the needs of all at-risk and delinquent youth. OJJDP anticipates, however, that the programs and studies that have been funded will help define policy and best practices. At the appropriate time, OJJDP will disseminate the results of these efforts and encourage States and localities to adopt progressive, family-inclusive mental health policies and programs.

Comment: Another letter related to mental health programs discussed the ''lack of validity of any of the disruptive behavior disorders (ADHD, conduct disorder, oppositional defiant disorder) and any of the learning disabilities, dyslexia included, as organic/biologic; as diseases/medical syndromes.''

Response: OJJDP has a strong interest in understanding all risk factors for delinquent behavior. Among these risk factors are mental disorders, both emotional and behavioral. These disorders pose a complex and unsolved challenge to the juvenile justice and mental health systems. In an effort to understand how to prevent youth with these disorders from ending up in the justice system and how to treat more effectively those who do, OJJDP has supported in the past and will continue to encourage research on mental health issues. A key issue is identification and treatment of mental health illnesses. OJJDP believes that its cosponsorship with the National Institute of Mental Health of research on ADHD and conduct disorders will greatly expand knowledge of the impact of these conditions and of appropriate treatment options. The Multisite, Multimodal Treatment Study of children with ADHD will be funded this fiscal year.

Comment: Four individuals urged OJJDP to include the Community Volunteer Coordinator Program in the Comprehensive Plan.

Response: The Community Volunteer Coordinator Program will be supported. The program will not provide funds for new programs, but will support the coordination of existing program activities. This program will be funded noncompetitively, and sites selected for the program will have underway ongoing publicly and/or privately funded community-based initiatives. The sites chosen also will have demonstrated a commitment to volunteerism and programming in nonschool hours, previous collaborative experience, organizational capacity, and an ability and willingness to collect relevant data.

Comment: One letter from two individuals asked that OJJDP give funding priority to home visitation programs this year and in the foreseeable future as a cost-effective way of preventing child abuse and neglect and future criminal behavior.

Response: OJJDP appreciates the writers' interest in home visitation programs as a means to help prevent child abuse and neglect and thus prevent future delinquency and crime. As can be seen in the Proposed Plan, OJJDP considers research in the area of nurse home visitation as being critically important. Currently, OJJDP is funding Dr. David Olds of the Center for Prevention Research, University of Colorado, to continue his groundbreaking nurse home visitation programming and research, which has shown positive effects on maternal and child health, teen pregnancy, welfare dependency and workforce participation, and crime and delinquency. OJJDP has partnered with the Executive Office of Weed and Seed to implement Dr. Olds' nurse home visitation program nationwide, at six Weed and Seed sites. OJJDP is also working with the U.S. Department of Health and Human Services to evaluate the outcomes at these sites.

OJJDP also funds the University of Utah's Strengthening America's Families project. This project provides national training and technical assistance to identify and disseminate information about model family strengthening programs for the prevention of delinquency and other problems associated with youth. Of the 25 model programs identified, Dr. Olds' nurse home visitation program was deemed exemplary.

Comment: Two individuals wrote one letter expressing concern about ''three important limitations'' in the proposed Blueprints for Violence Prevention: Training and Technical Assistance program. Their concerns are summarized as follows: (1) communities need to assess their risk and protective factors and then select the appropriate effective program; (2) the Blueprint program models as designated by the University of Colorado are too limited; and (3) the program should only be made available in communities that have taken a comprehensive approach to preventing juvenile violence.

Response: OJJDP's responses are presented in order below.

1. Communities applying for Blueprints funding will have to provide an assessment demonstrating that the proposed program is needed. The proposed application includes a feasibility component that will ensure, among other factors, that the Blueprint program selection and the target population have been matched. The feasibility component will help assess the need for developing a Blueprint model program and the capacity of the community or agency to implement the selected program with integrity. Several screening methods will be employed to ensure that communities and providers are sufficiently informed, prepared, and equipped to undertake a specific program implementation. A prescreening application adapted to each Blueprint program will determine local commitment and support for implementing the program. A conference call between community representatives will be used to provide evidence of community and/or institutional support. Finally, a site visit will be made to determine whether or not an appropriate match has been made between the community and the specific Blueprint program. The feasibility phases will look at (1) the need of the community for that specific Blueprint program, (2) the financial resources that have already been designated for conducting the program and the potential for additional funding in the long term, and (3) the human resources available for conducting the program, including qualified personnel to direct the program and to manage daily operations.

2. Blueprint programs are ''gold standard'' programs that meet rigorous effectiveness criteria. They are the first 10 of many potential programs to be identified. OJJDP is not saying that they are the only effective programs and acknowledges there may be many more that have shown promising results.

OJJDP has made a conscious decision to support these replications because of the high standards set for inclusion in the program. More than 400 delinquency, drug, and violence prevention programs were reviewed,

and an advisory board narrowed the selection to 10 programs chosen for Blueprint status. These programs came the closest to meeting all four individual criteria: strong research design, evidence of significant prevention or deterrent effects, sustained effects, and multiple site replication.

3. OJJDP will give this suggestion serious consideration. Limiting the program to a select group of communities, however, could severely limit the potential for helping troubled children, youth, and families on a larger scale. OJJDP believes that these model programs are so effective that offering them to all communities is the wisest path to follow.

Comment: One writer praised the overall plan and suggested ''an area which is directly related to many, if not all, of the initiatives outlined'': unified family court initiatives.

Response: OJJDP appreciates the writer's thoughtful discussion of the work being done by the American Bar Association's (ABA's) Standing Committee on Substance Abuse in developing and implementing unified family courts. The Office is also enthusiastic about the potential of the unified court initiative to bring together diverse segments of the court and the community to collaborate on effective approaches to families in crisis.

The Office of Justice Programs through the Violence Against Women Grants Office and the Director of OJJDP's Concentration of Federal Efforts Program provided support and served as faculty at the ABA Summit on Unified Family Courts: Exploring Solutions for Families, Women and Children in Crisis recently held in Philadelphia. OJJDP is looking forward to hearing about the outcomes of the Summit and learning how to possibly collaborate on providing training and technical assistance to the ABA's most promising sites.

OJJDP and the State Justice Institute (SJI) are planning to implement a training and technical assistance project that will help communities involve the courts in effective teambuilding strategies. This may be of interest to the ABA and its work with the unified family court projects. SJI will be administering the program, and OJJDP will make sure that the ABA sites are aware of this opportunity.

OJJDP also encourages the unified family court projects to access information through OJJDP's Juvenile Justice Clearinghouse on potential funding opportunities. The writer mentioned two specific programs that would be of interest to the ABA projects, the Drug Prevention Program and the Drug-Free Communities Support Program. Both programs will provide an opportunity for communities to enhance their efforts in reducing substance abuse among youth by addressing specific risk factors for substance abuse.

OJJDP is also working with the National Institute of Justice to convene a 1-day meeting of leading experts in juvenile and criminal justice, including judges, lawyers, social service providers, academics, and others to discuss the issues addressed above and consider a plan for further improving the juvenile court. The goals of this meeting will be (1) to map out the numerous trends, philosophies, and directions apparent in the juvenile and criminal justice field, (2) to begin identifying common ground among various efforts in the field, and (3) to forge new partnerships among organizations interested in collaborating on juvenile justice programs and projects.

This is a major opportunity for OJJDP to fulfill its role of shaping national policy regarding juvenile justice. OJJDP expects to have an opportunity to launch new initiatives as a result of this meeting and as part of the celebration of the 100th anniversary of the juvenile court. The ABA Standing Committee on Substance Abuse has been instrumental in many of these efforts, and OJJDP will continue to work with them in planning the national meeting and further explore opportunities to work with the Standing Committee on Substance Abuse.

Comment: Five letters expressed support for or interest in funding for gender-specific programming for female juvenile offenders.

Response: OJJDP will continue to provide funding for the Training and Technical Assistance Program To Promote Gender-Specific Programming for Female Juvenile Offenders, which will be implemented by the current grantee, Greene, Peters and Associates. In addition, we are exploring ways to build on the work being done in Cook County, Illinois. This work has involved developing a gender-specific needs and strengths assessment instrument and a risk assessment instrument for female juvenile offenders, providing training in implementing gender-appropriate programming, and designing a pilot program that includes a community-based continuum of care with a unique case management system. Addressing gender-specific needs is also a focus of OJJDP's SafeFutures sites, which are developing comprehensive community partnerships to provide extensive prevention, intervention, and treatment services to at-risk and delinquent juveniles and their families.

Comment: One writer asked for information about a central repository of information, if one exists, and suggested creating one, if such an entity does not exist.

Response: OJJDP recognizes that the work of juvenile justice practitioners, policymakers, and the general public can be enhanced by a central repository of information. OJJDP supports such a resource in the form of the Juvenile Justice Clearinghouse (JJC). A component of the National Criminal Justice Reference Service, JJC is OJJDP's central source for the collection, synthesis, and dissemination of information on all aspects of juvenile justice. Among its many support services, JJC offers toll-free telephone access to information, prepares specialized responses to information requests, maintains a comprehensive juvenile justice library—which includes videotapes, and administers several electronic information resources, including OJJDP's listserv, JUVJUST, and home page. A brochure describing the Clearinghouse and its functions in more detail was sent to the writer.

Comment: One letter requested that OJJDP ''review the critical situation regarding information on juveniles in Federal custody and supervision.''

Response: Two efforts are underway to address the increasing number of juveniles in Federal custody:

1. The U.S. Department of Justice (DOJ) has convened a working group to address the lack of facilities available for juveniles in Federal custody and is also revising current program and educational standards for those facilities with juveniles under Federal jurisdiction.

2. The majority of juveniles in Federal custody are from Indian tribes. Through the DOJ's Office of Tribal Justice (OTJ) and the Office of Justice Program's American Indian and Alaska Native (AI/AN) Affairs Office, OJJDP is developing a series of responses to juveniles in Federal custody. For example, OJJDP is working with OTJ, AI/AN Affairs Office, and the National Institute of Justice to develop an initiative in Indian country that could potentially address the critical issues raised in the report on juveniles in Federal custody. Also, the DOJ Tribal Court Project assists Indian tribes in the improvement of their tribal justice systems and has secured limited training and funding for 45 Tribal Court-DOJ Partnership Projects.

In addition to these efforts, OJJDP is enhancing the current training and technical assistance being provided to law enforcement to also include Federal

law enforcement officers or agents. The focus will be to increase consistency and understanding of Federal policies regarding juveniles in Federal custody. Another area of activity within DOJ is working to provide access to accurate information, which is a main focus of concern in the letter. The Bureau of Justice Statistics is working with several other Federal agencies to revise the Federal agency data collection systems. This effort includes consideration of the lack of information available on juveniles in Federal custody.

OJJDP's proposed field-initiated research program provides an opportunity for researchers to consider the critical issues raised in the letter. In formulating its research priorities, OJJDP will consider the specific areas the writer identified as possible research topics.

Comment: One letter commented on the Proposed Plan's ''impressive array of programs to assist at-risk youth, as well as those already involved in the criminal justice system.'' The writer also described a prevention initiative being spearheaded by the New York/New Jersey High Intensity Drug Trafficking Area and provided information on the recently opened 168th Street Armory Youth Center.

Response: OJJDP thanked the writer for his positive comments, asked to be put on the mailing list to receive a copy of the Center's evaluation when it is available, and referred him to the Juvenile Justice Specialists for New York and New Jersey for information about possible sources of funding.

Comment: One writer noted that only a ''small number of our teens can be construed as violent teens'' and that the children and youth in low-income families in her area ''need opportunities to develop into good citizens.'' She added that she ''would encourage that we not spend a lot of money researching methods—we know what works.'' The writer would like most funds to be spent on youth development and intervention programming.

Response: It is important to recognize, as the writer did in writing about her community, that ''the majority of our youth are productive, hard working and a credit to the community.'' A 1995 survey conducted for OJJDP's Teens, Crime, and the Community program found that 86 percent of the young people in this survey were willing to participate in helping to create solutions to problems that affect their lives. They expressed interest in a variety of volunteer programs to help reduce crime and violence in their communities, including communication programs (ads, posters, newsletters); youth leadership programs, such as tutoring or being a mentor to a younger student; antiviolence and antidrug programs; programs to avoid fights, such as conflict resolution; and local cleanup projects, neighborhood watches, or citizen patrols.

OJJDP agreed that an exclusive focus on studying problems will never solve them, but OJJDP's focus is a comprehensive one. Those who work in juvenile justice and youth-serving agencies know what works in certain communities, but replication of programs that work has been a great challenge. Quality research and data are critical to ensuring the success of OJJDP's efforts. OJJDP's support for community prevention and juvenile justice intervention activities is well balanced. Funded programs range from research on the causes and correlates of delinquency, to demonstrations that pilot solutions, to evaluation of those pilots to check their efficacy, to training and technical assistance, and to formula funds that seed programs nationwide.

Comment: Two writers wrote to support the Learning Disabilities Among Juveniles At-Risk of Delinquency or in the Juvenile Justice System. One of these letters provided information about a program, Partnership for Learning, that ''screens first time juvenile offenders with learning disabilities'' in Baltimore, Maryland.

Response: OJJDP is committed to addressing the increasing number of juveniles identified with learning disabilities in juvenile facilities. More important, OJJDP is supporting effective programs that divert these juveniles from entering the system for minor offenses that would best be addressed in the community. OJJDP will not fund a demonstration program this year. However, OJJDP's activities this year will include a focus on developing a program designed to (1) prevent delinquency and incarceration of youth at risk of learning disabilities through early assessment and intervention coordinated across school, police, court, probationary, and other community-based services, and (2) prevent recidivism by ensuring that students with learning disabilities in correctional settings receive appropriate, specially designed instructional services that address their individual needs.

OJJDP will be working with the U.S. Department of Education's (ED's) Office of Special Education and Rehabilitation Services and Office of Vocational and Adult Education to initiate a variety of activities, including plans to develop the model demonstration program. The Office of Special Education and Rehabilitation Services, in conjunction with ED's Safe and Drug-Free Schools Program, recently combined site visits and focus group meetings to identify promising practices for safe, drug-free, and effective schools for all students. OJJDP will coordinate with ED to disseminate the information developed in these meetings.

Comment: One writer enclosed a report on ''vertical'' prosecution of most juvenile firearm offenses in Seattle, Washington, which the writer indicated OJJDP ''might find interesting considering the content of the plan, especially the Juvenile Justice Prosecution Unit program.''

Response: The OJJDP Administrator was impressed with the project's vertical prosecution approach, the comprehensiveness and utility of the juvenile gun incident data, and the outcomes. Copies of the report were shared with several individuals and groups that might be able to include this approach in their ongoing work:

- OJJDP staff who work on gang- and prosecution-related projects.
- Program Manager, OJJDP's Partnerships To Reduce Juvenile Gun Violence Initiative.
- COSMOS Corporation, the evaluator of OJJDP's Gun Violence Initiative, for possible inclusion in a report COSMOS is producing for the U.S. Department of Justice on promising approaches to this critical issue.
- David Kennedy, Kennedy School of Government, a researcher deeply engaged in the issue of reducing youth gun violence.
- The American Prosecutors Research Institute (APRI), the grantee implementing the Juvenile Justice Prosecution Unit. APRI's work in 1998 will include the presentation of workshops and seminars and development of new reference materials for prosecutors. The material in the report should be helpful to this group.

OJJDP will follow up with the writer and the author of the report to learn more about the Seattle project and to explore ways in which this approach might be included in OJJDP's Gun Violence Initiative sites.

Comment: One letter suggested that the Program Plan ''should include efforts to prevent lead poisoning because excess lead exposure has been found to be associated with increased risk for antisocial and delinquent behavior.''

Response: OJJDP recognizes the significance of lead poisoning as one of the myriad risk factors linked to antisocial behavior and delinquency—an association discussed in the article that the writer enclosed with his letter. Moreover OJJDP agrees that more

research needs to be conducted to further unravel causality; that is, does lead exposure cause a child to become a delinquent and/or a criminal? Accordingly, OJJDP is keeping abreast of research in this area and notes that agencies with larger medical research budgets (e.g., the National Institutes of Health) are best equipped to take on such significantly complex research. Similarly, agencies such as the U.S. Department of Housing and Urban Development have initiatives to prevent lead exposure and by association the negative effects associated with lead poisoning. Nevertheless, OJJDP's Field-Initiated Research program could conceivably include research that might, for example, evaluate the effectiveness of a crime prevention program that integrates lead exposure prevention.

Comment: The governor of an American Indian pueblo expressed concern about two specific points: (1) the Proposed Plan notes the coordinated effort but fails to mention ''involvement of the American Indian & Alaska Native Affairs office'' and (2) a discussion of improving the juvenile justice system does not mention ''the training of judges to issues specific to juvenile justice.''

Response: OJJDP's responses are presented in order below.

1. The reference to coordination with the Assistant Attorney General, Office of Justice Programs (OJP), was meant to include all of the various OJP components; only the four other program bureaus were mentioned by name. OJJDP works closely with the American Indian and Alaska Native (AI&AN) Affairs Office on all of its programs and particularly on those programs that have the greatest interest to American Indians and Alaska Natives. A representative from OJJDP serves on a U.S. Department of Justice American Indian Task Group, and the Director of the AI&AN Affairs Office reviews and comments on OJJDP programs. OJJDP staff have also consulted with the Director of the AI&AN Affairs Office on such programs as the Combating Underage Drinking Program to assure that the solicitation for funding is sensitive to the needs of American Indians and Alaska Natives.

2. OJJDP is committed to providing the necessary resources for training judges in issues specific to juvenile justice. Since 1974, OJJDP, at the direction of Congress, has funded the National Council of Juvenile and Family Court Judges (NCJFCJ) to provide comprehensive skill-based training and technical assistance to juvenile court judges throughout the country. The name of this program was listed on page 6342 of the Proposed Plan as one of a number of programs identified for funding consideration by Congress. Program descriptions were not included for these programs.

NCJFCJ, now in its 62d year, is dedicated to improving the Nation's juvenile justice system. NCJFCJ does this through an extensive effort toward improving the operation and effectiveness of juvenile and family courts through highly developed, practical, and applicable training. NCJFCJ conducts more than 100 training sessions a year with support from OJJDP and from State, local, and foundation funds. These trainings are provided at locations throughout the United States to make them accessible and cost effective for the participants. Like all OJJDP grantees and contractors, NCJFCJ gives careful consideration to requests for assistance outside the specific mandates of the award.

Comment: One letter expressed support for several programs, including the Arts and At-Risk Youth Program, the Youth-Centered Conflict Resolution Program, and programming for female offenders. This support was counted with other letters of support for these programs, which were addressed previously. The writer also supported the program to combat underage drinking, the Communities In Schools—Federal Interagency Partnership program, and OJJDP's gang prevention/intervention activities.

Response: OJJDP's Proposed Plan included five programs that address the gang problem: the Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program; Evaluation of the Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program; Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Technical Assistance and Training; Targeted Outreach With a Gang Prevention and Intervention Component (Boys & Girls Clubs); and Rural Youth Gang Problems—Adapting OJJDP's Comprehensive Approach. Of these, only the last one was proposed as a new program for this fiscal year. The programs mentioned by this writer will all be funded. A solicitation for the Rural Youth Gang Problems program will be issued as part of the *FY 1998 OJJDP Discretionary Program Announcement: Discretionary Grant Program: Parts C and D.* Information on how to obtain a copy of the Program Announcement is provided above under Supplementary Information.

Comment: One writer made four general points about the Proposed Plan, which are summarized and responded to below.

Comment 1: Use of percentage of change conveys nothing ''without knowing numbers of juveniles convicted of offenses and the categories of offense in which they occur.''

Response: OJJDP assumes that the writer is referring to some of the comparisons made in the Overview section. Although this point is valid in a general sense, OJJDP believes that in the context of an overview, the comparisons offered serve the intended purpose, that is, to give a sense of the relative progress being made in the effort to reduce juvenile crime and delinquency. OJJDP makes more detailed statistics available in a variety of publications, including the following:

- Juvenile Offenders and Victims: 1997 Update on Violence (Statistics Summary)
- Juvenile Arrests 1996 (Bulletin)
- The Youngest Delinquents: Offenders Under Age 15 (Bulletin)
- Offenders in Juvenile Court, 1995 (Bulletin)
- Person Offenses in Juvenile Court, 1986–1995 (Fact Sheet).

These and other publications related to juvenile justice can be obtained from the Juvenile Justice Clearinghouse by calling 800–638–8736. Most of the recent publications are also available online at OJJDP's Web site at http://www.ncjrs.org/ojjhome.htm.

Another source of data is the National Juvenile Court Data Archive, which collects, stores, and analyzes data about young people referred to U.S. courts for delinquency and status offenses. The national delinquency estimates produced with the Archive's data files are made available in an easy-to-use software package, *Easy Access to Juvenile Court Statistics.* With the support of OJJDP, the Archive distributes this package to facilitate independent analysis of Archive data while eliminating the need for other analysis packages. This software can be ordered directly from the Archive (412–227–6950) or downloaded from OJJDP's Web site.

Comment 2: ''Number arrested means nothing. Number convicted would be significant.''

Response: Data from the National Juvenile Court Data Archive indicate that of the 122,000 robbery and aggravated assault cases disposed of by juvenile courts in 1994, nearly three-fourths were formally petitioned, and more than half were adjudicated (i.e., ''convicted'') or waived to criminal court. Together these violent juvenile cases accounted for 94 percent of all

Violent Crime Index cases processed by juvenile courts in 1994.

For those juveniles charged with person offenses (a broader range of crimes than Index offenses), more than 60 percent received some disposition other than ''release,'' whether processed through formal (petition) or informal methods. Although there is a dropoff from arrest to disposition for these offenses, OJJDP finds that the outcomes of court processing have not changed substantially over the years. Therefore, the trends that OJJDP is describing would be essentially the same whether arrest data or court data are used to describe changes.

Comment 3: The number of juveniles who commit violent crimes is small.

Response: Just ½ of 1 percent of juveniles ages 10 to 17 were arrested for a violent crime in 1996, but these often high-profile crimes help to fuel public fear and concern about the threat of juvenile violence and influence legislative and policy decisions. OJJDP's programming does not focus disproportionately on the most violent juveniles but instead includes the entire spectrum of juvenile offenders and youth at risk of delinquency. OJJDP supports a comprehensive strategy that incorporates two principal components:

- Preventing youth from becoming delinquent by focusing prevention programs on at-risk youth.
- Improving the response of the juvenile justice system to delinquent offenders through a system of graduated sanctions, including a continuum of treatment alternatives that provide immediate intervention, intermediate sanctions, and community-based and secure corrections, incorporating aftercare services when appropriate.

This comprehensive strategy also recognizes that an effective system of graduated sanctions must protect the public by including the option of transfer to the criminal justice system for those serious, violent, or chronic juvenile offenders who are not amenable to treatment in the juvenile justice system or whose criminal acts are so egregious as to justify transfer.

Comment 4: Thousands of children are at risk for abuse and neglect and are ''more likely to be the victim of a violent crime, than to commit one.''

Response: OJJDP shares the writer's concern for children and youth who are abused and neglected and who are victims of crime. One of the publications listed above, *Juvenile Offenders and Victims: 1997 Update on Violence,* provides the latest statistics, not only on juvenile offenders, but also on juvenile victims. OJJDP supports a wide array of prevention programming, including family strengthening and nurse home visitation programs that address the problems of abuse and neglect. As the Proposed Plan stated: ''These programs can build the foundation for law-abiding lives for children and interrupt the cycle of violence that can turn abused or neglected children into delinquents.''

Comment: One writer applauded OJJDP's ''efforts in addressing the juvenile problem'' and described a proposed Community Renaissance strategy and specific programs to help deter high-risk youth from delinquency and violence. The writer stated that he was looking to OJJDP as a potential partner in this venture.

Response: It is commendable that the members of the Prisoner Advisory Committee want to use their experience to help young people avoid involvement with the justice system. OJJDP suggested that the most practical approach to accomplish the Committee's objectives would be through collaboration with a local agency or organization that works with at-risk or delinquent juveniles. The writer was referred to the Juvenile Justice Specialist for Michigan as one possible source of information about local programs that might be interested in working with the Committee.

Comment: One letter supported the proposed programming in two specific areas: gender-specific programming for female juvenile offenders and Targeted Outreach With a Gang Prevention and Intervention Component (Boys & Girls Clubs). The support for gender-specific programming was counted with other letters of support for this type of program, addressed previously.

Response: Targeted Outreach With a Gang Prevention and Intervention Component (Boys & Girls Clubs), is a continuation program, and no additional applications will be solicited this fiscal year. OJJDP expects that 10 new sites—all in rural areas—will receive gang prevention training and technical assistance. The Boys & Girls Clubs of America will choose the new sites.

Comment: One letter expressed support for the Community Volunteer Coordinator Program and for the Rural Youth Gang Problems—Adapting OJJDP's Comprehensive Approach program, while encouraging OJJDP not to rely solely on Boys & Girls Clubs for some programs because they do not reach or serve many populations, especially in rural areas. The support for the Community Volunteer Coordinator Program was counted and responded to with other letters in favor of that program.

Response: In regard to the comment that OJJDP should not rely solely on Boys & Girls Clubs for some programs, especially in rural areas, the writer can be assured that OJJDP has a high level of confidence in the Boys & Girls Clubs but is also well aware of the need for a variety of partners in various aspects of its mission to prevent delinquency and criminal behavior among juveniles. OJJDP is also cognizant of the special needs of rural areas. The Rural Youth Gang Problems—Adapting OJJDP's Comprehensive Approach program will be funded. A solicitation will be issued as part of the *FY 1998 OJJDP Discretionary Program Announcement: Discretionary Grant Program: Parts C and D.* Information on how to obtain a copy of the Program Announcement is provided above under Supplementary Information.

Comment: One letter made comments in four specific areas, three of which are listed and responded to below. The fourth area, Gender Specific Programming for Female Juvenile Offenders, was responded to above, and this writer's interest in this type of programming was counted among the letters that commented on that topic.

Comment 1: Training and Technical Assistance. The writer expressed the hope that the training and technical assistance activities in the Program Plan ''include the provision of training to people who work with females both at risk and within the system.''

Response: Wherever appropriate, OJJDP-funded training and technical assistance programs address the specific concerns of female juveniles. Specifically, OJJDP will continue to provide funding for the Training and Technical Assistance Program To Promote Gender-Specific Programming for Female Juvenile Offenders, which will be implemented by the current grantee, Greene, Peters and Associates.

Comment 2: Field-Initiated Research and Field-Initiated Evaluation. The writer supported both these proposed programs.

Response: Only the Field-Initiated Research program is being funded this year. OJJDP believes that this type of outreach to the field can result in creative and innovative proposals. A solicitation will be issued as part of the *FY 1998 OJJDP Discretionary Program Announcement: Discretionary Grant Program: Parts C and D.* Information on how to obtain a copy of the Program Announcement is provided above under Supplementary Information.

Comment 3: Introduction to Fiscal Year 1998 Program Plan. The writer was critical of the mention of a ''single agency with reference to prevention.''

Response: The point about either mentioning other agencies as illustrative of prevention programs or mentioning none is, generally speaking, a valid one. Obviously, OJJDP cannot possibly list all the effective national programs. The Boys & Girls Clubs of America—one of the largest and best-known providers of afterschool programs for youth and an organization whose work has been evaluated and found to be successful—was used as a convenient reference point for readers. However, in response to this comment, we will use a more general reference in this part of the program plan.

Comment: Another writer supported four specific program areas: afterschool and summer arts for at-risk youth, a planning and demonstration project to address issues surrounding learning disabilities and delinquency, a juvenile defender center, and gender-specific programming for female juvenile offenders.

Response: All of these programs were addressed above. The writer's support for these programs was counted among the letters that commented on those topics.

Comment: One writer was generally pleased about the direction OJJDP is taking in 1998 but suggested that the Technical Assistance for State Legislators program should be expanded. The writer proposed that OJJDP establish a Technical Assistance for County Officials program.

Response: OJJDP appreciates the writer's recognition of the importance of its ongoing work with the National Conference of State Legislatures. Through the Title V Program—popularly known as the Community Prevention Grants Program, OJJDP has been working closely with communities nationwide to provide them with the framework, tools, and initial funding to develop and begin to implement comprehensive, sustainable delinquency prevention strategies. More than 470 communities across the Nation have embraced the rigorous community assessment and delinquency prevention planning process and received prevention grants.

In regard to the suggestion to amend the Proposed Plan to include a Technical Assistance for County Officials program, OJJDP agrees that county-level officials are important policymakers and need to be well-informed on management and policy issues. Indeed, over the years, OJJDP has worked closely with the National Association of Counties (NACO), with which the writer's organization is affiliated. Although OJJDP will not include the requested program in the 1998 Final Plan, a meeting will be held at OJJDP with the writer and a representation of NACO to talk about opportunities for future partnerships, cooperation, and collaboration among the parties.

Comment: One writer praised OJJDP's information dissemination but expressed concern about the program goals in the Proposed Plan. Specifically, the writer called for ''a needs-assessment and systematic evaluation of court services''; more attention to ''multimodal and longitudinal interventions, programs that address the first time offender, and efforts to address the unique needs of different subgroups within the juvenile justice, such as the adolescent sex offender''; and ''development and evaluation of multicomponent interventions whose content is based on the results of the OJJDP-funded studies on the Causes and [Correlates] of Delinquency.'' The writer also found the field-initiated research section to be ''virtually nonexistent.''

Response: OJJDP appreciates the kind words about the value of its information dissemination through the Juvenile Justice Clearinghouse. It is always helpful to receive feedback on the services OJJDP provides.

In regard to the concerns expressed about the program goals outlined in the Proposed Plan, OJJDP shares the writer's perspective on most of the issues raised and regrets that the writer did not find this agreement clearly reflected in the plan. OJJDP is involved in many activities that support the desired approaches described in the letter. The brief summaries below present examples of efforts that OJJDP believes are in accord with the direction the writer would like to see OJJDP take.

Program of Research on the Causes and Correlates of Delinquency. This longitudinal study is being conducted by research teams (the University at Albany, State University of New York; the University of Colorado, and the University of Pittsburgh) in three sites: Rochester, New York; Denver, Colorado; and Pittsburgh, Pennsylvania. The three research teams have interviewed 4,000 participants at regular intervals for nearly a decade, recording their lives in detail and accumulating a substantial body of knowledge about delinquency and its causes. OJJDP has recently increased its investment in this research.

Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders. The foundation for OJJDP's program planning for the past 3 years has been the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders, which draws heavily on the findings of the Causes and Correlates study. The Comprehensive Strategy recognizes the need for coordination and collaboration among agencies and organizations that serve children. The Comprehensive Strategy has two main components: (1) prevention and (2) graduated sanctions that begin with early interventions within the community for first-time nonviolent offenders, intermediate sanctions within the community for more serious offenders, and secure care for the most serious, violent, and chronic juvenile offenders. Through training and technical assistance, OJJDP is supporting more than 30 communities in their efforts to create a continuum of care that integrates services provided by schools and social services with those offered by law enforcement, courts, and corrections. Part of this OJJDP assistance is targeted at the development of risk and needs assessments that can be used by the juvenile justice system to effectively change the nature of its service delivery.

The SafeFutures program, discussed below, is another example of OJJDP's support for this comprehensive approach. Here, OJJDP used multiple funding streams and collapsed them into one program application as a way of encouraging the coordination and integration of service delivery at the community level.

SafeFutures. The SafeFutures Initiative, a 5-year demonstration project currently in the second year of implementation, was specifically designed to address collaboration. The demonstration's main premise is that juvenile delinquency can be most effectively addressed through a combined approach of prevention, intervention, treatment, and sanctions. This collaborative approach takes place at two levels: the strategic planning level with policymakers and agency heads and the direct service integration level. SafeFutures sites are actively working to plan a continuum of services and integrate frontline service delivery across a multidisciplinary, interagency team of professionals including the court system, mental health, social services, probation, law enforcement, education, and housing. This effort is being evaluated nationally through OJJDP and through local evaluations in each of the six sites.

Community Assessment Center (CAC) Program. This multicomponent demonstration initiative is designed to test the efficacy of the CAC concept of providing a 24-hour centralized, single point of intake and assessment for juveniles who have or are likely to come into contact with the juvenile justice

system. A CAC facilitates earlier and more efficient prevention and intervention service delivery at the ''front end'' of the juvenile justice system. OJJDP will provide an additional year's funding to further support the implementation of CAC enhancements and provide additional support to the sites awarded grants in FY 1997. This funding would enable these sites to begin implementing the CAC's planned for with OJJDP funding support or to enhance existing operations. OJJDP is also funding a CAC evaluation component and a technical assistance component.

Study Group on the Serious, Violent, and Chronic Juvenile Offender. Originally charged with producing a report on critical areas of interest about these offenders, including prevention, intervention, gangs, and other topics, which it submitted in 1997, the Study Group is currently focusing on the youngest offenders and the pathways to delinquency. OJJDP is continuing to fund this effort, which began in FY 1995.

The writer is also encouraged to review the field-initiated research funding opportunities available through OJJDP's interagency agreements with the National Institute of Justice under the Juvenile Accountability Incentive Block Grants Program and the Bureau of Justice Statistics through the Statistical Analysis Centers component. Additionally, OJJDP still plans to fund the field-initiated research effort referenced in the Proposed Plan. The writer may also want to look for the results of OJJDP's recently funded research project on the development of a juvenile sex offender typology.

Comment: One writer expressed concern about three items that he would like to see included in the Program Plan. These issues are summarized and responded to below.

Comment 1: An initiative aimed at high-level municipal and county policymakers and others would consist of a collaborative strategic planning process that could lead to more comprehensive community approaches to children's victimization.

Response: As the writer noted, this first item falls under OJJDP's Missing and Exploited Children's Program (MECP). One of MECP's priorities is the expansion and enhancement of training as it relates to child victimization. Goals for the coming years include the incorporation of results of research and demonstration programs into the overall training program (including the American Bar Association's (ABA's) study of effective community-based approaches for missing and exploited children); the expansion of existing training curriculums to focus on broader child victimization issues; the development of more comprehensive and integrated training programs that are based on the most current knowledge and information about best practices, approaches, and research; and continued emphasis on providing high level policymakers with the necessary information, tools, and strategies to effectively identify and address child victimization issues in their community. The writer was encouraged to continue to discuss his concerns about missing and exploited children's issues with the Director of OJJDP's Missing and Exploited Children's Program.

Comment 2: The topic of criminal record screening of adults working or volunteering with children needs to be addressed, with research on how States are implementing screening laws and technical assistance to States.

Response: This is another issue of interest to OJJDP. Under a 1992 grant to the ABA Center on Children and the Law, the writer and the Center conducted a legal review of the laws and policies governing this issue. Many laws have changed since then. The National Child Protection Act of 1993 and laws such as Jacob Wetterling and Megan's Law have also impacted this field. OJJDP recently released *Guidelines for the Screening of Persons Working With Children, the Elderly, and Individuals With Disabilities in Need of Support.* The writer's suggestion of conducting further research into the implementation of screening laws and the development of technical assistance is a good one and potentially eligible for funding under the Field-Initiated Research Program.

Comment 3: Programs relating to early ''status offense'' misbehavior by children under 12 and the operation of ''parental responsibility'' laws might help in the early identification of and intervention with predelinquent children.

Response: Some ongoing OJJDP programs address this issue. In the research area, OJJDP is supporting the work of a Study Group on Very Young Offenders, which is focusing on the pathways to delinquency. Chaired by Dr. Rolf Loeber and Dr. David Farrington, the Study Group will examine the available research on youth who start offending before 13, an understudied population. The goals of the research are to identify the prevalence of such offending and to determine how this offending affects later offending behavior and how society can best deal with these young offenders to prevent future criminality. Status offenders are also being studied in the context of school truancy as part of an evaluation of truancy interventions that include a parental component.

Another program that is somewhat related to this issue is the Child Welfare League of America (CWLA) project entitled Assessment and Decisionmaking Guidelines for Dealing With Chemically Involved Children, Youth, and Families. This program receives funding from both OJJDP and the Office of National Drug Control Policy (ONDCP) and is part of a larger ONDCP parent-focused initiative.

CWLA will produce a state-of-the-art assessment instrument along with decisionmaking guidelines for use by frontline child welfare professionals who work with clients involved with alcohol and other drugs and their families (parents). These resource materials will assist child welfare professionals to determine the most appropriate casework approach, placement option, and permanency plan for children of substance abusers.

This assessment instrument and the decisionmaking guidelines will be problem-solving tools derived from integrating original research, lessons learned from actual cases, and the training needs of child welfare staff. The foundation for the guidelines are basic principles of successful family strengthening models, such as maintaining respect for parents and children while working with them and promoting honesty and clarity regarding choices and consequences.

Another OJJDP initiative that is expected to contribute to better identification of predelinquent children and help improve the response to their needs is the Community Assessment Center (CAC) program. This multicomponent demonstration initiative is designed to test the efficacy of the CAC concept of providing a 24-hour centralized, single point of intake and assessment for juveniles who have or are likely to come into contact with the juvenile justice system. A CAC facilitates earlier and more efficient prevention and intervention service delivery at the ''front end'' of the juvenile justice system.

Comment: One writer praised OJJDP's leadership and expressed support for various OJJDP programs. The writer also expressed interest in the new drug prevention program and suggested that OJJDP consider ''highlighting the juvenile crime that currently exists within the Latino youth population and to create ethnic-specific delinquency prevention initiatives.''

Response: OJJDP appreciates the kind words about its leadership role in addressing the needs of juveniles in this time of limited resources. The Office is also pleased to know of the writer's support for the prevention and intervention programs listed in the Proposed Plan; for OJJDP projects such as the National Youth Gang Center, Communities in Schools, and Family Strengthening Programs; and for the risk and protective factors prevention model that is incorporated in OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders.

OJJDP will be implementing several new alcohol and other drug programs this fiscal year. As stated in the Proposed Plan, two of the new programs being developed, Combating Underage Drinking and the Drug Prevention Program, will be awarded competitively. Program announcements can be obtained by calling OJJDP's Juvenile Justice Clearinghouse (JJC) at 800–638–8736 or by sending an e-mail request to askncjrs@ncjrs.org. Program announcements will also be available online at www.ncjrs.org/ojjhome.htm.

Another program that OJJDP will be administering and that may be of interest to the writer is the Drug-Free Communities Support program to support the development and expansion of community antidrug coalitions. Information on this program is also available through JJC.

In regard to the suggestion for ethnic-specific delinquency prevention initiatives, OJJDP programs are developed to serve the diversity of youth in this country. Therefore, most OJJDP-funded projects target youth of all races and both genders. Specifically, most of OJJDP's discretionary projects focus on implementing services and activities to address juvenile crime, violence, and abuse in their local communities and on efforts to improve the lives of children residing in abusive living environments. In identifying youth most in need of prevention and intervention programs, some OJJDP projects have targeted Latino youth. The following are brief descriptions of several current OJJDP discretionary projects targeting Latino youth:

SafeFutures. The main premise of this 5-year demonstration project (currently in the second year of implementation) is that juvenile delinquency can be most effectively addressed through a combined approach of prevention, intervention, treatment, and sanctions. Two of the six demonstration sites are serving a largely Latino population.

- The Imperial County, California, SafeFutures program serves youth of all races, but the project predominately serves Latino youth because approximately 69 percent (in 1995) of the county's population is Latino.
- The SafeFutures project in Contra Costa County, California, also serves a significant number of Latino youth. The goal of this project is to create a continuum of care for at-risk youth in Contra Costa, specifically West Contra Costa County. This program also serves African-American, Asian, and other youth.

Juvenile Mentoring Program (JUMP). The goals of this one-to-one mentoring program are to reduce juvenile delinquency and gang participation by at-risk youth, improve their school performance, and reduce their dropout rate.

- The Latino Mentoring Program, Family Services, Inc., in Providence, Rhode Island, links high-risk Latino adolescents with mentors from the business and education community. Priority is given to gang-involved youth, adjudicated delinquents, and adolescents in abusive or neglected home situations.
- The Mentors Matter collaborative of Tulare County, Community Services and Employment Training, Inc., in Visalia, California, is serving many students who live in a migrant labor settlement where Hispanic students (99 percent of the school-age population in the settlement) are at risk for poor academic achievement, dropping out of school, juvenile crime, involvement with gangs, and teenage pregnancy.
- Big Sisters in Philadelphia, Pennsylvania, serves Hispanic females, ages 10 to 18, by helping them to develop self-esteem and self-confidence, exposing them to educational and career opportunities, and working to prevent teen pregnancy, dropping out of school, and delinquency.
- The George Gervin Youth Center, San Antonio, Texas, serves Mexican youth, most of whom live in Victoria Courts, where approximately 34 percent of the youth are dropouts and teen parents and where the largest number of crimes in the city occurred in 1993. The youth are introduced to the world of work, summer jobs, and other new experiences to motivate them to stay in school and out of gangs and other delinquent activities.
- The Rowland Unified School District (La Punente, California) JUMP program participants are 80 percent Latino and 90 percent male.
- Valley Big Brothers Big Sisters of Phoenix, Arizona, serves students in grades seven and eight, most of whom are Latino.
- Service for Adolescent & Family Enrichment (Santa Barbara, California) serves Latino youth, mostly males between the ages of 10 and 15.

Pathways to Success

Aspira of Florida serves a target group of 130 Latino migrant youth from rural South Dade. Services provided to these youth include career planning and art, dance, and recreation activities.

Intensive Community-Based Aftercare Demonstration and Technical Assistance Program (IAP)

This is a demonstration effort in three sites: Denver, Colorado; Las Vegas, Nevada; and Norfolk, Virginia. The model being tested is designed to assist high-risk youth returning to their community from secure confinement. In all three sites, the target population includes Latino youth.

Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program

This program is currently being tested in five demonstration sites: Mesa and Tucson, Arizona; Riverside, California; Bloomington, Illinois; and San Antonio, Texas. Latino youth are among those being served in each of the sites. Some of these programs incorporate issues of Hispanic or Chicano heritage, and most of the programs have or have had Hispanic staff.

Targeted Outreach With a Gang Prevention and Intervention Component (Boys & Girls Clubs of America)

The programs of the Boys & Girls Clubs of America provide services to many Latino youth. OJJDP has supported the Targeted Outreach program for several years. The program provides training and support to local clubs to provide outreach to those youth at risk of gang involvement. Many of the Targeted Outreach programs provide services to Latino youth. In 1997, 45 percent of the youth served were of Hispanic origin, 45 percent were African-American, and 10 percent were of other races and ethnic backgrounds.

Latino communities are among the many areas throughout the Nation where OJJDP is supporting community-based projects in schools, neighborhoods, and the juvenile justice arena in urban, suburban, and rural cities and counties.

Introduction to Fiscal Year 1998 Program Plan

An effective juvenile justice system must implement a sound comprehensive strategy and must

identify and support programs that work to further the objectives of the strategy. These objectives include holding the juvenile offender accountable; enabling the juvenile to become a capable, productive, and responsible citizen; and ensuring the safety of the community.

For juveniles who come to the attention of police, juvenile courts, or social service agencies, a strong juvenile justice system must assess the danger they pose, determine what can help put them back on the right track, deliver appropriate treatment, and stay with them when they return to the community. When necessary, a strong juvenile justice system also must appropriately identify those serious, violent, and chronic juveniles offenders who are beyond its reach and ensure their criminal prosecution and incapacitation.

Research has shown that what works to reduce juvenile crime and violence includes prevention programs that start with the earliest stages of life: good prenatal care, home visitation for newborns at risk of abuse and neglect, steps to strengthen parenting skills, and initiatives to prepare children for school. These programs can build the foundation for law-abiding lives for children and interrupt the cycle of violence that can turn abused or neglected children into delinquents.

Prevention programs work for older children, too: opportunities for youth after school and on weekends, such as programs that offer a variety of activities and those that focus on mentoring, can reduce juvenile alcohol and drug use, improve school performance, and prevent youth from getting involved in crime and violent behavior.

Another focal point for juvenile justice efforts is the community. Without healthy communities, young people cannot thrive. The key leaders in the community, including representatives from the juvenile justice, health and mental health, schools, law enforcement, social services, and other systems, as well as leaders from the private sector, must be jointly engaged in the planning, development, and operation of the juvenile justice system. Attempts to improve the juvenile justice system must be part of a broad, comprehensive, communitywide effort—both at the leadership and grassroots level—to eliminate factors that place juveniles at risk of delinquency and victimization, enhance factors that protect them from engaging in delinquent behavior, and use the full range of resources and programs within the community to meet the varying needs of juveniles. It is also important to provide increased public access to the system to ensure an appropriate role for victims, a greater understanding of how the system operates, and a higher level of system accountability to the public.

The recent decreases in all measures of juvenile violence known to law enforcement (number of arrests, arrest rates, and the percentage of violent crimes cleared by juvenile arrests) should encourage legislators, juvenile justice policymakers and practitioners, and all concerned citizens to support ongoing efforts to address juvenile crime and violence through a comprehensive approach.

Three documents published during the past 5 years provide the framework for a comprehensive approach to an improved, more effective juvenile justice system. OJJDP's *Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders* (1993) and *Guide for Implementing the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders* (1995) were followed in 1996 by the Coordinating Council on Juvenile Justice and Delinquency Prevention's *Combating Violence and Delinquency: The National Juvenile Justice Action Plan*. The first of these publications defined the elements of the comprehensive strategy. The second provided States and communities with a more detailed explanation of what would constitute the elements of a comprehensive strategy, including strategic and programmatic information on risk and protective factor-based prevention and a system of graduated sanctions. The third prioritized Federal, State, and local activities and resources under eight critical objectives that are central to reducing and preventing juvenile violence, delinquency, and victimization.

The OJJDP FY 1998 Program Plan is rooted in the principles of the *Comprehensive Strategy* and the objectives of the *Action Plan*. Like the OJJDP Program Plans for FY's 1996 and 1997, the FY 1998 Program Plan supports a balanced approach to aggressively addressing juvenile delinquency and violence through establishing graduated sanctions, improving the juvenile justice system's ability to respond to juvenile offending, and preventing the onset of delinquency. The Program Plan, therefore, recognizes the need to ensure public safety and support children's development into healthy, productive citizens through a range of prevention, early intervention, and graduated sanctions programs.

Proposed new program areas were identified for FY 1998 through a process of engaging OJJDP staff, other Federal agencies, and juvenile justice practitioners in an examination of existing programs, research findings, and the needs of the field. In a departure from past practice, OJJDP presented for public comment more proposed programs than it expected to be able to fund with the resources available. It was OJJDP's intent to stimulate discussion of the best use of its FY 1998 discretionary funding and to seek guidance from the field as to which programs, among the many described in the Proposed Program Plan, would most effectively advance the goals of promoting delinquency prevention and early intervention, improving the juvenile justice system, and preserving the public safety.

OJJDP will provide funding for a wide variety of new programs, including training and technical assistance coordination for the SafeFutures initiative, and training and technical assistance for the Blueprints for Violence Prevention project and for a school safety program. New programs also involve OJJDP collaboration with other agencies to address problems such as truancy, develop arts programs directed toward at-risk youth and youth held in juvenile detention and corrections, and support the planning and development of systems of care for American Indian and Alaska Native youth with mental health and substance abuse needs. In addition, OJJDP will provide funding for initial planning and implementation of a Juvenile Defender Center, coordination of youth-related volunteer services, support for programs designed to build infrastructure for programming for female juvenile offenders and teen mothers, and support for additional work in the area of disproportionate minority confinement in secure juvenile facilities and other institutions.

OJJDP considered, but is not funding demonstration projects designed to intervene early with students with learning disabilities to prevent delinquency and also to prevent recidivism by those students in correctional settings. See the Learning Disabilities Among Juveniles At Risk of Delinquency or in the Juvenile Justice System program description below for a discussion of why this program is not being funded.

In addition, OJJDP has identified for FY 1998 funding a range of research and evaluation projects designed to expand knowledge about juvenile offenders; the effectiveness of prevention, intervention, and treatment programs; and the operation of the juvenile justice system. New evaluation initiatives that will be undertaken include the

Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders; the Boys & Girls Clubs of America's TeenSupreme Career Preparation Initiative; analysis and interpretation of juvenile justice-related data from nontraditional sources; and field-initiated research. Field-initiated evaluation, which was included in the Proposed Plan, will not be funded this fiscal year. See the Field-Initiated Evaluation program description below for a discussion of why this program is not being funded. Combined with new OJJDP programs and programs being continued in FY 1998, OJJDP's new demonstration and evaluation programs form a continuum of programming that supports the objectives of the *Action Plan* and mirrors the foundation and framework of the *Comprehensive Strategy*.

OJJDP's continuation activities and the new FY 1998 programs are at the heart of OJJDP's categorical funding efforts. For example, while focusing on new areas of programming such as the Juvenile Defender Center and the role of the arts for juveniles in detention centers and for at-risk youth, continuing to offer training seminars in the Comprehensive Strategy, and looking to the SafeFutures program to implement a continuum of care system, OJJDP will be supporting programs that reduce the likelihood of juvenile involvement in hate crimes, reduce juvenile gun violence, promote positive approaches to conflict resolution, and explore the mental health needs of juveniles. Together, these and other activities provide a comprehensive approach to prevention and early intervention programs while enhancing the juvenile justice system's capacity to provide immediate and appropriate accountability and treatment for juvenile offenders, including those with special treatment needs.

OJJDP's Part D Gang Program will develop a rural gang prevention and intervention program and will continue to support a range of comprehensive prevention, intervention, and suppression activities at the local level, evaluate those activities, and inform communities about the nature and extent of gang activities and effective and innovative programs through OJJDP's National Youth Gang Center. Similarly, activities related to the identification of school-based gang programs and the evaluation of the Boys & Girls Clubs gang outreach effort, along with an evaluation of selected youth gun violence reduction programs, will complement existing law enforcement and prosecutorial training programs by supporting and informing grassroots community organizations' efforts to address juvenile gangs and juvenile access to, carriage of, and use of guns. This programming builds on OJJDP's youth-focused community policing, mentoring, and conflict resolution initiatives and programming, including the work of the Congress of National Black Churches in supporting local churches to address the prevention of drug abuse, youth violence, and hate crime.

In support of the need to break the cycle of violence, OJJDP's Safe Kids/Safe Streets demonstration program, currently being implemented in partnership with other OJP offices and bureaus, will improve linkages between the dependency and criminal court systems, child welfare and social service providers, and family strengthening programs and will complement ongoing support of Court Appointed Special Advocates, Child Advocacy Centers, and prosecutor and judicial training in the dependency field, funded under the Victims of Child Abuse Act of 1990, as amended.

The Program Plan's research and evaluation programming will support many of the above activities by filling in critical gaps in knowledge about the level and seriousness of juvenile crime and victimization, its causes and correlates, and effective programs in preventing delinquency and violence. At the same time, OJJDP's research efforts will also be geared toward efforts that monitor and evaluate the ways juveniles are treated in the juvenile and criminal justice systems, particularly in relation to juvenile violence and its impact.

As described below, OJJDP is also utilizing its national perspective to disseminate information to those at the grassroots level: practitioners, policymakers, community leaders, and service providers who are directly responsible for planning and implementing policies and programs that impact juvenile crime and violence. An additional OJJDP goal is to help practitioners and policymakers translate this information into action through its training and technical assistance providers as part of its mission to stimulate and assist in the replication of successful and promising strategies and programs.

OJJDP will continue to fund longitudinal research on the causes and correlates of delinquency. Even more important, however, OJJDP will regularly share the findings from this research with the field through OJJDP's publications, Home Page on the World Wide Web, and JuvJust (an electronic newsletter); utilize state-of-the-art technology to provide the field with an interactive CD-ROM on promising and effective programs designed to prevent delinquency and reduce recidivism; air national satellite teleconferences on key topics of relevance to practitioners; and publish new reports and documents on timely topics. Some examples of these publication topics include youth action to prevent delinquency; family strengthening; juvenile substance abuse (prevention, intervention, and testing); balanced and restorative justice; developmental pathways in delinquent behavior, gang migration, capacity building for substance abuse treatment, youth gangs, restitution programs, school safety, and conditions of confinement.

The various contracts, grants, cooperative agreements, and interagency fund transfers described in the Program Plan form a continuum of activity designed to address youth violence, delinquency, and victimization. In isolation, this programming can do little. However, the emphasis of OJJDP's programming is on collaboration. It is through collaboration that Federal, State, and local agencies; American Indian tribes; national organizations; private philanthropies; the corporate and business sector; health, mental health, and social service agencies; schools; youth; families; and clergy can come together to form partnerships and leverage additional resources, identify needs and priorities, and implement innovative strategies. In the past few years, the combined efforts of these varied groups have brought about the beginnings of change in the prevalence of juvenile crime, violence, and victimization. Now is the time to strengthen old partnerships and forge new ones to develop support for a long-term, comprehensive approach to a more effective juvenile justice system.

Fiscal Year 1998 Programs

The following are brief summaries of each of the new and continuation programs projected to receive funding in FY 1998, including ongoing projects identified for supplemental funding since the publication of the Proposed Plan, which are grouped under the heading New Supplemental Funding at the end of the program list. Programs that appeared in the Proposed Plan but that will not receive funding are also listed but are marked with asterisks. In the program descriptions, brief discussions are provided as to why some proposed programs will not be funded this fiscal year.

As indicated above, the program categories are public safety and law enforcement; strengthening the juvenile

justice system; delinquency prevention and intervention; and child abuse and neglect and dependency courts. However, because many programs have significant elements of more than one of these program categories or generally support all of OJJDP's programs, they are listed in an initial program category, called overarching programs. The specific program priorities within each category are subject to change with regard to their priority status, sites for implementation, and other descriptive data and information based on grantee performance, application quality, fund availability, and other factors.

A number of OJJDP programs have been identified for funding consideration by Congress with regard to the grantee(s), the amount of funds, or both. These programs, which are listed below, are not included in the program descriptions that follow.

National Council of Juvenile and Family Court Judges
Teens, Crime, and the Community
Parents Anonymous, Inc.
Juvenile Offender Transition Program
Suffolk University Center for Juvenile Justice
Center for Crimes and Violence Against Children
Crow Creek Alcohol and Drug Program
Metro Denver Gang Coalition

In addition, OJJDP has been directed by Congress to examine each of the following proposals, provide grants if warranted, and report to the Committees on Appropriations of both the House and the Senate on its intention for each proposal:

Coalition for Juvenile Justice
The Hamilton Fish National Institute on School/Community Violence
Low Country Children's Center
Vermont Department of Social and Rehabilitative Services
Grassroots Drug Prevention Program
Dona Ana Camp
Center for Prevention of Juvenile Crime and Delinquency at Prairie View University Project O.A.S.I.S.
KidsPeace—The National Centers for Kids in Crisis, North America
Consortium on Children, Families, and Law
New Mexico Prevention Project
No Hope in Dope Program
Study of the Link Between Child Abuse and Criminal
Behavior in Alaska
Gainesville Juvenile Assessment Center
Lincoln Council on Alcohol and Drugs
Hill Renaissance Partnership
National Training and Information Center
Culinary Arts Training Program for At-Risk Youth
Women of Vision Program for Youthful Female Offenders
Violence Institute of New Jersey
Delancy Street Foundation
Law-Related Education

Fiscal Year 1998 Program Listing

Overarching

SafeFutures: Partnerships To Reduce Youth Violence and Delinquency
Evaluation of SafeFutures
Program of Research on the Causes and Correlates of Delinquency
OJJDP Management Evaluation Contract
Juvenile Justice Statistics and Systems Development
Census of Juveniles in Residential Placement
OJJDP National Training and Technical Assistance Center
Technical Assistance for State Legislatures
Telecommunications Assistance
OJJDP Technical Assistance Support Contract—Juvenile Justice Resource Center
Juvenile Justice Clearinghouse
Insular Area Support
Community Assessment Centers (CAC's)
Training and Technical Assistance Coordination for SafeFutures Initiative

Public Safety and Law Enforcement

Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program
Evaluation of the Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program
Targeted Outreach With A Gang Prevention and Intervention Component (Boys & Girls Clubs)
National Youth Gang Center
Evaluation of the Partnerships To Reduce Juvenile Gun Violence Program
The Chicago Project for Violence Prevention
Safe Start—Child Development-Community-Oriented Policing (CD–CP)
Juvenile Justice Law Enforcement Training and Technical Assistance Program
Partnerships To Reduce Juvenile Gun Violence
Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Technical Assistance and Training
Rural Youth Gang Problems: Adapting OJJDP's Comprehensive Approach
Case Studies and Evaluation Planning of OJJDP's Rural Youth Gang Initiative

Delinquency Prevention and Intervention

Youth-Centered Conflict Resolution
Communities In Schools—Federal Interagency Partnership
The Congress of National Black Churches: National Anti-Drug Abuse/Violence Campaign (NADVC)
Risk Reduction Via Promotion of Youth Development
Training and Technical Assistance for Family Strengthening Programs
Hate Crime
Strengthening Services for Chemically Involved Children, Youth, and Families
Diffusion of State Risk-and Protective-Factor Focused Prevention
Multisite, Multimodal Treatment Study of Children With ADHD
Evaluation of the Juvenile Mentoring Program
Truancy Reduction Demonstration Program
Evaluation of the Truancy Reduction Demonstration Program
Arts and At-Risk Youth
Community Volunteer Coordinator Program
* Learning Disabilities Among Juveniles At Risk of Delinquency or in the Juvenile Justice System
Advertising Campaign—Investing in Youth for a Safer Future

Strengthening the Juvenile Justice System

Development of the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders
Balanced and Restorative Justice Project (BARJ)
Training and Technical Assistance Program To Promote Gender-Specific Programming for Female Juvenile Offenders
Juvenile Transfers to Criminal Court Studies
Replication and Extension of Fagan Transfer Study
The Juvenile Justice Prosecution Unit
Due Process Advocacy Program Development
Quantum Opportunities Program (QOP) Evaluation
Intensive Community-Based Aftercare Demonstration and Technical Assistance Program
Evaluation of the Intensive Community-Based Aftercare Program
Training and Technical Assistance for National Innovations To Reduce Disproportionate Minority Confinement (The Deborah Ann Wysinger Memorial Program)
Training for Juvenile Corrections and Detention Management Staff
Training for Line Staff in Juvenile Detention and Corrections

Training and Technical Support for State and Local Jurisdictional Teams To Focus on Juvenile Corrections and Detention Overcrowding
National Program Directory
Interagency Programs on Mental Health and Juvenile Justice
Juvenile Residential Facility Census
The National Longitudinal Survey of Youth 97
TeenSupreme Career Preparation Initiative
Technical Assistance to Native Americans
Youth Court: A Training & Technical Assistance Delivery Program
School Safety Training and Technical Assistance
Disproportionate Minority Confinement
Arts Programs for Juvenile Offenders in Detention and Corrections
''Circles of Care''—A Program To Develop Strategies To Serve Native American Youth With Mental Health and Substance Abuse Needs
National Juvenile Defender Training, Technical Assistance, and Resource Center
Gender-Specific Programming for Female Juvenile Offenders
Evaluation Capacity Building
Field-Initiated Research
* Field-Initiated Evaluation
Analysis of Juvenile Justice Data
Evaluation of the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders
Blueprints for Violence Prevention: Training and Technical Assistance
Teambuilding Project for Courts
Evaluation of Youth-Related Employment Initiative

Child Abuse and Neglect and Dependency Courts

Safe Kids/Safe Streets: Community Approaches to Reducing Abuse and Neglect and Preventing Delinquency
National Evaluation of the Safe Kids/Safe Streets Program
Secondary Analysis of Childhood Victimization
Evaluation of Nurse Home Visitation in Weed and Seed Sites

Supplemental Funding for Programs Not Included in the Proposed Plan

The following new or ongoing programs, which will require supplemental funding in FY 1998, were not included in the Proposed Plan because the need for funding had not been identified. No additional applications will be solicited in FY 1998.

GAINS Center

OJJDP will transfer funds to the National Institute of Corrections to support a jointly funded effort under which the GAINS Center will provide training and technical assistance on juvenile offenders with co-occurring disorders. This is the second year of funding of a 3-year effort.

The Academy

OJJDP is funding a followup study on disproportionate minority confinement that expands a field-initiated program study that looked at court decisionmaking to include examining police decisionmaking and its impact on the confinement of minorities.

Pathways to Success

OJJDP provided continuation funding in FY 1998 to two sites (Aspira in Miami, Florida, and Stopover Services in Providence, Rhode Island) under the Pathways to Success program. This continuation funding will permit program evaluators to collect important data on the outcomes of the afterschool programming implemented at these two sites.

Do the Write Thing

OJJDP will continue funding the National Campaign to Stop Violence to expand its Do the Write Thing program. Do the Write Thing promotes the development of student ideas and solutions to reduce crime and violence through the written word. The program is currently operating in 12 cities and reaches more than 5,000 children.

Evaluation of the Youth Substance Use Prevention Program

The program evaluator (University of New Hampshire) for the Youth Substance Use Prevention Program, funded by the President's Crime Prevention Council under the Ounce of Prevention grants program, will receive additional funding to complete an evaluation of 10 youth-led substance use prevention projects.

Intergenerational Transmission of Antisocial Behavior

This research grant, administered by the National Institute of Mental Health (NIMH), tracks the development of delinquent behavior among children of youth from Rochester, New York, who were research subjects under OJJDP's Program of Research on the Causes and Correlates of Delinquency, an ongoing longitudinal study in three cities. OJJDP will transfer funds to NIMH to support this research.

Study Group on Very Young Offenders

The OJJDP Study Group on Very Young Offenders, funded under a grant to the University of Pittsburgh, will explore what is known about the prevalence and frequency of very young offending under the age of 13; whether such offending predicts future delinquent or criminal careers; how these youth are handled by various systems including juvenile justice, mental health, and social services; and what are the best methods of preventing very young offending and persistence of offending.

Standards for Juvenile Confinement Facilities

Support will be provided to the Council of Juvenile Correctional Administrators to continue the Performance-Based Standards for Juvenile Confinement Facilities program, expanding the number of demonstration sites that are testing the impact of the performance-based standards process as a means of improving confinement conditions and treatment services for juvenile offenders.

San Diego Comprehensive Strategy Program

An award to San Diego County (CA) will support the San Diego Comprehensive Strategy program's establishment of a coordinator position to facilitate implementation of the comprehensive strategy plan in San Diego County.

University of Michigan Data Archive

Supplemental funding will be provided to the University of Michigan Data Archive to support the archiving of data sets produced by OJJDP grantees.

Training and Technical Assistance to Juvenile Detention and Corrections

OJJDP will provide funds to the American Correctional Association (ACA) to support technical assistance and training to juvenile correctional agencies. ACA will conduct a National Forum on Juvenile Corrections/Detention for agency administrators, facilitate information exchange in the field, provide workshops on emerging issues, and develop and disseminate papers and monographs to the field.

National Violence Prevention Training

OJJDP will transfer funds to the U.S. Department of Education to support a collaborative training project sponsored by the Harvard School of Public Health, the Education Development Center, Inc., the Prevention Institute, Inc., the Massachusetts Corporation for Educational Telecommunication, and several Federal agencies including the U.S. Department of Health and Human Services' Maternal and Child Health

Bureau, Center for Disease Control and Prevention, Center for Injury Prevention, and Indian Health Service and OJJDP. This six-part satellite training makes use of satellite technology, the Internet, and hands-on facilitation and highlights an array of successful initiatives across the country with a particular emphasis on reduction of violence in schools and communities.

Overarching

SafeFutures: Partnerships To Reduce Youth Violence and Delinquency

OJJDP is awarding grants of up to $1.4 million annually to each of six communities for a 5-year project period that began in FY 1995, to assist in implementing comprehensive community programs designed to reduce youth violence and delinquency. Boston, Massachusetts; Contra Costa County, California; Seattle, Washington; St. Louis, Missouri; Imperial County, California (rural site); and Fort Belknap, Montana (tribal site) were competitively selected to receive awards under the SafeFutures program on the basis of their substantial planning and progress in community assessment and strategic planning to address delinquency.

SafeFutures seeks to prevent and control youth crime and victimization through the creation of a continuum of care in communities. This continuum enables communities to be responsive to the needs of youth at critical stages of their development through providing an appropriate range of prevention, intervention, treatment, and sanctions programs.

The goals of SafeFutures are (1) to prevent and control juvenile violence and delinquency in targeted communities by reducing risk factors and increasing protective factors for delinquency; providing a continuum of services for juveniles at risk of delinquency, including appropriate immediate interventions for juvenile offenders; and developing a full range of graduated sanctions designed to hold delinquent youth accountable to the victim and the community, ensure community safety, and provide appropriate treatment and rehabilitation services; (2) to develop a more efficient, effective, and timely service delivery system for at-risk and delinquent juveniles and their families that is capable of responding to their needs at any point of entry into the juvenile justice system; (3) to build the community's capacity to institutionalize and sustain the continuum by expanding and diversifying sources of funding; and (4) to determine the success of program implementation and the outcomes achieved, including whether a comprehensive program involving community-based efforts and program resources concentrated on providing a continuum of care has succeeded in preventing or reducing juvenile violence and delinquency.

Each of the six sites will continue to provide a set of services that builds on community strengths and existing services and fills in gaps within their existing continuum. These services include family strengthening; after school activities; mentoring; treatment alternatives for juvenile female offenders; mental health services; day treatment; graduated sanctions for serious, violent, and chronic juvenile offenders; and gang prevention, intervention, and suppression.

A national evaluation is being conducted by the Urban Institute to determine the success of the initiative and track lessons learned at each of the six sites. OJJDP has also committed a cadre of training and technical assistance (TTA) resources to SafeFutures through a full-time TTA coordinator for SafeFutures and a host of partner organizations committed to assisting SafeFutures sites. The TTA coordinator also assists the communities in brokering and leveraging additional TTA resources. In addition, the U.S. Department of Housing and Urban Development has provided interagency support of $100,000 for training and technical assistance targeted to violence and delinquency prevention in public housing areas of SafeFutures sites. Thus, operations, evaluation, and TTA have been organized together to form a joint team at the national level to support local site efforts.

SafeFutures activities will be carried out by the six current grantees. No additional applications will be solicited in FY 1998.

Evaluation of SafeFutures

In FY 1995, OJJDP funded six communities under the SafeFutures: Partnerships To Reduce Youth Violence and Delinquency program. The program sites are Boston, Massachusetts; Contra Costa County, California; Fort Belknap Indian Community, Harlem, Montana; Imperial County, California; Seattle, Washington; St. Louis, Missouri. The SafeFutures Program provides support for a comprehensive prevention, intervention, and treatment program to meet the needs of at-risk juveniles and their families. In total, up to $8.4 million is being made available for annual awards over a 5-year project period to support the efforts of these jurisdictions to enhance existing partnerships, integrate juvenile justice and social services, and provide a continuum of care that is designed to reduce the number of serious, violent, and chronic juvenile offenders.

The Urban Institute received a competitive 3-year cooperative agreement award with FY 1995 funds to conduct Phase I of the national evaluation of the SafeFutures program. OJJDP agreed to consider 2 years of additional funding for Phase II. The evaluation addresses the program implementation process and measures performance outcomes across the six sites. The process evaluation focuses primarily on the development and implementation of a strategic plan designed to establish a continuum of care and integrated services for young people in high-risk communities. The evaluation will identify obstacles and key factors contributing to the successful implementation of the SafeFutures program. The evaluator is responsible for developing a cross-site report documenting the process of program implementation for use by other funding agencies or communities that want to develop and implement a comprehensive community-based strategy to address serious, violent, and chronic delinquency.

In FY 1996, the Urban Institute developed a logic model that links program activities and outputs to desired intermediate and long-term outcomes. Their evaluator also held a cross-site cluster meeting and conducted site visits at each of the six SafeFutures sites.

In FY 1997, in addition to continuing its onsite monitoring, the Urban Institute, in collaboration with the OJJDP SafeFutures program management team, developed the national evaluation plan and introduced it to the sites at the cluster meeting on information technology held in Oakland, CA, in September 1997.

In FY 1998, the Urban Institute will continue the process evaluation and will conduct interviews with key stakeholders, service providers, and youth in order to assess the extent to which a community and its policy board have mobilized to implement a continuum of care and develop an integrated system of services over the course of SafeFutures program implementation. The research team will also complete the development of performance measures to be used by all sites to monitor the outcomes for targeted populations within and across sites. They will compile and process the results of the performance outcomes from the sites and provide feedback to both the sites and to OJJDP. Beginning in FY 1998, the national evaluator will

design and conduct sample surveys of youth in the community to assist in monitoring community-level changes in the prevalence and incidence of certain risk factors as well as developmental and community assets on levels of delinquency and violence in the targeted community. In addition, longitudinal samples of youth and their families will be followed over time to observe the extent to which multiple needs are identified and responded to over the course of the SafeFutures program interventions.

The evaluation will be implemented by the current grantee, the Urban Institute. No additional applications will be solicited in FY 1998.

Program of Research on the Causes and Correlates of Delinquency

Three project sites participate in the Program of Research on the Causes and Correlates of Delinquency (Causes and Correlates): The University of Colorado at Boulder, the University of Pittsburgh, and the University at Albany, State University of New York. Results from this longitudinal study have been used extensively in the field of juvenile justice and have contributed significantly to the development of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders and other OJJDP program initiatives.

OJJDP began funding this program in 1986 and has invested approximately $10.3 million to date. Currently, OJJDP is supporting site data analyses under three-year project period grants awarded to each site in FY 1996. The Causes and Correlates program has addressed a variety of issues related to juvenile violence and delinquency. These include developing and testing causal models for chronic violent offending and examining interrelationships among gang involvement, drug selling, and gun ownership/use. To date, the program has produced a massive amount of information on the causes and correlates of delinquent behavior.

Although there is great commonality across the Causes and Correlates project sites, each has unique design features. Additionally, each project has disseminated the results of its research through a broad range of publications, reports, and presentations.

With FY 1996 funding, each site of the Causes and Correlates program was provided funds to further analyze the longitudinal data. Among the numerous analyses conducted were risk factors for teenage fatherhood, patterns of illegal gun carrying among young urban males, and factors associated with early sexual activity among urban adolescents. Two publications were developed as part of the newly launched Youth Development Series of OJJDP Bulletins.

In FY 1997, the sites continued both their collaborative research efforts and site-specific research. The cross site analysis was on the early onset and co-occurrence of persistent serious offending. Site specific analyses were produced on victimization, over time changes in delinquency and drug use, impact of family changes on adolescent development, and neighborhood, individual, and social risk factors for serious juvenile offending.

In FY 1998, at least one major cross site analysis will be undertaken as well as three site specific analyses per study site.

This program will be implemented by the current grantees: Institute of Behavioral Science, University of Colorado at Boulder; Western Psychiatric Institute and Clinic, University of Pittsburgh; and Hindelang Criminal Justice Research Center, University at Albany, State University of New York. No additional applications will be solicited in FY 1998.

OJJDP Management Evaluation Contract

OJJDP's Management Evaluation Contract was competitively awarded in 1995 for a period of 3 years. Its purpose is to provide OJJDP with an expert resource capable of performing independent program evaluations and assisting the Office in implementing evaluation activities. The management evaluation contract currently provides the following types of assistance to OJJDP:(1) assists OJJDP staff in the determination of evaluation needs of programs, program areas, or projects to assist the agency in determining when to invest its evaluation resources; (2) develops evaluation designs that OJJDP can use in defining requirements for a grant or contract to implement the evaluation; (3) provides technical assistance with regard to evaluation techniques to other jurisdictions involved in the evaluation of programs to prevent and treat juvenile delinquency; (4) responds to the needs of OJJDP by providing evaluations based on available data or data that can be readily developed to support OJJDP decisionmaking under whatever schedule is required by the decisionmaking process. Evaluations under this contract are program evaluations, that is, evaluations of either individual grants or contracts or groups of grants or contracts that are designed to determine the effectiveness and efficiency of the program; (5) conduct a full-scale evaluation research project; and (6) provide training to OJJDP program managers and other staff on evaluation-related topics such as the different kinds of evaluation data and their uses, planning for program or project information collection and evaluation, and the role of evaluation in the agency planning process.

Under this contract, evaluations may be conducted on OJJDP-funded action programs, including demonstrations, tests, training, and technical assistance programs and other programs, not funded by OJJDP, designed to prevent and treat juvenile delinquency. Evaluations are carried out in accordance with work plans prepared by the contractor and approved by OJJDP. Because the evaluations vary in terms of program complexity, availability of data, and purpose of the evaluation, the time and cost of each varies. Each evaluation is defined by OJJDP and costs, method, and time are determined through negotiations between OJJDP and the contractor. Because the purpose of many evaluations is to inform management decisions, the completion of an evaluation and submission of a report may be required in a specific and, often, short time period.

This contract will be implemented by the current contractor, Caliber Associates. A new competitive contract solicitation will be issued during FY 1998, and a new contract awarded in FY 1999.

Juvenile Justice Statistics and Systems Development

The Juvenile Justice Statistics and Systems Development (SSD) program was competitively awarded in FY 1990 to the National Center for Juvenile Justice (NCJJ) to improve national, State, and local statistics on juveniles as victims and offenders. Over the last seven years, through continuation funding, the project has focused on three major tasks: (1) assessing how current information needs are being met with existing data collection efforts and recommending options for improving national level statistics; (2) analyzing data and disseminating information gathered from existing Federal statistical series and national studies; and (3) providing training and technical assistance for local agencies in developing or enhancing management information systems.

Under the second task, OJJDP released the seminal analysis *Juvenile Offenders and Victims: A National Report* in September 1995, *Juvenile Offenders and Victims: 1996 Update on Violence* in March 1996, and *Juvenile Offenders and Victims: 1997 Update on Violence* in

October 1997. A training curriculum, *Improving Information for Rational Decisionmaking in Juvenile Justice,* was drafted for pilot testing, and future documents will be produced based on this effort.

In FY 1998, NCJJ will: (1) complete a long-term plan for improving national statistics on juveniles as victims and offenders, including constructing core data elements for a national reporting program for juveniles waived or transferred to criminal court; (2) update the Compendium of Federal Statistical Programs on juvenile victims and offenders and work with the Office of Justice Programs' Crime Statistics Working Group and other Federal interagency statistics working groups; (3) provide technical support to OJJDP in enhancing the availability and accessibility of statistics on the OJJDP web site; (4) make recommendations to fill information gaps in the areas of juvenile probation, juvenile court and law enforcement responses to juvenile delinquency, violent delinquency, and child abuse and neglect; and (5) produce a second edition of *Juvenile Offenders and Victims: A National Report.*

This project will be implemented by the current grantee, NCJJ. No additional applications will be solicited in FY 1998.

Census of Juveniles in Residential Placement

The Census of Juveniles in Residential Placement (CJRP) is replacing the biennial Census of Public and Private Juvenile Detention, Correctional, and Shelter Facilities, known as the Children in Custody census. This newly designed census will collect detailed information on the population of juveniles who are in juvenile residential placement facilities as a result of contact with the juvenile justice system. Over the past 3 years, OJJDP and the Bureau of the Census, with the assistance of a Technical Advisory Board, have developed the CJRP to more accurately represent the numbers of juveniles in residential placement and to describe the reasons for their placement. A new method of data collection, tested in FY 1996, involves gathering data in a roster-type format, often by electronic means. The new methods are expected to result in more accurate, timely, and useful data on the juvenile population, with less reporting burden for facility respondents.

In FY 1997, OJJDP funded initial implementation of the CJRP, including form preparation, mailout, and processing of census forms. In October 1997, the first census using the revised methodology was conducted.

OJJDP will continue funding this project in FY 1998 to clean the data files, allowing the production of new data products based on the 1997 census.

This program will be implemented through an existing interagency agreement with the Bureau of the Census. No additional applications will be solicited in FY 1998.

OJJDP National Training and Technical Assistance Center

The National Juvenile Justice and Delinquency Prevention Training and Technical Assistance Center (NTTAC) was established in FY 1995 under a competitive 3-year project period award to Community Research Associates. NTTAC serves as a national training and technical assistance clearinghouse, inventorying and coordinating the integrated delivery of juvenile justice training/technical assistance resources and establishing a data base of these resources.

In FY 1995, work involved organization and staffing of the Center, orientation for OJJDP training/technical assistance providers regarding their role in the Center's activities, and initial data base development.

NTTAC's funding in FY 1996 provided services in the form of coordinated technical assistance support for OJJDP's SafeFutures and gang program initiatives, continued promotion of collaboration between OJJDP training/technical assistance providers, developed training/technical assistance materials, and completed and disseminated the first OJJDP *Training and Technical Assistance Resource Catalog.* In addition, NTTAC assisted State and local jurisdictions and other OJJDP grantees with specialized training, including the development of training-of-trainers programs. NTTAC continued to evolve as a central source for information pertaining to the availability of OJJDP-supported training/technical assistance programs and resources.

In FY 1997, NTTAC completed the first draft of the jurisdictional team training/technical assistance packages for gender-specific services and juvenile correctional services; provided training/technical assistance in support of OJJDP's SafeFutures and Gangs programs; updated and disseminated the second *Training and Technical Assistance Resource Catalog;* created a Web site for the Center and a ListServe for the Children, Youth and Affinity Group; held three focus groups on needs assessments; and coordinated and provided 38 instances of technical assistance in conjunction with OJJDP's training/technical assistance grantees and contractors.

In FY 1998, NTTAC will finalize, field test, and coordinate delivery of the jurisdictional team training/technical assistance packages on critical needs in the juvenile justice system, update the resource catalog, facilitate the annual OJJDP training/TA grantee and contractor meeting, continue to update the repository of training/TA materials and the electronic data base of training/TA materials, and continue to respond to training/TA requests from the field.

The current grantee, Community Research Associates, will complete its work under the award in FY 1998. A solicitation will be issued as part of the *FY 1998 OJJDP Discretionary Program Announcement: Discretionary Grant Program: Parts C and D.* Information on how to obtain a copy of the Program Announcement is provided above under Supplementary Information.

Technical Assistance for State Legislatures

Since FY 1995, OJJDP has awarded annual grants to the National Conference of State Legislatures (NCSL) to provide relevant and timely information on comprehensive approaches in juvenile justice that are geared to the legislative environment. The purpose of this project is to aid State legislators in improving State juvenile justice systems when crafting legislative responses to youth violence. State legislatures have a unique role and responsibility in establishing State policy and approaches and appropriating funds for juvenile justice. Nearly every State has enacted, or is considering, statutory changes affecting the juvenile justice system. Historically, State legislatures have lacked the information needed to comprehensively address juvenile justice issues. Experience with this project indicates that policymakers find it has helped them understand the ramifications and nuances of juvenile justice reform.

Since OJJDP began funding this project, NCSL has conducted three invitational Legislator's Leadership Forums; sponsored sessions on juvenile justice reform at the NCSL annual meetings; expanded clearinghouse and juvenile justice enactment reporting; and produced and distributed a publication, *Legislator's Guide to Comprehensive Juvenile Justice.* The invitational meetings were attended by more than 100 legislators and additional legislative staff from 34 States selected as key decisionmakers on juvenile justice reform. Meeting sessions and information services reached at least 500 legislators or legislative staff in all

States. In addition, project publications were distributed to more than 2,000 legislative members, staff, and agencies to provide for further broad distribution of information central to comprehensive strategies in juvenile justice to a State legislative audience throughout the States.

The grant has improved capacity for the delivery of information services to legislatures, with the number of information requests handled for legislators and staff having increased to about 500 per year. It is expected that the Children and Families and Criminal Justice programs will respond to another 500 information requests in FY 1998.

In FY 1998, NCSL will further identify, analyze, and disseminate information to assist State legislatures to make more informed decisions about legislation affecting the juvenile justice system. A complementary task involves supporting increased communication between State legislators and State and local leaders who influence decisionmaking regarding juvenile justice issues. NCSL will provide intensive technical assistance to four States, continue outreach activities, and maintain its clearinghouse function. Additionally, NCSL will assist in the production of a live satellite videoconference directed primarily to State legislators.

The project will be implemented by the current grantee, NCSL. No additional applications will be solicited in FY 1998.

Telecommunications Assistance

Developments in information technology and distance training have expanded and enhanced OJJDP's capacity to disseminate information and provide training and technical assistance. The advantages of these technologies include increased access to information and training for professionals in the juvenile justice system, reduced travel costs to conferences, and reduced time attending meetings away from one's home or office. OJJDP uses this cost-effective medium to share with the field the salient elements of the most effective or promising approaches to various juvenile justice issues. The field has responded positively to these live satellite teleconferences and has come to expect them at regular intervals.

OJJDP selected Eastern Kentucky University (EKU) through a competitive program announcement in FY 1992 to conduct a feasibility study on using this technology in its programming. In FY 1995, EKU was awarded a competitive grant to undertake production of live satellite videoconferences. Since the inception of this grant in FY 1995, EKU has produced 13 live satellite teleconferences, with an average of 360 downlink sites participating in each. The project produced four teleconferences in FY 1995 (Juvenile Boot Camps, Reducing Youth Gun Violence, Youth Out of the Education Mainstream, and Conflict Resolution for Youth), four in FY 1996 (Community Collaboration, Effective Programs for Serious, Violent, and Chronic Juvenile Offenders, Youth-Oriented Community Policing, Leadership Challenges for Juvenile Detentions and Corrections), and five in FY 1997 (Has the Juvenile Court Outlived Its Usefulness?, Youth Gangs in America, Preventing Drug Abuse Among Youth, Mentoring for Youth, and Treating Drug-Involved Youth).

In FY 1998, OJJDP will continue the cooperative agreement with EKU in order to provide program support and technical assistance for a variety of information technologies, including audioconferences, fiber optics, and satellite teleconferences, producing four to five additional live national satellite teleconferences. The grantee will also continue to provide technical assistance to other grantees interested in using this technology and explore linkages with key constituent groups to advance mutual information goals and objectives.

This project will be implemented by the current grantee, EKU. No additional applications will be solicited in FY 1998.

OJJDP Technical Assistance Support Contract—Juvenile Justice Resource Center

This contract provides technical assistance and support to OJJDP, its grantees, and the Coordinating Council on Juvenile Justice and Delinquency Prevention in the areas of program development, evaluation, training, and research. OJJDP extended the current contract until a new contract can be competitively awarded. Applications have been solicited and received, and the new contract is expected to be awarded shortly.

This contract will be implemented by the current contractor, Aspen Systems Corporation, until a new contract is awarded.

Juvenile Justice Clearinghouse

A component of the National Criminal Justice Reference Service (NCJRS), the Juvenile Justice Clearinghouse (JJC) is OJJDP's central source for the collection, synthesis, and dissemination of information on all aspects of juvenile justice, including research and evaluation findings; State and local juvenile delinquency prevention and treatment programs and plans; availability of resources; training and educational programs; and statistics. JJC serves the entire juvenile justice community, including researchers, law enforcement officials, judges, prosecutors, probation and corrections staff, youth-service personnel, legislators, the media, and the public.

Among its many support services, JJC offers toll-free telephone access to information; prepares specialized responses to information requests; produces, warehouses, and distributes OJJDP publications; exhibits at national conferences; maintains a comprehensive juvenile justice library and data base; and administers several electronic information resources. Recognizing the critical need to inform juvenile justice practitioners and policymakers on promising program approaches, JJC continually develops and recommends new products and strategies to communicate more effectively the research findings and program activities of OJJDP and the field. The entire NCJRS, of which the OJJDP-funded JJC is a part, is administered by the National Institute of Justice (NIJ) under a competitively awarded contract to Aspen Systems Corporation.

This program will continue to be implemented by the current contractor, Aspen Systems Corporation, until the new contract is awarded. NIJ has issued a new competitive solicitation, and a new contract will be awarded during FY 1998.

Insular Area Support

The purpose of this program is to provide support to the U.S. Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands (Palau), and the Commonwealth of the Northern Mariana Islands. Funds are available to address the special needs and problems of juvenile delinquency in these insular areas, as specified by Section 261(e) of the JJDP Act of 1974, as amended, 42 U.S.C. 5665(e).

Community Assessment Centers (CAC's)

The Community Assessment Center (CAC) program is a multicomponent demonstration initiative designed to test the efficacy of the Community Assessment Center concept. CAC's provide a 24-hour centralized point of intake and assessment for juveniles who have or are likely to come into contact with the juvenile justice system. The main purpose of a CAC is to facilitate earlier and more efficient prevention and intervention service delivery at the ''front end'' of the juvenile justice

system. In FY 1997, OJJDP funded two planning grants and two enhancement grants to existing assessment centers for a 1-year project period, a CAC evaluation project, and a technical assistance component.

The planning grants were awarded to the Denver Juvenile Court in Denver, Colorado, and to the Lee County Sheriff's Office in Fort Myers, Florida, to support a 1-year intensive planning process for the development and implementation of a CAC in each community. In Denver, community leaders are assessing the feasibility of a CAC and building on existing infrastructure developed with support from the Center for Substance Abuse Treatment's Juvenile Justice Integrated Treatment Network program. In Fort Myers, community leaders are completing an initial planning process and are planning to open their CAC in the near future. Planning in this site will continue after implementation and will focus on enhancing the CAC in Fort Myers to become more consistent with the CAC concept and on developing linkages with the community's Comprehensive Strategy initiative.

The enhancement component of the CAC program is designed to increase the effectiveness and efficiency of existing assessment centers by supporting various and specific program enhancements and to provide support to existing assessment centers in an effort to create consistency with OJJDP's CAC concept.

Also in FY 1997, two communities received 1-year awards to help existing assessment centers provide enhanced services and to demonstrate the effectiveness of the CAC concept overall. Jefferson Center for Mental Health in Jefferson County, Colorado, and Human Service Associates, Inc., in Orlando, Florida, were competitively selected to receive awards under the CAC program on the basis of their demonstrated commitment to specifically implement an enhancement that makes the existing CAC more consistent with the CAC concept. The Jefferson Center for Mental Health is developing improved case management procedures and an improved management information system. Human Services Associates, Inc., is creating an intensive integrated case management system for high-risk youth referred to the CAC, an enhancement also consistent with the OJJDP CAC concept.

In FY 1998, OJJDP will provide additional funding to support the full and continued implementation of selected CAC enhancements and additional support to the sites awarded planning grants in FY 1997. This funding will enable these sites to begin implementing the CAC's planned for with OJJDP funding support or to enhance existing operations.

The CAC initiative evaluation component, being conducted by the National Council on Crime and Delinquency, and the technical assistance component, being delivered by the Florida Alcohol and Drug Abuse Association, were funded in FY 1997 for 2-year project periods and will not require additional funds in FY 1998.

These programs will be implemented by the current grantees, Jefferson Center for Mental Health, Human Service Associates, Inc., Denver Juvenile Court, and Lee County Sheriff's Office. No additional applications will be solicited in FY 1998.

Training and Technical Assistance Coordination for SafeFutures Initiative

OJJDP will provide funding for long-term training and technical assistance (TA) for the remaining 3 years of the SafeFutures initiative. The purpose of this TA effort will be to build local capacity for implementing and sustaining effective continuum of care and systems change approaches to preventing and controlling juvenile violence and delinquency in the six SafeFutures communities. Project activities will include assessment, identification, and coordination of the implementation of training and TA needs at each SafeFutures site and administration of cross-site training.

OJJDP will continue funding under a grant for the provision of training and technical assistance coordination to the six SafeFutures sites. No additional applications will be solicited in FY 1998.

Public Safety and Law Enforcement

Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program

This program supports the implementation of a comprehensive gang program model in five jurisdictions. The program was competitively awarded with FY 1994 funds under a 3-year project period. The demonstration sites implementing the model, which was developed by the University of Chicago with OJJDP funding support, are Bloomington, Illinois; Mesa, Arizona; Riverside, California; San Antonio, Texas; and Tucson, Arizona. Implementation of the comprehensive gang program model requires the mobilization of the community to address gang-related violence by making available and coordinating social interventions, providing social/academic/vocational and other opportunities, and supporting gang suppression through law enforcement, probation, and other community control mechanisms.

During the past year, the demonstration sites began full-scale implementation of the program model and began serving gang-involved youth in the targeted areas. In each site, a multidisciplinary team has been established to coordinate the services that project youth receive. Teams are made up of various community institution representatives, including police, probation, outreach or street workers, court representatives, service providers, and others. The services provided through this team—or recommended by them—include social interventions such as outreach, case management, counseling, substance abuse treatment, anger management, life skills, cultural awareness, controlled recreation activities, access to educational, social, and economic opportunities such as GED attainment, school reintegration, vocational training, and job development and placement. Also included in the service mix is accountability or social control. This is provided through traditional suppression from law enforcement and probation, and also accountability through the schools, community-based agencies, parents, families, and community members. The team meets regularly to go over progress with each youth, so that each team member is aware of prevailing risks and positive developments and can use this information to be supportive of the youth when contacted in the field by providing additional services, modifying ''treatment plans,'' or invoking accountability measures ranging from values clarification and general motivational support to arrest and prosecution. In addition to core team members, other agencies also support the programs, such as the faith community, local Boys & Girls Clubs, and alternative and mainstream schools.

In some sites, prevention components have been established to work hand-in-hand with the intervention and suppression program. For example, in one site a mentoring program has been established for youth who are younger siblings of gang members targeted in the intervention components.

The demonstration sites also participated in training and technical assistance activities, including cluster conferences sponsored by OJJDP and site-specific consultations on issues such as information sharing and outreach activities.

In FY 1998, OJJDP will provide a fourth year of funding to selected demonstration sites to target up to 200 youth prone to gang violence in each site through continuing implementation of the program model and work with the independent evaluator of this demonstration program.

This project will be implemented by the current demonstration sites. No additional applications will be solicited in FY 1998.

Evaluation of the Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program

The University of Chicago, School of Social Service Administration, received a competitive cooperative agreement award in FY 1995. This 4-year project period award supports the evaluation of OJJDP's Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program. The evaluation grantee assisted the five program sites (Bloomington, Illinois; Mesa, Arizona; Riverside, California; San Antonio, Texas; and Tucson, Arizona) in establishing realistic and measurable objectives, documenting program implementation, and measuring the impact of a variety of gang program strategies. It has also provided interim feedback to the program implementors.

In FY 1997, following 2 years of program development and evaluation design, the grantee trained the local site interviewers; gathered and tracked data from police, prosecutor, probation, school, and social service agencies; collected individual gang member interviews from both the program and comparison areas; provided onsite technical assistance to the local sites; consulted with local evaluators on development and implementation of local site parent/community resident surveys; and coordinated ongoing efforts with local researchers.

In FY 1998, the grantee will continue to gather and analyze data required to evaluate the program; monitor and oversee the quality control of data; provide assistance for completion of interviews; and provide ongoing feedback to project sites.

This project will be implemented by the current grantee, the University of Chicago, School of Social Service Administration. No additional applications will be solicited in FY 1998.

Targeted Outreach With a Gang Prevention and Intervention Component (Boys & Girls Clubs)

This program is designed to enable local Boys & Girls Clubs to prevent youth from entering gangs, intervene with gang members in the early stages of gang involvement, and divert youth from gang activities into more constructive programs. In FY 1997, Boys & Girls Clubs of America provided training and technical assistance to 30 existing gang prevention and 4 intervention sites and expanded the gang prevention and intervention program to 23 additional Boys & Girls Clubs. A national evaluation of this program, through Public/Private Ventures, was also started in FY 1997 under this award.

In FY 1998, the Boys & Girls Clubs of America will provide training and technical assistance to 20 existing gang prevention sites, 3 existing intervention sites, and OJJDP's gang and SafeFutures demonstration sites. The national evaluation of the Targeted Outreach program will continue in FY 1998. The Targeted Outreach program will also provide training and technical assistance to up to 10 new rural Targeted Outreach sites and will consider implementing two new pilot programs: Targeted Reintegration, which involves working with youth coming out of institutional placements, and another developmental pilot project with the Violence Impact Forums of the Tariq Khamisa Foundation (TKF). The latter project is a collaborative effort of OJJDP, the Office for Victims of Crime, the Boys & Girls Clubs of America, TKF, and other organizations.

This program will be implemented by the current grantee, the Boys & Girls Clubs of America. No additional applications will be solicited in FY 1998.

National Youth Gang Center

The proliferation of gang problems in large inner cities, smaller cities, suburbs, and even rural areas over the past two decades led to the development by OJJDP of a comprehensive, coordinated response to America's gang problem. This response involved five program components, one of which was the implementation and operation of the National Youth Gang Center (NYGC). The NYGC was competitively awarded in FY 1995 for a 3-year project period. The NYGC was created to expand and maintain the body of critical knowledge about youth gangs and effective responses to them.

In FY 1997, NYGC continued to assist state and local jurisdictions to collect, analyze and exchange information on gang-related demographics, legislation, literature, research and promising program strategies. It also supported the work of the National Gang Consortium, a group of federal agencies, gang program representatives and researchers. A major activity was a survey of all federal agencies and the presentation of data on their programs, planning cycles and other resources. It continued to promote the collection and analysis of gang related data and published the results of its first National Youth Gang Survey of 2,000 law enforcement agencies.

OJJDP will extend the project an additional year and provide FY 1998 funds to NYGC to conduct more indepth analyses of the first and second National Youth Gang Survey results that track changes in the nature and scope of the youth gang problem. NYGC, through its Focus Group on Data Collection and Analysis, will continue its efforts to foster integration of gang-related items into other relevant surveys and national data collection efforts. NYGC will also provide technical assistance to OJJDP's new Rural Gang program sites.

Fiscal year 1998 funds will support an additional year of funding to the current grantee, the Institute for Intergovernmental Research. No additional applications will be solicited in FY 1998.

Evaluation of the Partnerships To Reduce Juvenile Gun Violence Program

COSMOS Corporation received a competitive award in FY 1997. This 3-year project period award supports OJJDP's Evaluation of the Partnerships To Reduce Juvenile Gun Violence Program. The program will document and evaluate the process of community mobilization, planning, and collaboration needed to develop a comprehensive, collaborative approach to reducing gun violence involving juveniles in four sites. The sites are Baton Rouge, Louisiana; Oakland, California: Shreveport, Louisiana; and Syracuse, New York.

In FY 1997, the grantee conducted onsite technical assistance workshops with partner organizations and assisted the sites in planning and developing local Partnerships To Reduce Juvenile Gun Violence.

In FY 1998, the grantee will develop data collection protocols, conduct a process evaluation, and continue to provide onsite technical assistance to the sites. In addition to the four sites listed above, the grantee will also identify additional promising/effective programs underway in communities across the country and evaluate a select

number of these programs. With an expanded base of youth gun violence programs, there is greater opportunity to identify sites that are employing similar strategies with different targeted populations.

This evaluation will be implemented by the current grantee, COSMOS Corporation. No additional applications will be solicited in FY 1998.

The Chicago Project for Violence Prevention

The Chicago Project for Violence Prevention's primary goal is the development of a citywide, accelerated, long-term effort to reduce violence in Chicago. In addition, the Chicago Project serves to demonstrate a comprehensive, citywide violence prevention model. Overall project objectives include reductions in homicide, physical injury, disability and emotional harm from assault, domestic abuse, sexual abuse and rape, and child abuse and neglect.

The Chicago Project is a partnership among the Chicago Department of Public Health, the Illinois Council for the Prevention of Violence, the University of Illinois, and Chicago communities. The project began in January 1995 with joint funding from OJJDP and the Centers for Disease Control and prevention (CDC), National Center for Injury Prevention and Control (NCIPC), the Bureau of Justice Assistance, and the Department of Housing and Urban Development. The project currently provides technical assistance to a variety of community-based and citywide organizations involved in violence prevention planning. The majority of the technical assistance supports community level efforts and agencies working to directly support the community plan.

In FY 1996, technical assistance was provided to the central planning group for the Austin community-based coalition, leadership and staff of the Westside Health Authority in the Austin community, and to other selected groups involved in the Austin plan for the development of their components (e.g., to Northwest Austin Council for the development of the afterschool and drug treatment components of the Austin plan). These groups are members of the violence consortium in Austin.

In FY 1997, the Chicago Project further refined the violence prevention strategy developed in the Austin community, began implementation of the strategy, and continued to provide technical assistance to the Logan Square and Grand Boulevard communities as they developed their violence prevention strategies.

In FY 1998, OJJDP will continue funding the project, which will complete the strategic planning process with Logan Square and Grand Boulevard and continue to work with Austin in implementing its strategy.

The Chicago Project for Violence Prevention will be implemented by the current grantee, the University of Illinois, School of Public Health. No additional applications will be solicited in FY 1998.

Safe Start—Child Development-Community-Oriented Policing (CD–CP)

The Child Development-Community-Oriented Policing (CD–CP) program, an innovative partnership between the New Haven Department of Police Services and the Child Study Center at the Yale University School of Medicine, addresses the psychological burdens on children, families, and the broader community of increasing levels of community violence. In FY 1993, OJJDP provided support to document Yale—New Haven's child-centered, community-oriented policing model. The program model consists of interrelated training and consultation, including a child development fellowship for police supervisors; police fellowship for clinicians; seminars on child development, human functioning, and policing strategies; a 15-hour training course in child development for all new police officers; weekly collaborative meetings and case conferences that support institutional changes in police practices; and establishment of protocols for referral and consultation to ensure that children receive the services they need.

In FY 1994, the Bureau of Justice Assistance, using community policing funds, joined with OJJDP to support the first year of a 3-year training and technical assistance grant to replicate the CD–CP program nationwide. In each of FY's 1995, 1996, and 1997, OJJDP provided grants of $300,000 to the Yale Child Study Center to replicate the model through training of law enforcement and mental health providers in Buffalo, New York; Charlotte, North Carolina; Nashville, Tennessee; and Portland, Oregon.

The CD–CP program has provided a wide range of coordinated police and clinical responses in the four replication sites, including round-the-clock availability of consultation with a clinical professional and a police supervisor to patrol officers who assist children exposed to violence; weekly case conferences with police officers, educators, and child study center staff; open police stations located in neighborhoods and accessible to residents for police and related services; community liaison and coordination of community response; crisis response; clinical referral; interagency collaboration; home-based followup; and officer support and neighborhood foot patrols. In the CD–CP program's last 4 years of operation in the New Haven site, more than 450 children have been referred to the consultation service by officers in the field. It is anticipated that these results can be obtained in the replication sites.

In FY 1997, through a partnership between OJJDP, Violence Against Women Grants Office, and Office for Victims of Crime (OVC), $700,000 ($300,000 from OJJDP, $300,000 from the Violence Against Women Grants Office, and $100,000 from OVC) was allocated to CD–CP to expand the program under a new Safe Start Initiative designed to support the following activities:

- Development of a training and technical assistance center in New Haven consisting of a team of expert practitioners who provide training for law enforcement, prosecutors, mental health professionals, school personnel, and probation and parole officers to better respond to the needs of children exposed to community violence including but not limited to family violence, gang violence, and abuse or neglect.
- Plan for expansion of program sites from the original four. Future sites, the total number of which are yet to be determined, will be selected competitively based upon each site's capacity to establish a core police/mental health provider team concerned with child victimization.
- Further research, data collection, analysis, and evaluation of CD–CP in the program sites.
- The development of a casebook for practitioners, which will detail intervention strategies and various aspects of the CD–CP collaborative process.

In FY 1998, this project will be continued by the current grantee, the Yale University School of Medicine, in collaboration with the New Haven Department of Police Services. No additional applications will be solicited in FY 1998.

Juvenile Justice Law Enforcement Training and Technical Assistance Program

Juvenile crime and victimization present major challenges to law enforcement and other practitioners who are responsible for prevention, intervention, and enforcement efforts. Violent crime committed by juveniles,

juvenile involvement in gangs and drugs, and decreasing fiscal resources are a few of the challenges facing juvenile justice practitioners today.

OJJDP is committed to helping Federal, State, local, and tribal agencies, organizations, and individuals face these challenges through a comprehensive program of training and technical assistance that is designed to enhance the juvenile justice system's ability to respond to juvenile crime and delinquency. This assistance targets many audiences, including law enforcement representatives, social service workers, school staff and administrators, prosecutors, judges, corrections and probation personnel, and key community and agency leaders.

In FY 1997, a contract was awarded to John Jay College of Criminal Justice (John Jay) for the Law Enforcement Training and Technical Assistance program. Since the program's inception in March 1997, John Jay has trained approximately 700 State, local, and tribal workshop participants and provided requested onsite technical assistance to 16 communities.

Fiscal year 1998 funds will support the continuation of seven regional training workshops: the Chief Executive Officer Youth Violence Forum; Managing Juvenile Operations (MJO); Gang, Gun, and Drug Policy; School Administrators for Effective Operations Leading to Improved Children and Youth Services (SAFE Policy); Youth Oriented-Community Policing; Tribal Justice Training and Technical Assistance; and the Serious Habitual Offender Comprehensive Action Program (SHOCAP).

A solicitation will be issued as part of the *FY 1998 OJJDP Discretionary Program Announcement: Discretionary Grant Program: Parts C and D.* Information on how to obtain a copy of the Program Announcement is provided above under Supplementary Information.

Partnerships To Reduce Juvenile Gun Violence

OJJDP will award continuation grants of up to $200,000 to each of four competitively selected communities that initially received funds in FY 1997 to help them increase the effectiveness of existing youth gun violence reduction strategies by enhancing and coordinating prevention, intervention, and suppression strategies and strengthening linkages between community residents, law enforcement, and the juvenile justice system. Baton Rouge, Louisiana; Oakland, California; Shreveport, Louisiana; and Syracuse, New York, were competitively selected to receive 3-year awards.

The goals of this initiative are to reduce juveniles' illegal access to guns and address the reasons they carry and use guns in violence exchanges. Each of the sites is required to address five objectives: (1) reduce illegal gun availability to juveniles; (2) reduce the incidence of juveniles' illegally carrying guns; (3) reduce juvenile gun-related crimes; (4) increase youth awareness of the personal and legal consequences of gun violence; and (5) increase participation of community residents and organizations in public safety efforts.

To accomplish the goals and objectives, each site will complete the development of a comprehensive plan and incorporate the following seven strategies in the target area:

(1) Positive opportunity strategies for young people, such as mentoring, job readiness, and afterschool programs.

(2) An educational strategy in which students learn how to resolve conflicts without violence, resist peer pressure to possess or carry guns, and distinguish between real violence and television violence.

(3) A public information strategy that uses radio, local television, and print outlets to broadly communicate to young people the dangers and consequences of gun violence and present information on positive youth activities taking place in the community.

(4) A law enforcement/community communication strategy that expands neighborhood communication; community policing, such as a program that notifies neighborhood residents when particular incidents or concerns have been addressed; and community supervision to educate at-risk and court-involved juveniles on the legal consequences of their involvement in gun violence.

(5) A grassroots community involvement and mobilization strategy that engages neighborhood residents, including youth, in improving the community.

(6) A suppression strategy that reduces juvenile access to illegal guns and illegal gun trafficking in communities by developing special gun units, using community allies to report illegal gun trade, targeting gang members and illegal gun possession cases for prosecution, and increasing sanctions.

(7) A juvenile justice system strategy that applies appropriate treatment interventions to respond to the needs of juvenile offenders who enter the system on gun-related charges. Interventions may include specialized gun courts, family counseling, victim impact awareness classes, drug treatment, probation, or intensive community supervision, including aftercare. The approach should focus on addressing the reasons juveniles had access to, carried, and used guns illegally.

A national evaluation is being conducted by COSMOS Corporation to document and understand the process of community mobilization, planning, and collaboration needed to develop a comprehensive, collaborative approach to reducing juvenile gun violence.

The Partnerships To Reduce Juvenile Gun Violence program will be carried out by the four current grantees. No additional applications will be solicited in FY 1998.

Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Technical Assistance and Training

Since 1995, OJJDP has provided funding to five communities to implement and test a comprehensive program model for gang prevention, intervention and suppression, known as the Spergel model. In 1997, the sites were awarded continuation funding for the third year of a 3-year project period grant to continue program implementation. OJJDP will provide a fourth year of funding for this program.

To support the ongoing implementation and a potential fourth year of operations (being proposed elsewhere in this Program Plan), OJJDP will provide funding to the University of Chicago for enhanced technical assistance and training services. This award will be made to the University's Gang Research, Evaluation and Technical Assistance (GRETA) program, through the School of Social Service Administration. Technical assistance and training to be provided through this award may include technical assistance and training to law enforcement, probation, and parole on their role in the model; technical assistance to community and grassroots organizations on their role in the model; and technical assistance on team development, information sharing, information systems, and data collection and on issues of sustainability and organizational and systems change to better deal with the community's youth gang problem. Other training and technical assistance services to be provided may include the development of relevant materials for onsite use, such as a manual on the model being implemented (in response to the national evaluation advisory board's recommendations), a manual on youth

outreach and a ''lessons learned'' publication or other materials, including audiovisual and electronic media. Training and technical assistance services provided under this project will be limited to OJJDP's comprehensive gang demonstration sites in Mesa and Tucson, Arizona; Riverside, California; Bloomington, Illinois; and San Antonio, Texas, and other selected OJJDP grantees.

This project will be implemented by the current grantee, the University of Chicago. No additional applications will be solicited in FY 1998.

Rural Youth Gang Problems: Adapting OJJDP's Comprehensive Approach

In 1996, OJJDP's National Youth Gang Center (NYGC) completed its first annual nationwide survey of law enforcement agencies regarding gang problems experienced in their jurisdictions. This survey represents the largest number of small law enforcement agencies in rural counties ever surveyed. Among the findings of this survey is that half of the 2,007 gang survey respondents reporting youth gang problems in 1995 serve populations under 25,000, confirming that youth gangs are not just a problem for large cities and metropolitan counties. Youth gangs are emerging in new localities, especially smaller and rural communities. Many of the agencies in smaller and rural communities had no personnel assigned to deal with youth gangs or gang units.

OJJDP's Comprehensive Approach to Gang Prevention, Intervention, and Suppression (Spergel Model) is currently being implemented and tested in multiple jurisdictions. The communities implementing the model are mainly suburban and urban in nature, with areas of dense population within the community.

In light of the rural gang problems exposed by the nationwide gang survey, OJJDP will fund a new initiative to assist rural communities in implementing the fully adaptable Comprehensive Approach in a way that is appropriate to rural community needs, through a comprehensive and systematic problem assessment and program design process. Upon completion of the problem assessment using law enforcement-based gang incident, census, and other data, communities would engage in a process of adapting and eventually applying the Comprehensive Approach in a way that responds to the gang problems identified.

OJJDP will award funds to up to four rural communities to conduct a rural youth gang planning and assessment project and will also award funds for related evaluations and provide technical assistance services to funded sites.

A solicitation will be issued as part of the *FY 1998 OJJDP Discretionary Program Announcement: Discretionary Grant Program: Parts C and D.* Information on how to obtain a copy of the Program Announcement is provided above under Supplementary Information.

Case Studies and Evaluation Planning of OJJDP's Rural Youth Gang Initiative

OJJDP will award a competitive grant for a 1-year process evaluation to document the strategies used by the Rural Youth Gang Problems—Adapting OJJDP's Comprehensive Approach initiative demonstration sites to assess their local youth gang problems and plan for the adaptation and implementation of this comprehensive approach in rural communities. This documentation will subsequently be disseminated to the field for use by other rural communities that want to replicate the comprehensive approach to rural gang problems.

A solicitation will be issued as part of the *FY 1998 OJJDP Discretionary Program Announcement: Discretionary Grant Program: Parts C and D.* Information on how to obtain a copy of the Program Announcement is provided above under Supplementary Information.

Delinquency Prevention and Intervention

Youth-Centered Conflict Resolution

In FY 1995, OJJDP funded the Illinois Institute for Dispute Resolution (IIDR) to implement the Youth-Centered Conflict Resolution (YCCR) program under a competitively awarded 3-year cooperative agreement. The purpose of this program, which began in October 1995, is to integrate conflict resolution education (CRE) programming into all levels of education in the Nation's schools, juvenile facilities, and youth-serving organizations.

During the first 2 years, IIDR provided training and technical assistance through a number of mechanisms. In year one, activities included participation in the development of a satellite teleconference on CRE, a presentation on the YCCR program at the National Institute for Dispute Resolution annual conference, and three regional training conferences for teams from schools, communities, and juvenile facilities. IIDR also completed the project's first major resource document, *Conflict Resolution Education: A Guide to Implementing Programs in Schools, Youth-Serving Organizations, and Community and Juvenile Justice Settings.* Second-year activities included followup training and intensive technical assistance including onsite work with the Washington, DC, school system. In the second project year, with additional funding from the National Endowment for the Arts, IIDR developed a pilot curriculum and conducted a series of 10 training sessions to assist arts program staff and administrators in infusing conflict resolution skills and principles into art programs for at-risk youth. Additional funding this year will allow the project to conduct another series of trainings.

Activities planned for FY 1998 include State training conferences, onsite technical assistance to SafeFutures, Weed and Seed, and other sites, increased followup support, and a survey of gang intervention programs to identify those that use conflict resolution techniques as part of their efforts.

Also, IIDR will expand the level of support that project staff provide to schools, communities, and youth-serving organizations, including training provided in partnership with national organizations such as Boys & Girls Clubs of America and the National Juvenile Detention Association. Efforts will also be undertaken to facilitate peer-to-peer mentoring among youth education and youth-serving organizations. Special emphasis will be placed on disseminating information about effective conflict resolution programs and implementation issues through print and electronic media. Project staff will also work with staff in State departments of education and offices of State Attorneys General to promote replication of local conflict resolution programs and to partner with State agencies to establish ''training of trainers'' institutes or programs to build local capacity to implement successful CRE programs for youth.

OJJDP has entered into a partnership with the U.S. Department of Education to expand this project. The project will be implemented by the current grantee, IIDR. No additional applications will be solicited in FY 1998.

Communities In Schools—Federal Interagency Partnership

This program is a continuation of a national school dropout prevention model developed and implemented by Communities In Schools (CIS), Inc. CIS, Inc., provides training and technical assistance to CIS programs in States and local communities, enabling them to

adapt and implement the CIS model. The model brings social, employment, mental health, drug prevention, entrepreneurship, and other resources to high-risk youth and their families in the school setting. Where CIS State organizations are established, they assume primary responsibility for local program replication during the Federal Interagency Partnership.

The Federal Interagency Partnership program is based on the following strategies: (1) to enhance CIS, Inc., training and technical assistance capabilities; (2) to enhance the organization's capability to introduce selected initiatives to CIS youth at the local level; (3) to enhance the CIS, Inc., information dissemination network capability; and (4) to enhance the CIS, Inc., capability to network with Federal agencies on behalf of State and local CIS programs.

In FY 1997, the CIS—Federal Interagency Partnership (1) performed extensive research and compilation of conference materials and other resources outlining trends and activities related to family strengthening and parent participation initiatives; (2) produced a quarterly issue of *Facts You Can Use*; (3) formed a committee responsible for developing a description of the Family Service Center site strategy; (4) formulated a plan for providing training and technical assistance to SafeFutures sites; (5) advanced activities under the Youth Entrepreneurship Program by implementing the second phase of the minigrant process and by providing technical assistance; (6) developed a violence prevention resource directory and offered training on violence prevention; (7) provided program-level liaison and coordination to facilitate access by State and local CIS organizations to Federal agency products; and (8) added new features to the CIS web site to increase local and State program access to Federal resources.

OJJDP will continue funding this project in FY 1998. The program will be implemented by the current grantee, Communities In Schools, Inc. No additional applications will be solicited in FY 1998.

The Congress of National Black Churches: National Anti-Drug Abuse/ Violence Campaign (NADVC)

OJJDP will award continuation funding to the Congress of National Black Churches (CNBC) for its national public awareness and mobilization strategy to address the problems of juvenile drug abuse, violence, and hate crime in targeted communities. The goal of the CNBC national strategy is to summon, focus, and coordinate the leadership of the black religious community, in cooperation with the Department of Justice and other Federal agencies and organizations, to mobilize groups of community residents to combat juvenile drug abuse and drug-related violence.

The CNBC National Anti-Drug Abuse/ Violence Campaign (NADVC) is a partner in the Education Development Center's (EDC) Juvenile Hate Crime Initiative. NADVC has used EDC's hate crime curriculum to focus on prevention through the networks and resources in the faith community to address the impact and roles of juveniles and youth in engaging in and preventing hate crimes. Two regional conferences were held during the past year in Columbus, South Carolina, and Memphis, Tennessee. Approximately 80 participants, representing more than 20 burned churches from black and white congregations, attended.

In FY 1997, the program expanded through NADVC's Regional Hate Crime Prevention Initiative, the Campaign's model for anti-drug/violence strategies, and NADVC's faith community network. NADVC has assisted in the development of programs in 87 sites, whose activities vary depending on their stage of development. The smallest of these alliances consists of 6 congregations and the largest has 134. The NADVC program involves approximately 2,220 clergy and affects 1.5 million youth and the adults who influence their lives. NADVC also provides technical support to four statewide religious coalitions.

NADVC's technical assistance, consultations, and training have helped sites to leverage more than $15 million in funds from corporations, foundations, and Federal, State, and local government. CNBC receives frequent requests for its NADVC model for the development of prevention programs in the faith community. The model is easily tailored to the local community's assessment of its drug, delinquency, violence, and hate crime problems.

NADVC has contributed to many agency conferences, workshops, and advisory committees on the issues of violence, substance abuse prevention, policing, and high-risk youth services. The Campaign has also produced a *National Training and Site Development Guide* and a video to assist sites in implementing the NADVC model.

NADVC will continue to support the expansion of new sites in FY 1998, seek new partnerships, and enhance efforts to address hate crime and family violence intervention issues.

The program will be implemented by the current grantee, the Congress of National Black Churches. No additional applications will be solicited in FY 1998.

Risk Reduction Via Promotion of Youth Development

The Risk Reduction Via Promotion of Youth Development program, also known as Early Alliance, is a large-scale prevention study involving hundreds of children and several elementary schools located in lower socioeconomic neighborhoods of Columbia, South Carolina. This program is funded through an interagency agreement with the National Institute of Mental Health(NIMH). NIMH's grantee is the University of South Carolina. The Centers for Disease Control and Prevention and the National Institute on Drug Abuse have also provided funding for the program.

This large-scale project is designed to promote coping-competence and reduce risk for conduct problems, aggression, substance use, delinquency and violence, and school failure beginning in early elementary school. The project also seeks to alter home and school climates to reduce risk for adverse outcomes and to promote positive youth development. Interventions include a classroom program, a schoolwide conflict management program, peer social skills training, and home-based family programming. The sample includes African American and Caucasian children attending schools located in lower income neighborhoods. There is a sample of high-risk children (showing early aggressive behavior at school entry), and a second sample consisting of lower risk children (residing in socioeconomically disadvantaged neighborhoods). The interventions begin in first grade, and children are being followed longitudinally throughout the 5 years of the project.

Funded initially in FY 1997 through a fund transfer to NIMH under an interagency agreement, support will be continued for an additional 4 years. No additional applications will be solicited in FY 1998.

Training and Technical Assistance for Family Strengthening Programs

Prevention, early intervention, and effective crisis intervention are critical elements in a community's family support system. In many communities, one or more of these elements may be missing or programs may not be coordinated. In addition, technical assistance and training are often not available to community organizations

and agencies providing family strengthening services. In response to these needs, OJJDP awarded a 3-year competitive cooperative agreement in FY 1995 to the University of Utah's Department of Health Education (DHE) to provide training and technical assistance to communities interested in establishing or enhancing a continuum of family strengthening efforts.

In the first program year, the grantee completed initial drafts of a literature review and summaries of exemplary programs; conducted a national search for, rated, and selected family strengthening models; planned 2 regional training conferences to showcase the selected exemplary and promising family strengthening programs; convened the first conference for 250 attendees in Salt Lake City, Utah; and developed an application process for sites to receive followup training on specific program models.

In the second program year, DHE completed a second draft of the literature review and model program summaries; convened a second regional conference in Washington, DC; conducted program-specific workshops; produced user and training-of-trainers guides; and distributed videos of several family strengthening workshops.

In the third program year, DHE will coordinate technical assistance and training of agencies that are in the process of implementing the identified model programs. In addition, the grantee will establish a minigrant supplement program to provide stipends to a minimum of 10 sites to ensure program implementation. DHE will also update and publish its literature review and develop program-specific bulletins to be distributed by OJJDP and also made available on the OJJDP Web site. The grantee's technical assistance delivery system and the overall impact of the project will also be assessed.

This program will be implemented in FY 1998 by the current grantee, the University of Utah's DHE. No additional applications will be solicited in FY 1998.

Hate Crime

In FY 1998, OJJDP will provide continuation funding to the Education Development Center (EDC) to expand their hate crime prevention efforts. EDC has produced and published a multipurpose curriculum, entitled Healing the Hate, for hate crime prevention in middle schools and other classroom settings. The curriculum has been disseminated to 20,000 law enforcement, juvenile justice professionals, and educators throughout the country.

Because of increased racial, ethnic, and religious tensions and hate crimes in various regions of the country, OJJDP expanded this grant to allow EDC to provide training and technical assistance to youth, educators, juvenile justice and law enforcement professionals and representatives of local public/private community agencies and organizations and the faith community. The recipients of this training/technical assistance obtained the knowledge and skills necessary to establish prejudice reduction and violence prevention programs to decrease bias crimes by youth in their schools and communities. During the past year, EDC conducted training/technical assistance at three sites in different regions of the country (Boston, Massachusetts; Chicago, Illinois; and Miami, Florida). Dissemination of products was achieved through national educational, advocacy, and justice networks and at 15 other national conferences. In FY 1997, additional Hate Crimes project activities were funded through an interagency agreement with the U. S. Department of Education.

In FY 1998, EDC project work will include training, technical assistance, networking among practitioners and policymakers, and continued partnership training with the Congress of National Black Churches. EDC will conduct one regional, multidisciplinary training, which will incorporate both hate crime prevention and response for practitioners, and two trainings for trainers on hate crime prevention and response. For policymakers and youth practitioners, 10 hate crime prevention and response training sessions will be held at national and statewide conferences targeting policymakers in the core disciplines (education, juvenile justice, criminal justice, and youth-serving programs) and youth. EDC will provide technical assistance through outreach, response to requests, remote and onsite consultation, and facilitation of networking.

EDC will also develop and disseminate a hate crime prevention and response guide for communities; a hate crime prevention and response guide for juvenile justice, criminal justice, and the judiciary; and articles and bulletins for selected publications for practitioners and policymakers in the core disciplines (education, juvenile justice, criminal justice, and youth-serving programs). In addition, EDC will develop a hate crime prevention World Wide Web site and translate and produce a Spanish language version of *Healing the Hate: A National Bias Crime Curriculum for Middle Schools.*

EDC will create an expert advisory council to increase collaboration and networking among practitioners and policymakers in the core disciplines (education, juvenile justice, criminal justice, and youth-serving programs).

EDC will continue its partnership with the Congress of National Black Churches, Inc., by conducting joint training sessions and technical assistance efforts to prevent church burnings.

The project will be implemented, in partnership with the U.S. Department of Education, by the current grantee, Education Development Center. No additional applications will be solicited in FY 1998.

Strengthening Services for Chemically Involved Children, Youth, and Families

The abuse of alcohol and other drugs (AOD) is inextricably linked with both personal and economic adversity and crime in society. Alcohol and drug abuse exact a devastating toll, especially on the most vulnerable—young children and adolescents. Recognizing that the U. S. Department of Justice and the U.S. Department of Health and Human Services are both servicing the same pool of children affected by parental substance use/abuse, the two Departments have initiated a joint program.

OJJDP will administer this training and technical assistance program, using funds transferred to OJJDP by the Substance Abuse and Mental Health Services Administration (SAMHSA), through a cooperative agreement to the Child Welfare League of America (CWLA). To achieve maximum effectiveness in aiding chemically involved families, child welfare professionals must be able to address entrenched family problems caused by alcohol and other drug abuse, while simultaneously delivering services that protect and promote the health and well-being of children. These professionals need information, resource materials, and training to increase their knowledge of the link between chemical dependency and a host of related conditions that negatively affect child and family well-being.

CWLA, a nonprofit organization, will carry out the required activities of this interagency agreement by assisting child welfare personnel to provide appropriate intervention services for AOD-impacted children and their caregivers. Through collaboration between the CWLA program, policy specialists in chemical dependency,

child protective services, family support services, foster care, kinship care, and a cadre of other agencies, CWLA will produce a state-of-the-art comprehensive assessment tool and decisionmaking guidelines that frontline child welfare workers and supervisors can use in determining: (1) how alcohol and drugs are impacting child safety and family functioning and (2) the most appropriate intervention options for each child victim.

CWLA will also conduct training for trainers to facilitate effective use of this guide by child welfare workers.

CWLA's assessment instrument and decision-making guidelines for chemically-involved children and families will direct the vital first steps for child welfare professionals toward achieving increased safety to AOD-involved children and families. This instrument will not only outline a culturally competent, strengths-based substance abuse assessment tool, but also suggest new approaches to engaging families and addressing their needs. The casework, placement, and permanency planning options outlined in the guidelines will advance participatory decisionmaking models that result in family strengthening. Case plans that emphasize flexible options, encourage parents as partners in decisionmaking, involve extended family in caregiving, can promote the best interest of children and families.

Training and technical assistance to child welfare professionals supported by this agreement will help to develop innovative and effective approaches to meeting the needs of children in the child welfare system whose parents are AOD abusers. The activities funded by this agreement will focus on developing, expanding, or enhancing initiatives that raise public awareness and educate child welfare workers and policymakers on the most appropriate services for children of substance abusing parents to prevent these children and youth from becoming AOD abusers.

OJJDP funds will enable CWLA to produce a guidebook for top-level officials that describes current practices, models of innovation, and the policy choices faced in linking child welfare service agencies and their substance abuse counterparts. Also under consideration is increasing the number of sites in which CWLA will conduct training-of-trainer sessions from the four sites and 100 workers approved under the cooperative agreement, to eight sites and 200 workers.

This jointly funded project will be implemented by CWLA. No additional applications will be solicited in FY 1998.

Diffusion of State Risk- and Protective-Factor Focused Prevention

OJJDP is providing funds to the National Institute on Drug Abuse (NIDA), through an interagency agreement, to support this 5-year evaluation program. Fiscal year 1997 funds were used to begin this diffusion study of the natural history of the adoption, implementation, and effects of the public health approach to prevention, focusing on risk and protective factors for substance abuse at the State and community levels. The study seeks to identify phases and factors that influence the adoption of the public health approach and assess the association between the use of this approach for community prevention planning and the levels of risk and protective factors and substance abuse among adolescents.

The study will also examine State substance abuse data gathered from 1988 through 2001 and use key informant interviews conducted in 1997, 1999, and 2001 to identify and describe the process of implementing the epidemiological risk-and protective-factor approach in seven collaborating States: Colorado, Kansas, Illinois, Maine, Oregon, Utah, and Washington.

This project will be implemented by the current grantee, the Social Development Research Group at the University of Washington, School of Social Work. No additional applications will be solicited in FY 1998.

Multisite, Multimodal Treatment Study of Children With ADHD

OJJDP will transfer funds under an interagency agreement with the National Institute of Mental Health (NIMH) to fund this study. OJJDP's participation in this NIMH-sponsored research is designed to enhance and expand the project to include analysis of justice system contact on the part of the subjects. The study began in 1992, studying the long-term efficacy of stimulant medication and intensive behavioral and educational treatment for children with attention deficit/hyperactivity disorder (ADHD). Originally funded for 5 years, this new round of funding would continue the six study sites for another 5 years, to 2003. Given this continuation, many of the children involved in the study will reach the age at which children normally begin antisocial behavior. To date, no extensive study has examined the relationship between delinquency and ADHD.

This expanded study, principally funded by NIMH, will follow the original study families and include a comparison group. With OJJDP support, the project sites are beginning to look at the subjects' delinquent behavior and legal system contact. This second funding cycle will include studies of substance use and antisocial behavior.

OJJDP will support this study through an interagency agreement with the National Institute of Mental Health. No additional applications will be solicited in FY 1998.

Evaluation of the Juvenile Mentoring Program

The overall goals of the Part G Juvenile Mentoring Program (JUMP) are the reduction of delinquency, gang participation, violence, and substance abuse and related behavior and the enhancement of educational opportunity, academic achievement, investments in school, and contribution to one's community. Translating these impact goals to outcome goals, the evaluation grantee will assess and measure the relative probability that JUMP mentees will reflect reductions in delinquency, gang participation, and associated negative behaviors and show improvements in school attendance, school completion, and academic performance.

The evaluation objectives include assessing and measuring the extent to which the quality of the mentor-mentee relationship generates attitudes, values, and intermediary behavior that increase the probability of the positive outcomes cited as goals. A second objective includes assessing and measuring the attributes of mentor characteristics and behaviors that contribute most to the attainment of mentee results. Other objectives include ensuring that the evaluation instrument is optimally designed, worded, and configured; providing ongoing assistance to JUMP program grantees; implementing quality assurance for raw data received from JUMP grantees and assuring proper entry into the management information data base; preparing appropriate data analysis for each JUMP grantee; generating analyses of site-specific findings; and preparing an aggregate analysis of implementation results and outcome data from all sites with special focus on attributable program effects and implications for replication.

This evaluation is being conducted by Information Technology International under a 2-year grant that was competitively awarded in FY 1997. The primary focus of the initial award is the original 41 JUMP program sites. OJJDP will extend the project period in FY 1998 with Part G funds for an additional 2 years in order to continue the original evaluation sites and expand the ongoing

evaluation to the 52 JUMP grants awarded to new sites in FY 1997. No additional applications will be solicited in FY 1998.

Truancy Reduction Demonstration Program

Truancy often leads to dropping out of school, delinquency, and drug abuse. For many youth, truancy may be a first step to a lifetime of unemployment, crime, and incarceration.

OJJDP is engaging in a joint funding effort with the U.S. Department of Education and the Executive Office for Weed and Seed to award competitive discretionary funds for jurisdictions to address the problem of truancy. OJJDP will be looking for schools and school districts to apply jointly with law enforcement, other juvenile justice system agencies, or community-based programs (such as Weed and Seed sites) to develop and implement a collaborative program designed to reduce truancy in their jurisdictions.

Evaluation of the Truancy Reduction Program

Evaluation of Truancy Reduction Demonstration Program

OJJDP will award a competitive grant for the first year of a proposed 3½-year evaluation process that will support implementation and assess the effect of a variety of truancy reduction programs. The evaluation will determine how community collaboration can impact truancy and lead to systemic reform and assist OJJDP in developing a community collaborative truancy reduction program model and identify the essential elements of that model.

A solicitation will be issued as part of the *FY 1998 OJJDP Discretionary Program Announcement: Discretionary Grant Program: Parts C and D.* Information on how to obtain a copy of the Program Announcement is provided above under Supplementary Information.

Arts and At-Risk Youth

The need for afterschool programs for youth at risk of delinquency is well-known. The opportunity to join an afterschool arts program that helps students develop their talents and abilities has been shown to help youth stay in school; receive higher grades; develop self-esteem; and resist peer pressure to engage in negative behaviors, such as substance and alcohol use, and other delinquent acts. Unfortunately, juveniles who are at greatest risk of delinquency are the ones who often have the least opportunity to join such programs because they are not available in their schools, neighborhoods, or communities. These youth have limited experiences both in the world of work and in job training skills. In addition, lack of conflict resolution skills makes it difficult for youth to retain jobs once they are employed because they are not well equipped to handle conflicts that may arise.

OJJDP will be funding an afterschool and summer arts program that combines the arts with job training and conflict resolution skills. This project will include summer jobs or paid internships to enable youth to put into practice the job and conflict resolution skills they are learning. By combining the arts with practical life experiences, at-risk youth are able to gain valuable insights into their own abilities and the possibilities that await them in the world of work if they continue to attend school, study, and graduate.

OJJDP is collaborating with the Bureau of Justice Assistance, the Safe and Drug-Free Schools Program of the U.S. Department of Education, the National Endowment for the Arts, and the U.S. Department of Labor for this 2-year pilot project. OJJDP will award up to two competitive grants to develop and implement a strategy based on research, implement process evaluation, and create reports on the strengths and weaknesses of the pilot program.

A solicitation will be issued as part of the *FY 1998 OJJDP Discretionary Program Announcement: Discretionary Grant Program: Parts C and D.* Information on how to obtain a copy of the Program Announcement is provided above under **SUPPLEMENTARY INFORMATION.**

Community Volunteer Coordinator Program

OJJDP will fund noncompetitively the establishment of ''volunteer coordinators'' in three to five ongoing community-based initiative sites for the purpose of expanding the quality, sustainability, and number of safe and positive activities for young people during nonschool hours. Building on the work of the ''Presidents'' Summit for America's Future,'' OJJDP will seek partnerships with other Federal agencies to provide support to identified collaboratives that have demonstrated a clearly articulated plan for increasing volunteerism and representation from schools, law enforcement, city or county government, youth groups, and community-based organizations. Small grants will support the hiring of an individual in the community who will be responsible for inventorying programs; planning; and recruiting, connecting, and training volunteers to participate in a range of programs that provide youth services (mentoring, tutoring, neighborhood restoration, counseling, recreational activities, mediation services, media outreach, and other forms of community service for youth).

Learning Disabilities Among Juveniles at Risk of Delinquency or in the Juvenile Justice System

Some researchers have concluded that children who have difficulties in school often become frustrated because of constant failure. Studies have shown that youth who have a learning disability (LD) are very likely to become truant or drop out of school rather than face the ridicule of their peers. The relationship between an LD and juvenile delinquency is complex.

A learning disability is a neurological condition that impedes a person's ability to store, process, or produce information. Learning disabilities can affect the ability to read, write, speak, or compute math and can impair socialization skills. Individuals with LD's are generally of average or above average intelligence, but the disability creates a gap between ability and performance.

School failure associated with learning disabilities is an important risk factor for juvenile delinquency. Whatever the presenting problem (e.g., abuse or neglect, truancy, or delinquency), a large percentage of children who come before the court have some specific learning disability that may have contributed, either directly or indirectly, to the behavior that led to their presence in court. A child with an LD is much more likely to come into contact with the juvenile justice system than one without an LD. The prevalence of LD in a population of juvenile delinquents is extremely high: approximately 35 percent of all children in the juvenile justice system have an identified LD.

To better address the needs of these youth, greater attention needs to be paid at a much younger age to the nature of learning disabilities, their impact on learning and the processing of information in and out of the classroom setting, and their relationship to dropping out and delinquency. Parents, schools, and the juvenile courts need to be more aware of this hidden handicap. These children could be helped if their disabilities were properly diagnosed and treated. Professionals who directly interact with the learning disabled need to share knowledge on how to identify and treat learning disabilities with juvenile justice system practitioners in order to reduce the number of system-

involved juveniles who are learning disabled and to retain them in the education mainstream.

Although committed to addressing the increasing number of juveniles identified with learning disabilities, the Office will not fund a demonstration program in FY 1998 as described in the Proposed Plan. OJJDP will instead work with the U.S. Department of Education's Office of Special Education and Rehabilitation Services and the Office of Vocational and Adult Education to initiate a variety of activities, including development of a model demonstration program. Other activities this fiscal year will include a focus on developing programs designed to (1) prevent delinquency and incarceration of youth with learning disabilities through early assessment and intervention coordinated across school, police, court, probation, and other community-based services, and (2) reduce recidivism by juvenile offenders by ensuring that students with learning disabilities in correctional settings receive appropriate, specially designed instructional services that address individual needs.

Advertising Campaign—Investing in Youth for a Safer Future

OJJDP will continue its support of the Crime Prevention Coalition of America ad campaign, ''Investing in Youth for A Safer Future,'' through the transfer of funds to the Bureau of Justice Assistance (BJA) under an Intra-agency Agreement. OJJDP and BJA are funding through a cooperative agreement the National Crime Prevention Council (NCPC) to produce, disseminate, and support public service advertising and related media that are designed to inform the public of effective solutions to juvenile crime and to motivate young people and adults to get involved and support these solutions. The featured solutions include effective prevention programs and intervention strategies.

The program will be administered by BJA through its existing grant to NCPC. No additional applications will be solicited in FY 1998.

Strengthening the Juvenile Justice System

Development of the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders

In FY 1995, the National Council on Crime and Delinquency (NCCD) and Developmental Research and Programs, Inc. (DRP), completed Phases I and II of a collaborative effort to support the development and implementation of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders. This effort involved assessing existing and previously researched programs in order to identify effective and promising programs that can be used in implementing the Comprehensive Strategy. A series of reports were combined into the *Guide for Implementing the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders.* The effort also included convening the forum ''Guaranteeing Safe Passage: A National Forum on Youth Violence,'' holding two regional training seminars for key leaders on implementing the Comprehensive Strategy, and disseminating the *Guide* at national conferences.

In FY 1996, Phase II work included two regional training seminars; the delivery of intensive training and technical assistance to three pilot sites—Lee County, Florida; Ducal County, Florida; and San Diego County, California; and the delivery of technical assistance to five States and selected local jurisdictions implementing the Comprehensive Strategy.

In FY 1997, the project continued its targeted dissemination of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders at several national conferences and additional regional training seminars and continued providing the five States with intensive training for implementing the Comprehensive Strategy, providing individualized technical assistance to individual jurisdictions interested in implementing the Comprehensive Strategy, and continuing developmental work on Comprehensive Strategy training materials.

In FY 1998, this project will continue the implementation efforts and expand to up to two additional States. In each of the new States, up to six jurisdictions will be identified to receive Comprehensive Strategy implementation training and technical assistance.

This project will be implemented by the current grantees, NCCD and DRP. No additional applications will be solicited in FY 1998.

Balanced and Restorative Justice Project (BARJ)

Based on research showing that properly structured restitution programs can reduce recidivism, OJJDP has supported development and improvement of juvenile restitution programs since 1977. The BARJ project sprang from OJJDP's RESTTA (Restitution, Education, Specialized Training, and Technical Assistance) Project. In FY 1992, Florida Atlantic University (FAU) was awarded a competitive grant to enhance the development of restitution programs as part of systemwide juvenile justice improvement using balanced approach concepts and restorative justice principles. In subsequent years, the project developed a BARJ program model. The model was initially described in a 1994 OJJDP Program Summary entitled *Balanced and Restorative Justice,* which became a reference source for BARJ training.

The BARJ project currently provides intensive training, technical assistance, and guideline materials to three selected sites that over recent years have been implementing major systemic change in accordance with the BARJ model. The three sites are Allegheny County, Pennsylvania; Dakota County, Minnesota; and West Palm Beach County, Florida. In addition, the BARJ Project has continuously offered technical assistance and training to other jurisdictions nationwide. Project staff have also provided training at regional roundtables and at professional conferences dealing with juvenile justice system improvement. In 1997, the project published another reference document entitled *Balanced and Restorative Justice for Juveniles: A Framework for Juvenile Justice in the 21st Century.* The project also compiled a *BARJ Implementation Guide.*

In FY 1998, the BARJ Project will produce additional reference and training materials and will offer further training and technical assistance.

This project will be implemented by the current grantee, FAU. No additional applications will be solicited in FY 1998.

Training and Technical Assistance Program To Promote Gender-Specific Programming for Female Juvenile Offenders

The 1992 Amendments to the Juvenile Justice and Delinquency Prevention Act addressed, for the first time, the issue of gender-specific services. The Amendments require States participating in the JJDP Act's Part B State Formula Grants program to conduct an analysis of gender-specific services for the prevention and treatment of juvenile delinquency, including the types of services available, the need for such services, and a plan for providing needed gender-specific services for the prevention and treatment of juvenile delinquency.

In FY 1995, OJJDP's Gender-Specific Services program focused on providing training and technical assistance directly to States and promoting the

establishment of gender-specific programs at the State level. Training and technical assistance were provided to a broad spectrum of policymakers and service providers regarding services available for juvenile female offenders under direct grants, sponsorship of national conferences, and inclusion of a gender-specific service component in the OJJDP-funded comprehensive SafeFutures program.

In FY 1996, building upon these past efforts, OJJDP awarded a 3-year competitive grant to Greene, Peters and Associates (GPA) to provide a comprehensive framework for assisting policymakers, service providers, educators, parents, and the general public in addressing the complex needs of female adolescents who are at risk for delinquent behavior. The project's objectives are to develop and test a training curriculum for policymakers, advocacy organizations, and community-based youth-serving organizations that conveys the need for effective gender-specific programming for juvenile females and the elements of such programs; to develop, test, and deliver a technical assistance package on the development of gender-specific programs; to inventory female-specific programs, identifying those program models designed to build upon the gender-specific needs of girls and preparing a monograph suitable for national dissemination; to design and test a curriculum for line staff delivering services to juvenile females; to design and implement a public education initiative on the need for gender-specific programming for girls; and to design and conduct training for trainers. In FY 1997, the training curriculum for policymakers, advocacy organizations, and community leaders was developed and pilot-tested at three sites, and a final draft of the monograph was completed.

In FY 1998, GPA will develop a needs assessment for State Advisory Groups, develop a technical assistance package, and develop and test a curriculum for practitioners based on the monograph findings.

This program will be implemented by the current grantee, GPA. No additional applications will be solicited in FY 1998.

Juvenile Transfers to Criminal Court Studies

In FY 1995, OJJDP competitively awarded two extensive studies of the increasing juvenile transfer phenomenon. Most States have passed new legislation either permitting or requiring the transfer of alleged juvenile offenders to criminal court under certain circumstances. However, studies of the impact of criminal court prosecution of juveniles have yielded mixed conclusions. Solid research on the intended and unintended consequences of transfer of juveniles to criminal court will enable policymakers and legislatures to develop statutory provisions and policies and improve judicial and prosecutorial waiver and transfer decisions. Preliminary findings from these two studies (along with other efforts started over the past 2 years) have provided a wealth of information. The study undertaken in Florida has extensively examined the records of juveniles transferred to adult court along with similar juveniles who were not transferred, including case attribute information. Through this data collection, the research is bringing to light the differences in case handling and how these differences affect the outcome of the specific case. The differences in dispositions will naturally be a concern for many interested in the subject.

In FY 1998, OJJDP will increase the understanding of the transfer issues by expanding the Florida study to include a greater number of cases and to include some basic recidivism measures. The Florida study has relied mainly on paper records for the case information. Such records require considerable time and effort to review. As such, the number of cases included in the first phase of this study was relatively small. Expansion of this study will allow the researchers to examine a greater number of cases in the a wider range of jurisdictions in Florida resulting in a greater understanding of the issue based on how the dynamics of jurisdictions may differ. Also, by expanding the tracking of the case subjects to include arrests and court cases following transfer to adult court, the researchers will provide insight on the recidivism that follows transfer of jurisdiction.

This project will be carried out by the current grantee, the Juvenile Justice Advisory Board of the State of Florida. No new applications will be solicited in FY 1998.

Replication and Extension of Fagan Transfer Study

The ''Comparative Impact of Juvenile Versus Criminal Court Sanctions on Recidivism Among Adolescent Felony Offenders: A Replication and Extension'' project will continue in FY 1998, building on the past work of Dr. Jeffrey Fagan. In FY 1997, OJJDP awarded a two-year project period grant to Columbia University to build on Dr. Fagan's seminal study of 1986 transfers in New York and New Jersey. The earlier study was the first of its kind to compare four contiguous counties with similar social, economic, and criminogenic factors and offender cohorts with essentially identical offense profiles. It was also the first such study to go beyond comparing sentences to studying the deterrent effects of the sanction and court jurisdiction on recidivism rates in juvenile versus criminal court.

The replication and extension research project will be able to answer questions about how case processing decisions have changed in the last decade. The new study will compare case attribute information and case dispositional outcomes in 1981–82 with those cases processed in 1993–94, a time period following sustained growth in the rates of youth violence. In addition, a study component under the direction of Dr. Barry Feld will explore whether there are factors being considered by prosecutors, judges, and defense attorneys that explain the variation in sentences/dispositions and recidivism between groups of offenders handled in different systems. This component will provide an analysis of the organizational, contextual, or systemic factors involved in the decision processes affecting both jurisdiction and punishment. The study will also conduct interviews with selected offenders processed in different systems to gain a perspective on the impact of criminal versus juvenile system handling of such cases on further experiences with the justice system. The project will also collaborate with the other research conducted under OJJDP's Juvenile Transfers to Criminal Court Studies program in sharing data collection instruments and in planning appropriate joint analyses.

This project will be implemented by the current grantee, Columbia University. No additional applications will be solicited in FY 1998.

The Juvenile Justice Prosecution Unit

OJJDP has historically supported prosecutor training through the National District Attorneys Association (NDAA). This training has increased the involvement and leadership of elected and appointed prosecutors in juvenile justice systems issues, programs, and services. To continue that progress, OJJDP funded a 3-year project period grant in FY 1996 to the American Prosecutors Research Institute (APRI), the research and technical assistance affiliate of NDAA, to promote prosecutor training. Under this award, APRI established a Juvenile Justice Prosecution Unit (JJPU). The JJPU holds workshops on juvenile-related policy,

leadership, and management for chief prosecutors and juvenile unit chiefs and also provides prosecutors with background information on juvenile justice issues, programs, training, and technical assistance.

The project solicits planning and other advisory input from prosecutors familiar with juvenile justice system and prosecutor needs. It draws on the expertise of working groups of elected or appointed prosecutors and juvenile unit chiefs to support project staff in providing technical assistance, juvenile justice-related research, program information, and training to practitioners nationwide. In FY 1997, for example, APRI held two executive seminars for prosecutors and sponsored a National Invitational Symposium on Juvenile Justice. The Symposium provided a forum for prosecutors to exchange ideas on programs, issues, legislation, and practices in juvenile justice. APRI has also produced materials focused on juvenile prosecution-related issues for the benefit of prosecutors nationally.

In FY 1998, APRI will present additional workshops and seminars and will develop new reference materials for prosecutors. Included in the documents expected to be developed will be a compendium of juvenile justice programs conducted by prosecutors offices, technical assistance packages related to significant juvenile justice programs and issues of interest to prosecutors, and newsletters updating developments in the juvenile prosecution field.

This project will be implemented by the current grantee, APRI. No additional applications will be solicited in FY 1998.

Due Process Advocacy Program Development

In FY 1993, OJJDP competitively funded the American Bar Association (ABA) to determine the status of juvenile defense services in the United States, develop a report, and then develop training and technical assistance. The ABA— along with its partners, the Youth Law Center of San Francisco, California, and the Juvenile Law Center of Philadelphia, Pennsylvania—conducted an extensive survey of public defender offices, court-appointed systems, law school clinics, and the literature. These data were then analyzed and a report, entitled *A Call for Justice*, was developed and published in December 1995.

The ABA has also developed and delivered specialized training to juvenile defenders in several jurisdictions, such as the State of Maryland, the State of Tennessee, Baltimore County, Maryland, and several other States and localities, to assist in increasing the capacity of juvenile defenders to provide more effective defense services. In October 1997, the ABA and its partners organized and implemented the first Juvenile Defender Summit at Northwestern University in Chicago, Illinois. The Summit brought together public defenders, court-appointed lawyers, law school clinic directors, juvenile offender services representatives, and others for a 2½-day meeting to examine the issues related to juvenile defense services and recommend strategies for improving these services. A report is forthcoming on the Summit and the recommendations that emerged from the seven working groups.

OJJDP will fund the establishment of a Juvenile Defender Training, Technical Assistance, and Resource Center in FY 1998, to be operational in early FY 1999. To ensure that training and technical assistance continue in the interim and into 1999 and to provide for the transition to the new Juvenile Defender Center, OJJDP will continue the Due Process Advocacy grant for an additional year.

This project will be implemented by the current grantee, the American Bar Association. No new applications will be solicited in FY 1998.

Quantum Opportunities Program (QOP) Evaluation

In FY 1997, OJJDP funded an impact evaluation of the Quantum Opportunities Program (QOP)through an interagency fund transfer to the U.S. Department of Labor (DOL). QOP was designed by the Ford Foundation and Opportunities Industrialization Centers of America as a career enrichment program using a model providing basic education. Personal and cultural development, community service, and mentoring. The purpose of the OJJDP funding for the evaluation is to determine whether QOP reduces the likelihood that inner-city youth at educational risk will enter the criminal justice system, including the juvenile justice system. The QOP impact evaluation is designed to measure the impact of QOP participation on such outcomes as high school graduation and enrollment in postsecondary education and training. Other student outcomes to be examined include academic achievement in high school; misbehavior in school; self-esteem and sense of control over one's life; educational and career goals; and personal decisions such as teenage parenthood, substance abuse, and criminal activity. Data on criminal activity is being collected from individual student interviews.

In FY 1998, OJJDP will continue this enhancement to the DOL-funded evaluation to provide for the collection of analogous data from the juvenile justice system, thus allowing estimates of the impact of the QOP program on the likelihood of program youth becoming involved in the criminal justice system. Attention would be focused on identifying the appropriate governmental agencies responsible for the data, dealing with confidentiality requirements, determining the feasibility of collecting such information, preparing data collection protocols for each site, and preparing a report outlining the data collection design for implementation.

This program will be implemented through an interagency agreement with the U.S. Department of Labor. No additional applications will be solicited in FY 1998.

Intensive Community-Based Aftercare Demonstration and Technical Assistance Program

This initiative is designed to support implementation, training and technical assistance, and an independent evaluation of an intensive community-based aftercare model in four jurisdictions that were competitively selected to participate in this demonstration program. The overall goal of the intensive aftercare model is to identify and assist high-risk juvenile offenders to make a gradual transition from secure confinement back into the community. The Intensive Aftercare Program (IAP) model can be viewed as having three distinct, yet overlapping segments: (1) prerelease and preparatory planning activities during incarceration; (2) structured transitioning involving the participation of institutional and aftercare staffs both prior to and following community reentry; and (3) long-term reintegrative activities to ensure adequate service delivery and the required level of social control.

In FY 1995, the Johns Hopkins University received a competitively awarded 3-year grant to test its intensive community-based aftercare model in four demonstration sites: Denver (Metro area), Colorado; Clark County (Las Vegas), Nevada; Camden and Newark, New Jersey; and Norfolk, Virginia.

The Johns Hopkins University has contracted with California State University at Sacramento to assist in the implementation process by providing training and technical assistance and by making OJJDP funds available through

contracts to each of the four demonstration sites.

Each of the sites developed risk assessment instruments for use in selecting high-risk youth who need this type of intensive aftercare, hired and trained staff in the intensive aftercare model, identified existing and needed community support (intervention) services, and identified and collected data necessary for the independent evaluation of the intensive community-based aftercare program. In accordance with a strong experimental research design, each of the sites uses a system of random assignment of clients to the program.

The Johns Hopkins University and California State University at Sacramento have provided continuing training and technical assistance to administrators, managers, and line staff at the intensive community-based aftercare sites. Staff have been fully trained in the theoretical underpinnings of the IAP model and in its practical applications, such as techniques for identifying juveniles appropriate for the program. Training and technical assistance in this model have also been made available to other States and OJJDP grantees on a limited basis.

This effort is the first attempt to implement an intensive, integrated approach to aftercare with the necessary transition and reentry components. One more year of program operation and data collection would provide the information and data needed for analysis of the effectiveness of the IAP model. The National Council on Crime and Delinquency is performing an evaluation under a separate grant.

In FY 1998, OJJDP will provide a fourth year of funding to the Johns Hopkins University to provide ongoing training and technical assistance to three of the four selected sites. (One of the four sites, New Jersey, has discontinued its participation in the demonstration.) This fourth year of funding will also expand aftercare technical assistance services to include jurisdictions participating in the OJJDP/Department of the Interior Youth Environmental Service (YES) initiative, OJJDP's six SafeFutures program sites, and other programs, including the New York State Division for Youth's Youth Leadership Academy in Albany, New York. In addition, the grantee will work with selected States that plan to implement the IAP model with State funds.

The IAP project will be implemented by the current grantee, the Johns Hopkins University. No additional applications will be solicited in FY 1998.

Evaluation of the Intensive Community-Based Aftercare Program

In FY 1995, OJJDP competitively awarded a 3-year grant to the National Council on Crime and Delinquency (NCCD) to perform a process evaluation and design an outcome evaluation of the Intensive Community-Based Aftercare Demonstration and Technical Assistance program. In FY 1997, the project was extended an additional year to begin the outcome evaluation.

The purpose of the outcome evaluation is to answer the following key research questions: (1) To what extent is the nature of supervision and services provided Intensive Community-Based Aftercare Program (IAP) youth different from that given to ''regular'' parolees? (2) To what extent does IAP have an impact on the subsequent delinquent or criminal involvement of program participants? (3) To what extent does the IAP have an impact on the specific areas of youth functioning that it targets for intervention? These intermediate outcomes include, for example, reduction of substance abuse, improved family functioning, improved peer relationships, improved self-concept, and reduced delinquent or criminal behavior. (4) To what extent is IAP cost-effective?

To obtain the answers to these questions, NCCD is (1) using a true experimental design that will involve random assignment of IAP-eligible youth to either the experimental or control conditions; (2) using a series of measures to compare differences between the two groups in terms of services delivered, prepost changes in selected areas of youth functioning, and the extent and nature of recidivism; and (3) estimating the per-participant costs for the IAP and control groups.

Data collection is being accomplished using several methods, including use of a series of forms developed to capture data on youth and program characteristics and a battery of standardized testing instruments administered before and after institutional commitment and IAP to measure the changes in youth functioning. The grantee is also conducting searches of State agency and State police records to measure recidivism and analyzing State agency and juvenile court data to estimate costs.

This project will be implemented by the current grantee, NCCD. No additional applications will be solicited in FY 1998.

Training and Technical Assistance for National Innovations To Reduce Disproportionate Minority Confinement (The Deborah Ann Wysinger Memorial Program)

National data and studies have shown that minority children are overrepresented in secure juvenile and criminal justice facilities across the country. Since the 1988 reauthorization of the JJDP Act, State Formula Grants program plans have addressed the disproportionate confinement of minority juveniles. This is accomplished by gathering and analyzing data to determine whether minority juveniles are disproportionately confined and, if so, designing strategies to address this issue. A competitive Special Emphasis discretionary grant program was developed in FY 1991 to demonstrate model approaches to addressing disproportionate minority confinement (DMC) in five State pilot sites (Arizona, Florida, Iowa, North Carolina, and Oregon). Funds were also awarded to a national contractor to provide technical assistance to assist both the pilot sites and other States, evaluate their efforts, and share relevant information.

In FY's 1994 and 1995, OJJDP made additional Special Emphasis discretionary funds available to nonpilot States that had completed data gathering and assessment in order to provide initial funding for innovative projects designed to address DMC.

These efforts to address DMC have yielded an important lesson: that systemic, broad-based interventions are necessary to address the issue. In recognition of the continued need to improve the ability of States and local jurisdictions to address DMC, OJJDP issued a competitive solicitation in FY 1997 for innovative proposals to implement a 3-year national training, technical assistance, and information dissemination initiative focused on the disproportionate confinement of minority youth.

In FY 1997, through a competitive selection process, OJJDP awarded a 3-year contract to implement the DMC training program to Cygnus Corporation, Inc. Project objectives for the first year were (1) to disseminate to States, localities, OJJDP staff, and key OJJDP grantees a review and synthesis of the existing knowledge base and research on DMC that includes State and local practices designed to address DMC; (2) to develop a training curriculum for policymakers, decisionmakers, and practitioners in the juvenile justice system; (3) to develop and deliver technical assistance to OJJDP grantees

and to incorporate DMC issues, practices, and policies; (4) to develop and begin the process of assisting DMC grantees to implement and institutionalize their DMC programs; (5) to collaborate with OJJDP's Formula Grants program technical assistance contractor, Community Research Associates, and OJJDP staff to help States improve their DMC compliance plans and their strategic planning as it addresses DMC; (6) to plan, develop, and implement a national dissemination and education effort to facilitate development of effective DMC efforts at the State and local levels; and (7) to convene an advisory group to support the project team on current DMC policy, practice and progress.

This project will be implemented by the current grantee, Cygnus Corporation, Inc. No additional applications will be solicited in FY 1998.

Training for Juvenile Corrections and Detention Management Staff

This training program for juvenile corrections and detention management staff began in FY 1991 under a 3-year interagency agreement with the National Institute of Corrections (NIC). The program offers a core curriculum for juvenile corrections and detention administrators and midlevel management personnel in such areas as leadership development, management, training of trainers, legal issues, cultural diversity, the role of the victim in juvenile corrections, juvenile programming for specialized-need offenders, and managing the violent or disruptive offender. Because of the continuing need for the executive level training NIC provides, the agreement was renewed for an additional 3-year term in FY 1994 and renewed again in FY 1997 for a 2-year term. In FY 1997, NIC conducted 8 training seminars, 2 workshops, 1 satellite video conference and made 14 technical assistance awards, reaching more than 6,000 participants.

In FY 1998, OJJDP will continue to support the development and implementation of a comprehensive training program for juvenile corrections and detention management staff through the interagency agreement with NIC. It is anticipated that in FY 1998 the project will provide 6 seminars to more than 150 executives and management staff and technical assistance related to training to a number of juvenile corrections and detention agencies. The training is conducted at the NIC Academy and regionally.

The program will be implemented by the current grantee, NIC. No additional applications will be solicited in FY 1998.

Training for Line Staff in Juvenile Detention and Corrections

Training is a cost-effective tool for helping to improve conditions of confinement and services for youth detained or confined in residential facilities. In FY 1994, the National Juvenile Detention Association (NJDA) was awarded a competitive 3-year project period grant to establish a training program to meet the needs of the more than 38,000 line staff serving juvenile detention and corrections facilities. In FY 1995 and FY 1996, NJDA developed eight training curriculums, including a corrections careworker curriculum and a train-the-trainer curriculum. In addition, NJDA conducted 42 separate trainings, developed lesson plans, and provided technical assistance to juvenile justice agencies.

In FY 1997, NJDA received its final year of funding under the grant to provide training and technical assistance services to State agencies and organizations in 16 States, assist regional groups and local organizations, directly train nearly 700 line staff, and respond to telephone requests for technical assistance services. NJDA also established Web site connections with OJJDP, the American Correctional Association, and other organizations. A community college in Michigan is adapting two of the NJDA curriculums, Juvenile Detention Careworker Curriculum and Juvenile Corrections Careworker Curriculum, for academic credit.

In FY 1998, OJJDP will award a grant to NJDA under the new Juvenile Accountability Incentive Block Grants (JAIBG) program. This project, Accountability-Based Training for Staff in Juvenile Confinement Facilities, will emphasize accountability, competency development, and community protection and restoration in its curriculums. These goals are driving forces behind the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders and the Balanced and Restorative Justice Model in current juvenile justice policy. Accountability-based interventions can change juvenile offenders through healthy relationships with healthy adults. Staff training remains the most cost-effective strategy of integrating these principles within juvenile confinement and custody facilities.

In formal partnership with the National Association of Juvenile Correctional Agencies, Juvenile Justice Trainers Association, and the School of Criminal Justice at Michigan State University, NJDA's goals for FY 1998 include the delivery of line staff training and technical assistance, conducting training evaluation in conjunction with the National Training and Technical Assistance Center (NTTAC) protocols, providing pilot training for trainers, developing action plans for two new curriculums, drafting line staff professional development models, and disseminating training materials and services through the NTTAC and the Internet.

This project will be implemented by the current grantee, NJDA. No additional applications will be solicited in FY 1998.

Training and Technical Support for State and Local Jurisdictional Teams To Focus on Juvenile Corrections and Detention Overcrowding

The *Conditions of Confinement: Juvenile Detention and Correctional Facilities* Research Report (1994), completed by Abt Associates under an OJJDP grant, identified overcrowding as the most urgent problem facing juvenile corrections and detention facilities. Overcrowding in juvenile facilities is a function of decisions and policies made at the State and local levels. The trend toward increased use of detention and commitment to State facilities, which has been seen in many jurisdictions, has been reversed when key decisionmakers, such as the chief judge, chief of police, director of the local detention facility, head of the State juvenile correctional agency, and others who affect the flow of juveniles through the system, agree to make decisions collaboratively and modify existing practices and policies. In some instances, modification has occurred in response to court orders. Compliance with court orders can be improved with the support of enhanced interagency communication and planning among those agencies impacting the flow of juveniles through the system.

In addressing the problem of overcrowded facilities, OJJDP considered the recommendations of the Conditions of Confinement study regarding overcrowding, the data on overrepresentation of minority youth in confinement, and other information that suggests crowding in juvenile facilities is a national problem. Policymakers can address this issue by increasing capacity, where necessary, or by taking other steps to control crowding.

This project, competitively awarded to the National Juvenile Detention Association (NJDA) (in partnership with the San Francisco Youth Law Center) in FY 1994 for a 3-year project period,

provides training and technical assistance materials for use by State and local jurisdictional teams. After information collection and preparation of training and technical assistance materials in FY's 1994 and 1995, NJDA selected three jurisdictions in FY 1996 for onsite development, implementation, and testing of procedures to reduce crowding. The sites are Camden, New Jersey; Oklahoma City, Oklahoma; and the Rhode Island Juvenile Corrections System. In FY 1997, project accomplishments included the following: (1) development of a resource guide, *Juvenile Detention and Training School Crowding: Court Case Summaries*, and a training tool, ''Crowding in Juvenile Detention Centers: A Problem-Solving Manual'' (in draft); (2) delivery of comprehensive technical assistance to two detention centers and limited technical assistance to two State juvenile corrections systems; and (3) training presentations to the National Council of Juvenile and Family Court Judges and other groups.

In FY 1998, OJJDP will award continuation funding to NJDA to continue efforts to reduce overcrowding in facilities where juveniles are held, through systemic change within local juvenile detention systems or statewide juvenile corrections systems. Among the specific activities planned for FY 1998 are (1) publication of a special edition of the NJDA *Journal for Juvenile Justice and Detention* focused exclusively on jurisdictional teamwork to reduce overcrowding in juvenile detention and corrections (jurisdictional teams consist of designated NJDA/Youth Law Center project staff working with key juvenile justice officials in the sites selected for technical assistance); (2) completion of a strategy to deliver comprehensive technical assistance to the Nebraska Health and Human Services Agency; (3) identification of additional sites for comprehensive training and technical assistance; (4) development of a desktop guide on juvenile facility overcrowding; (5) further refinement of the jurisdictional team training and technical assistance package; (6) development of a national videoconference on crowding issues; (7) education and information dissemination to the juvenile justice community; and (8) exploration of public/private partnerships.

This project will be implemented by the current grantee, NJDA. No additional applications will be solicited in FY 1998.

National Program Directory

In FY 1998, OJJDP proposes to support the maintenance of this directory that identifies and categorizes juvenile justice agencies, facilities, and programs in the United States to allow for routine statistical data collections covering these agencies and programs. The directory project has developed lists of juvenile detention, correctional, and shelter facilities. This list, which includes all public and private facilities that can hold juveniles who are in the juvenile justice system in a residential setting (i.e., with sleeping, eating, and other necessary facilities), has served as the frame for OJJDP's Census of Juveniles in Residential Placement and would serve as the frame for OJJDP's Juvenile Residential Facility Census. The directory project has also begun development of a list of juvenile probation offices to serve as the frame for OJJDP's Survey of Juvenile Probation.

Beyond developing the computer structure, this project developed the actual sampling frame or address list. The development of complete frames for any segment of the juvenile justice system required many different approaches. The Census Bureau used contacts with professional organizations to compile a preliminary list of juvenile facilities, courts, probation offices, and programs. The Census Bureau will seek contacts in each State for further clarification of the lists, following up until a complete list of all programs of interest has been compiled.

This program will be continued in FY 1998 through an interagency agreement with the Census Bureau. No additional applications will be solicited in FY 1998.

Interagency Programs on Mental Health and Juvenile Justice

In October 1996, OJJDP convened a Mental Health/Juvenile Justice Working Group to discuss the mental health needs of juveniles and to suggest funding priorities for OJJDP. In the 1997 program planning process, OJJDP determined that with the minimal resources available it would be cost effective to support several ongoing programs funded by other Federal agencies that were consistent with the recommended areas of activity. OJJDP therefore transferred funds to three Federal agencies to support the enhancement of juvenile justice components or research on at-risk youth in the mental health area.

First, OJJDP transferred funds to the Center for Mental Health Services (CMHS), U.S. Department of Health and Human Services, to support a 3-year effort to provide technical assistance to the 31 existing CMHS Child Mental Health sites. The project period began on October 1, 1997, and will end on September 30, 2000. These funds will be used to strengthen the capacity of the existing sites by providing technical assistance on mental health services for juveniles in the juvenile justice system and by including them in the continuum of care that is being created in the sites.

OJJDP also transferred funds to the National Institute of Corrections (NIC), which, along with the Substance Abuse and Mental Health Services Administration, supports a program to provide technical assistance with regard to programming and services for juvenile offenders with co-occurring disorders. This is also a 3-year project period that began on October 1, 1997, and will end on September 30, 2000. NIC will supplement the existing technical assistance provider, the GAINS Center, to enable it to devote technical assistance resources to support improved treatment and services programs for juvenile offenders with co-occurring disorders in the juvenile justice system. Previously, the focus of the grant had been on the provision of technical assistance to the adult system.

Finally, OJJDP transferred funds to the National Institute of Mental Health (NIMH) to partially support additional costs associated with the conduct of an expanded and extended followup study of various treatment modalities for attention deficit hyperactive disorder (ADHD) in children. The expanded followup will assess substance abuse and use and related factors necessary for evaluating changes in ADHD children's risk for subsequent substance use and abuse attributable to their randomly assigned treatment conditions. In addition, the multimodal treatment study of children with ADHD affords the opportunity to assess the experience of study participants with the legal system, e.g., contacts with the juvenile justice system, acts of delinquency, court referrals, and other criminal and/or precriminal activities.

In FY 1998, OJJDP will transfer additional funds to support continuation of the NIC and CMHS technical assistance and the training and research of NIMH. No new applications will be solicited in FY 1998.

Juvenile Residential Facility Census

In 1998, OJJDP will fund the development and testing of a new census of juvenile residential facilities.

This census will focus on those facilities that are authorized to hold juveniles based on contact with the juvenile justice system. During FY 1997, the project conducted an extensive series of interviews with facility administrators and facility staff onsite at 20 locations. The subjects covered in these interviews included education, mental health and substance abuse treatment, health services, conditions of custody, staffing, and facility capacity. From these interviews, the project staff have produced an extensive and detailed report for OJJDP discussing how best to capture information on these topics and has produced a draft questionnaire based on these results.

In FY 1998, the project staff will refine the draft instrument and test it through a series of cognitive interviews onsite at approximately 25 facilities. After another round of revision and comment, the questionnaire will be tested for feasibility by conducting a sample survey of 500 facilities. Again, the questionnaire will go through a round of revision based on the test results before being finalized.

This project will be conducted through an interagency agreement with the Bureau of the Census, Governments Division and Statistical Research Division. No new applications will be solicited in FY 1998.

The National Longitudinal Survey of Youth 97

OJJDP will support the second round of data collection under the National Longitudinal Survey of Youth 97 (NLSY97) through an interagency agreement with the Bureau of Labor Statistics (BLS). In 1994, BLS began its design and development work for a new National Longitudinal Survey of Youth, similar to the ongoing National Longitudinal Survey of Youth 1979. Under the NLSY97, a nationally representative sample of 10,000 youth ages 12 to 17 years old was selected in order to study the school-to-work transition. However, BLS has acknowledged the importance of collecting additional data on the involvement of these youth in antisocial and other behavior that may affect their successful transition to productive work careers.

The breadth of topics covered by this survey provides a rich and complementary source of information about risk and protective factors that are also related to the initiation, persistence and desistance of delinquent and criminal behavior. This interagency agreement supplements the data collection by asking questions about delinquency, guns, drug sales, and violent behavior. In addition to generating the first national, cross sectional, estimates of self-reported delinquency since the late National Youth Survey of the early 1980's, this new longitudinal survey will also provide an opportunity to determine the generalizability of the findings from OJJDP's Program of Research on the Causes and Correlates of Delinquency and other city-specific longitudinal studies across a nationally representative population of youth.

The program will be implemented by the BLS under an interagency agreement. No additional applications will be solicited in FY 1998.

TeenSupreme Career Preparation Initiative

In FY 1998, OJJDP, in partnership with the U.S. Department of Labor's (DOL's) Employment and Training Administration, will provide funding support to the Boys & Girls Clubs of America for demonstration and evaluation of the TeenSupreme Career Preparation Initiative. DOL will provide $2.5 million to support the program, and OJJDP will provide $250,000 to support the initial costs of the evaluation. This initiative will provide employment training and other related services to at-risk youth through local Boys & Girls Clubs with TeenSupreme Centers. The Boys & Girls Clubs of America currently has 41 TeenSupreme Centers in local clubs around the country and may consider expanding the number of centers in 1998. DOL funds will support program staffing in the existing 41 TeenSupreme Centers and provide intensive training and technical assistance to each site. These funds will also be used by the Boys & Girls Clubs of America to provide administrative and staffing support to this program from the national office. OJJDP funds will be used to support the evaluation component of the program. Boys & Girls Clubs of America will contract with an independent evaluator to evaluate the program.

This jointly funded Department of Labor and OJJDP initiative will be implemented by the Boys & Girls Clubs of America. No additional applications will be solicited in FY 1998.

Technical Assistance to Native Americans

American Indian programs for juveniles are facing increasing pressures because of the growing number of youth who are involved in drug abuse, gang activity, and delinquency. Many reservations are experiencing the problems that plague communities nationwide: gang activity, violent crime, use of weapons, and increasing drug and alcohol abuse.

From FY 1992 to FY 1995, OJJDP funded four American Indian sites to support the development of community-based programs to deal with these problems. These sites were the Gila River Indian Community in Arizona; the Navajo Nation Chinle District in Arizona; the Red Lake Ojibwe in Minnesota; and the Pueblo of Jemez in New Mexico. Each of these communities implemented programs specifically designed to meet the needs of the tribe. For example, in Gila River, an alternative school was developed and implemented. The Navajo Nation expanded the Peace Maker program to accommodate additional delinquent offenders, an approach that was adopted by the Red Lake and Pueblo of Jemez communities. Additional programming, such as job skills development, was also initiated in some of these communities to meet the needs of tribal youth. Although these programs were well received, the sites also needed to expand programming options such as gang and drug prevention and intervention programs.

In FY 1997, American Indian Development Associates (AIDA) was selected to implement OJJDP's national technical assistance program for tribes and urban tribal programs across the country. This 3-year program will support the development of additional program options for the four tribes previously funded and extend technical assistance to tribal communities and urban tribal programs nationwide. AIDA initially developed a needs assessment instrument and provided other technical assistance to Juvenile Detention Facilities in Indian Country under an agreement to support the Office of Justice Programs (OJP) Corrections Program Office's project with the Gila River and Yankton Tribes. AIDA also facilitated team learning activities during the Arizona Indian Youth Gang Prevention Conference, coordinated the First Native American Juvenile Justice Summit, and provided technical assistance to Indian tribes on behalf of OJJDP, the Office of Tribal Justice, and the OJP Indian Desk.

In FY 1998, AIDA will continue to provide technical assistance to American Indian and Alaskan Native communities. Technical assistance will enable the tribes to further develop alternatives to detention, specifically targeting juveniles who are first or nonviolent offenders; design guidebooks for the tribal peacemaking process to be used in addressing juvenile delinquency issues that are reported to Family District Court systems; design and

implement juvenile justice needs assessments to assist tribes in responding to juvenile detention and alternatives to detention needs; develop protocols to implement State Children's Code provisions that affect Native American Children; establish sustainable, comprehensive community-based planning processes that focus on the needs of tribal youth; plan and conduct juvenile justice training seminars; and assist John Jay College of Criminal Justice to design and develop a Tribal Justice Training and Technical Assistance Workshop under OJJDP's Law Enforcement Training Contract. The workshop will emphasize juvenile probation, serious habitual offenders, and tribal youth gangs.

This program will be implemented by the current grantee, American Indian Development Associates. No additional applications will be solicited in FY 1998.

Youth Court: A Training and Technical Assistance Delivery Program

OJJDP considers teen courts, also called peer or youth courts, to be a promising mechanism for holding juvenile offenders accountable for their actions while promoting avenues for positive youth development. Teen courts are included as a promising early intervention program in OJJDP's *Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders.*

To encourage the use of teen court programs to address problems associated with delinquency, substance abuse, and traffic safety, OJJDP provided funding in FY 1996 to supplement the existing Teen Court Program of the National Highway Traffic Safety Administration (NHTSA), of the U.S. Department of Transportation. The NHTSA grant was awarded in FY 1994 for a 3-year project period to the American Probation and Parole Association (APPA) to develop a teen court guide and provide training and technical assistance to develop or enhance teen court programs. This NHTSA grant was supplemented with OJJDP FY 1996 and FY 1997 funds to support the development of the joint publication *Peer Justice and Youth Empowerment: An Implementation Guide for Teen Court Programs* and to provide an expanded technical assistance capacity.

The national response to APPA's training and technical assistance and to the Guide has been very enthusiastic. A second printing of the Guide will be available later this year. NHTSA and OJJDP have received numerous requests to provide additional training seminars and technical assistance based on the Guide.

In FY 1998, OJJDP is collaborating with NHTSA, HHS, and the Department of Education, to enhance the training seminars with information on the possibility of teen courts being used as an integral part of balanced and restorative justice initiatives and to help address the growing problem of children who are being suspended and expelled from school because of misbehavior, including misbehavior related to learning problems. These activities will complement current training on the use of teen courts to address youth possession and use of alcohol and marijuana, issues of particular interest to these agencies. Technical assistance will be provided to selected jurisdictions with site-specific strategic planning for the program organizers on developing, implementing, or enhancing teen court programs, particularly in school-related areas. OJJDP will award a competitive grant under the Juvenile Accountability Incentive Block Grants program to implement a 2-year training and technical assistance program.

School Safety Training and Technical Assistance

Since 1984, OJJDP and the U.S. Department of Education have provided joint funding to the National School Safety Center to promote safe schools—free of crime and violence through training and technical assistance and the dissemination of information. This initiative has focused national attention on cooperative solutions to problems that disrupt the educational process. Because an estimated 3 million incidents of crime occur in America's schools each year, it is clear that this problem continues to plague many schools, threatening students' safety and undermining the learning environment. OJJDP will continue this partnership with the Department of Education by issuing a competitive solicitation for a cooperative agreement with a private nonprofit organization to provide training and technical assistance to communities and school districts across the country. It is expected that these activities will be closely coordinated with the ongoing review of literature, research, and evaluation of school-based demonstration efforts being undertaken by the Hamilton Fish National Institute on School and Community Violence with OJJDP FY 1998 funding support.

A solicitation will be issued as part of the FY 1998 OJJDP Discretionary Program Announcement: Discretionary Grant Program: Parts C and D. Information on how to obtain a copy of the Program Announcement is provided above under Supplementary Information.

Disproportionate Minority Confinement

OJJDP is interested in exploring additional work in the area of disproportionate minority confinement in secure detention or correctional facilities, adult jails and lockups, and other secure institutional facilities. The proposed work will include a variety of activities, including—but not limited to—demonstration programs, national education efforts, and local program evaluations.

Disproportionate minority representation in secure juvenile facilities and other institutions is a major problem facing the juvenile justice system. While minorities represent 32 percent of the juvenile population ages 12 to 17, they represent 68 percent of the confined juvenile population.

OJJDP has previously funded programs designed to assist and enable States to identify strategies to address the overrepresentation of minority juveniles, including an evaluation of a county juvenile court's efforts to reduce minority overrepresentation. Similar efforts, particularly those that offer conceptual, indepth, capacity-building will help to ensure that minority juvenile offenders receive appropriate treatment at all stages of the juvenile justice system process. OJJDP will join the Rockefeller Foundation, Annie E. Casey Foundation, Open Society Institute, California Wellness Foundation, and the Bureau of Justice Assistance in making funds available to the Youth Law Center to support the initiative Building Blocks For Youth, a 3-year effort to promote a comprehensive approach to addressing the problem of disproportionate incarceration of minority youth in the juvenile justice system. The initiative provides a five-pronged strategy based on research and targeted at policies and attitudes that contribute to differential treatment of minority youth. It supports the Training and Technical Assistance for National Innovations To Reduce Disproportionate Minority Confinement program being implemented by Cygnus Corporation and OJJDP's Formula Grants technical assistance provider and its ongoing efforts to reduce DMC.

Arts Programs for Juvenile Offenders in Detention and Corrections

OJJDP will provide support for arts programs for youth in juvenile detention centers and corrections facilities through the establishment of artist-in-residence programs. This initiative will increase awareness of opportunities to

establish visual, performing, media, and literacy artist-in-residence programs in juvenile detention centers and corrections facilities.

OJJDP will encourage the development of these programs by convening interested arts organizations and juvenile justice agencies for the purpose of providing training in arts program development to one demonstration site and three enhancement sites.

OJJDP will be collaborating with the NEA and will issue a competitive solicitation in FY 1998. The awarded grantees will receive training and technical assistance support over the duration of the grant through a provider selected by NEA and OJJDP.

A solicitation will be issued as part of the *FY 1998 OJJDP Discretionary Program Announcement: Discretionary Grant Program: Parts C and D.* Information on how to obtain a copy of the Program Announcement is provided above under Supplementary Information.

"Circles of Care"—A Program To Develop Strategies To Serve Native American Youth With Mental Health and Substance Abuse Needs

The Center for Mental Health Services (CMHS) of the Substance Abuse and Mental Health Services Administration (SAMHSA) is developing a Guidance for Federal Applicants that will result in the funding of a 3-year program to 6–8 sites to plan and develop systems of care for American Indian youth who are seriously emotionally disturbed and/or substance abusers. The grantees will engage in a structured process to plan, develop, and test a system of care that achieves the outcomes developed by American Indian, Alaskan Native, or urban nonprofit organizations serving populations of American Indian or Alaskan Native youth.

OJJDP will provide resources, including grant funds and technical assistance, where appropriate, to assure that American Indian/Alaskan Native youth who are in the juvenile justice system and who are seriously emotionally disturbed or substance abusers are planned for and made part of the service system. OJJDP will transfer funds to CMHS/SAMHSA to assist with the development and implementation of this program.

Juvenile Defender Training, Technical Assistance, and Resource Center

In FY 1993, OJJDP competitively funded the American Bar Association (ABA) to determine the status of juvenile defense services in the United States, develop a report, and provide training and technical assistance. The ABA—along with its partners, the Youth Law Center of San Francisco, California, and the Juvenile Law Center of Philadelphia, Pennsylvania—conducted an extensive survey of public defender offices, court-appointed systems, law school clinics, and the literature. These data were then analyzed and a report, entitled *A Call for Justice,* was developed and published in December 1995.

The ABA has also developed and delivered specialized training to juvenile defenders in several jurisdictions, such as the State of Maryland, the State of Tennessee, Baltimore County, Maryland, and several other States and localities, to assist in increasing the capacity of juvenile defenders to provide more effective defense services. In October 1997, the ABA and its partners organized and implemented the first Juvenile Defender Summit at Northwestern University in Chicago, Illinois. The Summit brought together public defenders, court-appointed lawyers, law school clinic directors, juvenile offender services representatives, and others for a 2½-day meeting to examine the issues related to juvenile defense services and recommend strategies for improving these services.

This work has served as a catalyst for the development of a more permanent structure to support training and technical assistance and to serve as a clearinghouse and resource center for juvenile defenders in this country. Recognizing that a lack of training, technical assistance, and resources for juvenile defenders weakens the juvenile justice system and results in a lack of due process for juvenile offenders, OJJDP will provide seed money in FY 1998 to fund the initial planning and implementation of a Juvenile Defender Center. The grantee is expected to establish a broad-based partnership of public and private organizations to help ensure long-term financial support for a permanent Center. The Center will be designed to provide both general and specialized training and technical assistance to juvenile defenders in the United States. The design will also incorporate a resource center for purposes such as serving as a repository for the most recent litigation on key issues, a brief bank, and information on expert witnesses. OJJDP anticipates that this program will be a 5-year effort.

A solicitation will be issued as part of the FY 1998 OJJDP Discretionary Program Announcement: Discretionary Grant Program: Parts C and D. Information on how to obtain a copy of the Program Announcement is provided above under Supplementary Information.

Gender-Specific Programming for Female Juvenile Offenders

In 1996, one in four juvenile arrests was of a female, and increases in arrests between 1992 and 1996 were greater for juvenile females than juvenile males in most offense categories. Yet programs to address the unique needs of female delinquents have been and remain inadequate in many jurisdictions. The risk factors that females face are not identical with those facing males. Major risk factors for girls include abuse and exploitation, substance abuse, teen pregnancy and parenting, low or damaged self-esteem, and truancy or dropping out of school. Communities and their juvenile justice systems need to develop programs designed to help female offenders overcome these risk factors.

Cook County, for example, used an FY 1995 competitive grant to build a network of support for juvenile female offenders in Cook County. The County's work in this area involved developing a gender-specific needs and strengths assessment instrument and a risk assessment instrument for juvenile female offenders, providing training in implementing gender-appropriate programming, and designing a pilot program that includes a community-based continuum of care with a unique case management system.

In FY 1998, OJJDP will provide continuation funding to the Cook County gender-specific program. In addition, Cook County will provide technical assistance and support to the State of Connecticut in planning for systemic change and modifications in policies and procedures that will facilitate more effective handling of female juvenile offenders and establish a hierarchy of sanctions with an emphasis on pregnant girls and girls who are mothers. Cook County will share lessons learned and help Connecticut develop specialized programs for girls from prevention to detention; identify and utilize a range of support services to augment the program; incorporate changes in program components that work with pregnant girls and girls who are mothers; and develop outreach initiatives and planning. Additional technical assistance for this effort will be provided by Greene, Peters, and Associates, OJJDP's gender-specific training and technical assistance grantee. Connecticut will use the FY 1998 funds to conduct a 1-year planning grant to plan for statewide systemic

change to provide gender-specific services, programs, and case management for female juvenile offenders, including those who are pregnant and mothers.

The project will be implemented, in partnership with the Bureau of Justice Assistance, by the current grantee, the Cook County Bureau of Public Safety and Judicial Coordination, and the State of Connecticut's Office of Alternative Sanctions. No additional applications will be solicited in FY 1998.

Evaluation Capacity Building

The question of ''what works'' pervades discussions of juvenile justice. To find answers, program administrators and agency personnel need to conduct rigorous evaluations of programs of interest. OJJDP has determined that a strong, cooperative arrangement between OJJDP and State agencies responsible for juvenile justice and delinquency prevention programming can most effectively provide answers to this question. To that end, OJJDP will provide funding in FY 1998 for an assessment of the current capacity of State and local agencies to evaluate juvenile justice programs, to conduct regional training workshops and provide technical assistance in response to the needs assessment, and to design a project that identifies programs proven by evaluation to be effective. A goal of this program is to build the capacity of State formula grants agencies to conduct rigorous evaluations of juvenile justice programs and projects funded in their states with JJDP Act funds. OJJDP will then take the lead in disseminating evaluation results and information to the field.

This project will be implemented by the Justice Research and Statistics Association (JRSA), using the model developed under a grant from the Bureau of Justice Assistance to enhance the criminal justice evaluation capacity of States and localities.

Field-Initiated Research

OJJDP's efforts to address the problems of juvenile offending are enriched most through the thoughtful and dedicated efforts of researchers in the field. Through the work of agencies, individuals, and organizations, OJJDP has benefited from innovative thinking and new directions. To encourage such innovative research in juvenile offending and juvenile justice, OJJDP is considering offering grants in FY 1998 for research initiated by researchers in the field. Through this series of grants, OJJDP would expect to learn new alternatives and options for various problems facing the juvenile justice system.

OJJDP is particularly interested in research that opens new avenues of inquiry regarding youth criminality, the prevention of juvenile crime, interventions with youthful offenders, and juvenile justice system policy and practice.

Field-Initiated Evaluation

OJJDP has decided not to fund a field-initiated evaluation program in FY 1998. Although OJJDP understands that such evaluations are important and that there is a need for knowledge of ''what works'' in the juvenile justice field, limited resources preclude funding this program in FY 1998. However, OJJDP will support a Juvenile Accountability Incentive Block Grants Program Research and Evaluation program and continue the numerous evaluations already underway and referenced in this Program Plan. OJJDP is making $1.95 million available through a competitive solicitation issued by the National Institute of Justice for topical research or evaluation projects and researcher-practitioner partnerships. The deadline for submission of proposals under this program is July 14, 1998. For a copy of the solicitation, forms, and guidelines, contact NCJRS at 800–851–3420 or the Department of Justice Response Center at 800–421–6770.

Analysis of Juvenile Justice Data

Funding for this new program will provide for the analysis and interpretation of diverse sources of data and information on juvenile offending and the juvenile justice system, beyond that currently funded for the analysis of OJJDP data sets. This project will provide a source for identifying and reporting important information from nontraditional sources. The project will develop OJJDP's capacity to use and analyze data collections covering such related areas as health, education, and employment. It will provide a means for routinely publishing specialized reports that assimilate such data sources. It will also support the management and direction of OJJDP efforts through the contribution of analyses directed towards the Office's priorities and initiatives.

A solicitation will be issued as part of the *FY 1998 OJJDP Discretionary Program Announcement: Discretionary Grant Program: Parts C and D.* Information on how to obtain a copy of the Program Announcement is provided above under Supplementary Information.

Evaluation of the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders

In FY 1998, OJJDP will begin a multiyear, multisite evaluation of the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders. The evaluation will first look at the lessons learned from the Comprehensive Strategy training and technical assistance process that was provided in three pilot communities: Fort Myers and Jacksonville, Florida, and San Diego, California. The evaluation will then look at the effect of the 2-year training and technical assistance process that is currently being provided in 5 States and 26 local jurisdictions and is about to commence in up to two additional States. The training and technical assistance process is designed to transfer the knowledge, skills, tools, and practices necessary to develop a comprehensive strategic plan in each community. The evaluation will document the effectiveness of the training and technical assistance process in a sample of communities. The evaluation will also look at the crime and delinquency outcomes and the level of services being provided in each of the jurisdictions that have successfully completed the training and technical assistance process and are implementing their comprehensive strategic plan. In the first year, the evaluation will also document baseline data in the States and local communities. This project will be implemented by Caliber Associates under OJJDP's current evaluation contract. No additional applications will be solicited in FY 1998.

Blueprints for Violence Prevention: Training and Technical Assistance

In a 1994 survey, more than half of the respondents identified crime and violence as the most important problem facing this country, and violence was unanimously identified as the ''biggest problem'' facing the Nation's public schools. Many communities are ready to take meaningful action to combat these problems, but are struggling in determining both ''what works'' and how to implement those effective strategies and programs. As a result, many jurisdictions are moving forward with insufficient knowledge on how to be successful in both of these areas of focus.

To address this issue, OJJDP will award a cooperative agreement to the Center for the Study and Prevention of Violence (CSPV) at the University of Colorado. CSPV has completed a study, begun in 1996, of 10 violence

prevention programs that met a rigorous scientific standard of program effectiveness and replicability—programs that could be documented in ''blueprints'' that could be utilized for further replication. Under this grant, CSPV will provide technical assistance to community organizations and program providers to ensure quality replication of Blueprint model programs that have been demonstrated to be effective in reducing adolescent violence, crime, and substance abuse.

The specific goal of this project will be to assist in the replication of these blueprint programs by (1) determining the feasibility of program development for each community or agency request for technical assistance in terms of a needs assessment and the capacity for the community/agency to implement the program with integrity and (2) providing training and technical assistance to communities/agencies that are ready to begin the implementation process. CSPV will both monitor and assist the program during its first year of operation.

This project will be implemented by the Center for the Study and Prevention of Violence because of its unique status as the developer of the Blueprints for Violence Prevention project and previous research in this specific area. No additional applications will be solicited in FY 1998.

Teambuilding Project for Courts

OJJDP, in conjunction with the State Justice Institute (SJI), will support projects to (1) explore emerging issues that will affect juvenile courts as they enter the 21st century, and (2) develop and test innovative approaches for managing juvenile courts, securing resources required to fully meet the responsibilities of the judicial branch, and institutionalizing long-range planning processes across the multiple disciplines in the juvenile justice system. This joint effort will test innovative programs and procedures for providing clear and open communications between the judiciary, other branches of government, and juvenile justice practitioners.

The primary goal will be to develop and implement a teambuilding project designed to facilitate better coordination and information sharing and foster innovative, efficient solutions to problems facing juvenile courts. Activities may include (1) preparing and presenting educational programs to foster development of effective multidisciplinary teams; (2) delivering onsite technical assistance to develop a team or enhance an existing partnership; (3) providing information on teambuilding through a national resource center; and (4) preparing manuals, guides, and other written and visual products to assist in the development and operation of effective teams.

A competitive assistance award will support the demonstration project. Funds will be transferred to SJI to administer the program through a cooperative agreement under the new Juvenile Accountability Incentive Block Grants (JAIBG) program.

Evaluation of Youth-Related Employment Initiative

OJJDP is collaborating with the U.S. Department of Labor (DOL) to support youth employment and training programs that will result in the reintegration of juvenile offenders into society. DOL will provide funding for three different demonstration programs: large-scale model community demonstration programs in high-crime areas; an education and training youth offenders initiative that will provide comprehensive school to work education and training within juvenile corrections facilities and followup services and job placement as part of community aftercare; and communitywide coordination projects to small-and medium-sized communities to develop linkages among various agencies that support prevention and recovery services for youthful offenders. OJJDP will fund a 3-year evaluation of the education and training of youthful offenders within juvenile corrections facilities and the community aftercare component of this initiative.

A competitive solicitation will be issued for this evaluation as part of the *FY 1998 OJJDP Discretionary Program Announcement: Discretionary Grant Program: Parts C and D.* Information on how to obtain a copy of the Program Announcement is provided above under Supplementary Information.

Child Abuse and Neglect and Dependency Courts

Safe Kids/Safe Streets: Community Approaches to Reducing Abuse and Neglect and Preventing Delinquency

Reports of child victimization, abuse, and neglect in the United States continue to be alarming. For example, in 1996 alone, an estimated 3.1 million children were reported to public welfare agencies for abuse or neglect. Nearly 1 million of those children were substantiated as victims. Usually, abuse is inflicted by someone the child knows, frequently a family member.

Numerous studies cite the connection between abuse or neglect of a child and later development of violent and delinquent behavior. Acknowledging this correlation and the need to both improve system response and foster strong, nurturing families, several offices and bureaus of the Office of Justice Programs joined in FY 1996 to develop a coordinated program response. The resulting initiative, a 5½ year demonstration program designed to foster coordinated community responses to child abuse and neglect, was titled Safe Kids/Safe Streets: Community Approaches to Reducing Abuse and Neglect and Preventing Delinquency. (An accompanying evaluation program, Evaluation of the Safe Kids/Safe Streets Program, was also developed.)

The purpose of the Safe Kids/Safe Streets program is to break the cycle of early childhood victimization and later juvenile or adult criminality and to reduce child and adolescent abuse and neglect and resulting child fatalities. It strives to do this by providing fiscal and technical support for efforts to restructure and strengthen State and local criminal and juvenile justice systems to be more comprehensive and proactive in helping children and adolescents and their families. The program also has as a goal to implement or strengthen coordinated management of abuse and neglect cases by improving the policy and practice of the criminal and juvenile justice systems and the child welfare, family services, and related systems. These goals require communities to develop, implement, and/or expand cross-agency strategies.

OJJDP, the administering agency for the Safe Kids/Safe Streets program, awarded competitive cooperative agreements in FY 1997 to five demonstration sites and to a national evaluator. Funds are provided by OJJDP, the Office of Victims of Crime (OVC) and the Violence Against Women Grants Office (VAWGO). Recipients of the awards are the National Children's Advocacy Center, Huntsville, Alabama; the Sault Ste. Marie Tribe of Chippewa Indians in Sault Ste. Marie, Michigan; Heart of America United Way of Kansas City, Missouri; Toledo Hospital Children's Medical Center in Toledo, Ohio; and the Community Network for Children, Youth and Family Services of Chittenden County, Vermont. The national evaluator is Westat, Inc., of Rockville, Maryland.

Four of the five funded demonstration sites are in the process of developing implementation plans. The fifth is in the initial stages of implementing its plans to improve the coordination of prevention, intervention, and treatment services and to improve cross-agency coordination. The national evaluator has

begun the process of assessing site needs and developing measurement variables. Each award has been made under a 5½ year project period.

In FY 1998, Safe Kids/Safe Streets grantees will continue to implement their plans. Continuation awards will be made to each of the current demonstration sites. No additional applications will be solicited in FY 1998.

National Evaluation of the Safe Kids/Safe Streets Program

To evaluate the Safe Kids/Safe Streets grant program, OJJDP competitively awarded a grant to Westat, Inc. in FY 1997. The purpose of the evaluation is to document and explicate the process of community mobilization, planning, and collaboration that has taken place before and during the Safe Kids/Safe Streets awards; to inform program staff of performance levels on an ongoing basis; and to determine the effectiveness of the implemented programs in achieving the goals of the Safe Kids/Safe Streets program. The initial 18-month grant will begin a process evaluation and determine the feasibility of an impact evaluation. If it is determined that an impact evaluation is feasible, additional funds may be awarded to implement such an evaluation in FY 1998.

The goals for Phase I of the Evaluation of the Safe Kids/Safe Streets program are (1) to understand the process of implementation of the Safe Kids/Safe Streets program in order to strengthen and refine the program for future replication; (2) to identify factors that contribute to or impede the successful implementation of the program; (3) to help develop or improve the capability and utility of local data systems that track at-risk youth, including victims of child neglect or abuse; (4) to build an understanding of the general effectiveness of the Safe Kids/Safe Streets program approach and its program components; and (5) to help develop the capacity of Safe Kids/Safe Streets sites to evaluate what works in their communities.

The objectives of this initial phase of the evaluation are (1) to develop a detailed design, including data collection instruments, for a process evaluation of the Safe Kids/Safe Streets program for implementation in collaboration with all sites; (2) to develop templates for capturing the data necessary for the national process evaluation and to make those templates available for implementation at the sites; and (3) to provide evaluation training and technical assistance for, and to collaborate with, grantees at each of the sites in implementing a process evaluation of the development and implementation of each Safe Kids/Safe Streets program site.

This evaluation will be implemented by the current grantee, Westat, Inc. No additional applications will be solicited in FY 1998.

Secondary Analysis of Childhood Victimization

In FY 1997, OJJDP awarded a two-year grant to the University at Albany, State University of New York, to support secondary analysis of data that were collected on 1,200 individuals as part of a National Institute of Justice research project that began in 1986. The data set includes extensive information on psychiatric, cognitive, intellectual, social, and behavioral functioning. It also contains information on documented and self-reported criminal and runaway behavior in a large sample of unsubstantiated cases of early childhood physical and sexual abuse and neglect and matched controls. The data base includes information from archival juvenile court and probation department records and law enforcement records and interview information on a range of topics, including psychiatric assessment, intelligence, and reading ability.

The initial set of secondary analyses, during the first year of the OJJDP award, focused on childhood victimization as a precursor to running away and subsequent delinquency. Initial research questions focused on whether running away puts a child at increased risk for becoming a violent offender and repeat violent offender as a juvenile and whether abused and neglected children who run away are at greater risk than children who have not been abused.

In FY 1998, the research will look at several other outcomes such as out-of-home placements and drug use by children who run away. Gender differences will also be explored. This research will also explore the differential impact of childhood victimization by race/ethnicity.

This project is being conducted by Cathy Spatz Widom, principal researcher, under a grant to the University at Albany, State University of New York. No additional applications will be solicited in FY 1998.

Evaluation of Nurse Home Visitation in Weed and Seed Sites

OJJDP will administer an evaluation of Nurse Home Visitation programs in six Weed and Seed sites across the Nation with funds transferred to OJJDP from the U.S. Department of Health and Human Services. Six Weed and Seed sites, one of which is a SafeFutures site, are providing nurse home visitation services. These sites have been designated for evaluation in order to determine the impact of the specific program model of nurse home visitation implemented within normal operating environments in communities. Nurse home visitation has been found to be effective in reducing welfare dependency, increasing employment, decreasing or delaying repeat childbearing, reducing the incidence of child maltreatment, and reducing crime and delinquency within the context of randomized clinical trials.

The project will be implemented by the University of Colorado Prevention Research Center. No additional applications will be solicited in FY 1998.

Dated: June 10, 1998.

Shay Bilchik,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

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Part III

Department of Health and Human Services

Centers for Disease Control and Prevention

Draft Guideline for the Prevention of Surgical Site Infection, 1998; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Draft Guideline for the Prevention of Surgical Site Infection, 1998

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (DHHS).

ACTION: Notice.

SUMMARY: This notice is a request for review of and comment on the Draft Guideline for the Prevention of Surgical Site Infection, 1998. The guideline consists of two parts: Part 1. ''Surgical Site Infection, an Overview'' and Part 2. ''Recommendations for the Prevention of Surgical Site Infections'', and was prepared by the Hospital Infection Control Practices Advisory Committee (HICPAC), the Hospital Infection Program (HIP), the National Center for Infectious Diseases (NCID), CDC.

DATES: Written comments on the draft document must be received on or before August 17, 1998.

ADDRESSES: Comments on this document should be submitted in writing to the CDC, Attention: SSI Guideline Information Center, Mailstop E–69, 1600 Clifton Road, N.E., Atlanta, Georgia 30333. To order copies of the **Federal Register** containing the document, contact the U.S. Government Printing Office, Order and Information Desk, Washington, DC 20402–9329, telephone (202) 512–1800. In addition, the **Federal Register** containing this draft document may be viewed and photocopied at most libraries designated as U.S. Government Depository Libraries and at many other public and academic libraries that receive the **Federal Register** throughout the country. Addresses and telephone numbers of the U.S. Government Depository Libraries are available by fax by calling U.S. Fax Watch at (202) 512–1716 and selecting option 5 from the main menu. The **Federal Register** is also available online at the Superintendent of Documents home page at: http://www.access.gpo.gov/su__docs, or the Hospital Infection Program Home page at: http://www.cdc.gov/ncidod/hip/hip.htm

FOR FURTHER INFORMATION CONTACT: The CDC Fax Information Center, telephone (888) 232–3299 and order document number 370160 or telephone (888) 232–3228, then press 2, 2, 3, 2, 2, 1, 5 to go directly to the guideline information.

SUPPLEMENTARY INFORMATION: This 2-part document updates and replaces the previously published CDC Guideline for the Prevention of Surgical Wound Infection. Part 1, ''Surgical Site Infection, an Overview'' serves as the background for the consensus recommendations of the Hospital Infection Control Practices Advisory Committee (HICPAC) that are contained in Part 2, ''Recommendations for Prevention of Surgical Site Infections''.

HICPAC was established in 1991 to provide advice and guidance to the Secretary and the Assistant Secretary for Health, DHHS; the Director, CDC, and the Director, NCID regarding the practice of hospital infection control and strategies for surveillance, prevention, and control of nosocomial infections in U.S. hospitals. The committee also advises CDC on periodic updating of guidelines and other policy statements regarding prevention of nosocomial infections.

The Guideline for the Prevention of Surgical Site Infection, 1998 is the third in a series of CDC guidelines being revised by HICPAC and NCID, CDC.

Dated: June 5, 1998.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

Executive Summary

This ''Guideline for the Prevention of Surgical Site Infection, 1998'' represents the third revision of the Centers for Disease Control and Prevention's (CDC) recommendations for the prevention of surgical site infection (SSI), formerly called surgical wound infections. This two-part guideline updates and replaces previous guidelines.[1 2]

Part I, ''Surgical Site Infection: An Overview,'' describes the epidemiology, definitions, microbiology, pathogenesis, and surveillance of SSIs. Part I also discusses SSI prevention measures such as antimicrobial prophylaxis, barrier precautions, operating room environment, sterilization practices, and surgical technique.

Recommended strategies for the prevention of SSIs are found in Part II, ''Recommendations for the Prevention of Surgical Site Infection.'' These recommendations represent the consensus of the Hospital Infection Control Practices Advisory Committee (HICPAC). This 12-member committee advises CDC on issues related to surveillance, prevention, and control of nosocomial infections in United States hospitals.[3] Whenever possible, the recommendations in Part II are based on data from well-designed scientific studies. However, it must be kept in mind that a limited number of studies establish the validation of SSI risk factors and SSI prevention measures. By necessity, available studies have often been conducted in narrowly defined patient populations or for specific kinds of operations, making generalization of their findings to all specialties and types of operations potentially problematic. This is especially true regarding the implementation of SSI prevention measures. Finally, some of the infection control practices routinely used by surgical teams cannot be rigorously studied for ethical or logistical reasons (e.g., wearing vs. not wearing gloves or masks). Thus, some of the recommendations in Part II are based on a strong theoretical rationale and suggestive evidence in the absence of confirmatory scientific knowledge.

This document does not specifically address issues unique to burns, trauma, transplant procedures, or transmission of bloodborne pathogens from health-care worker to patient. Neither does it specifically cover minimally invasive† (e.g., laparoscopic) procedures or procedures performed by surgeons outside of the operating room (e.g., endoscopic procedures). This document does not cover invasive procedures not performed by surgeons (e.g., cardiac catheterization, or interventional radiologic procedures). However, it is likely that many of the prevention strategies recommended in this document could be applied or adapted to prevent infections that complicate these procedures. The document does not recommend specific antiseptic agents for patient preoperative skin preparations or for health-care worker hand/forearm antisepsis. Hospitals should choose from the appropriate products categorized by the Food and Drug Administration (FDA).[4] Finally, this document is primarily intended for use in acute-care hospitals by surgeons, operating room nurses, infection control professionals, anesthesiologists, hospital epidemiologists, and other hospital personnel responsible for the prevention of nosocomial infections.

Part I. Surgical Site Infection (SSI): An Overview

Introduction

Before the mid-19th century, surgical patients commonly developed postoperative ''irritative fever,'' followed by purulent drainage from their incisions, overwhelming sepsis, and often death. It was not until the late 1860s, after Joseph Lister had introduced the principles of antisepsis, that postoperative infectious morbidity

†Currently, for minimally invasive and laparoscopic procedures no differences in infection control practices (preoperative, intraoperative, or postoperative) have been identified.

decreased substantially. Lister's work radically changed surgery from an activity associated with infection and death to a discipline that could eliminate suffering and prolong life.

Currently, in the United States alone, an estimated 27 million surgical procedures are performed each year, and nearly one-third of patients undergoing these operations are ≥65 years of age.[5] The CDC's National Nosocomial Infections Surveillance (NNIS) system, established in 1970, monitors reported trends in nosocomial infections in U.S. acute-care hospitals. Based on NNIS system reports, SSIs are the second most frequently reported nosocomial infection, accounting for 15% to 18% of all nosocomial infections among hospitalized patients.[6] During 1986–1996, hospitals conducting SSI surveillance in the NNIS system reported 15,523 SSIs following 593,344 operations. Among surgical patients, SSIs were the most common nosocomial infection, accounting for 38% of all nosocomial infections. Of these SSIs, 67% were incisional and 33% organ/space SSIs. Of the deaths among surgical patients with an SSI, 77% were related to the infection itself; the majority (93%) were organ/space SSIs. In 1980, Cruse showed that an SSI increased a patient's hospital stay by about 10 days, and cost an additional $2,000.[7 8] 1992 estimates suggested that each SSI resulted in 7.3 additional postoperative hospital days, adding $3,152 in extra charges.[9] Other studies corroborate that increased length of hospital stay and cost are associated with SSIs.[10 11] Deep (organ/space) SSIs, as compared to superficial (incisional) SSIs, are associated with an even greater increase in hospital cost.[12 13]

In this document, SSIs refer to infections of incisions that are closed primarily (i.e., skin edges are re-approximated at the end of the operation). SSIs are classified as incisional SSIs or organ/space SSIs. Incisional SSIs are further divided into those involving only skin and subcutaneous tissue (superficial incisional SSI) and those involving deeper soft tissues of the incision (deep incisional SSI). Organ/space SSIs involve any part of the anatomy (e.g., organs or spaces) other than incised body wall layers opened or manipulated during operations (Figure 1). Standardized criteria have been developed for defining superficial incisional, deep incisional, and organ/space SSIs are shown in Table 1. Table 2 lists specific sites used to differentiate organ/space SSIs. For example, in a patient who had an appendectomy and subsequently developed a subdiaphragmatic abscess, the infection would be reported as an organ/space SSI at the intra-abdominal specific site. Failure to use objective criteria to define SSIs has been shown to substantially impact SSI rates.[14 15] The CDC NNIS definitions of SSIs have been applied consistently by surveillance and surgical personnel in many settings and currently are a de facto national standard.[16 17]

Advances in infection control practices include improved operating room ventilation, sterilization, barriers, surgical technique, and availability of antimicrobial prophylaxis. Despite these activities, SSIs remain a substantial cause of morbidity and mortality among hospitalized patients. In part, this may be explained by the fact that many surgical patients today are of advanced age and/or have a wide variety of chronic, debilitating or immunocompromising underlying diseases. An increase in survival of low-birth-weight infants (e.g., ≤1000 g) may pose unique surgical challenges. There also are increased numbers of implants used and more organ transplants performed. Other factors include emergence of resistant pathogens, increased numbers of contaminated and dirty procedures (e.g., trauma-associated gunshot wounds and motor vehicle accidents). Thus, to reduce the risk of an SSI, a systematic but realistic approach must be applied with the awareness that this risk is influenced by characteristics of the hospital, surgical team, patient, and operation.

Microbiology of SSIs

According to the NNIS system the distribution of pathogens isolated from SSIs has not changed markedly during the last decade (Table 3).[6 18 19] Staphylococcus aureus, coagulase-negative staphylococci, Enterococcus spp., and Escherichia coli remain the most frequently isolated pathogens. However, SSIs are increasingly caused by antimicrobial-resistant pathogens, such as methicillin-resistant S. aureus (MRSA), vancomycin-resistant enterococcus, and gram negative rods.[20 21] In one 4-year study of 245 consecutive SSIs, 50% of all staphylococcal isolates were MRSA, 11% were gentamicin-resistant E. coli, and Klebsiella spp. demonstrated an increased resistance to aminoglycosides.[22]

The isolation of fungi from SSI, particularly Candida albicans, also has increased.[23] From 1991–1995, among patients at NNIS hospitals, the incidence of fungal SSIs increased from 0.1 to 0.3 per 1000 discharges.[23] The increased proportion of SSIs caused by resistant pathogens and Candida spp. may reflect an increased severity of illness of surgical patients, an increased number of surgical patients who are immunocompromised, and/or more widespread use of prophylactic and therapeutic antimicrobial agents.

Outbreaks or clusters of SSIs have also been caused by unusual pathogens, such as Rhizopus oryzae, Clostridium perfringens, Rhodococcus bronchialis, Legionella pneumophila and dumoffii, and Pseudomonas multivorans. These rare outbreaks have been traced to contaminated adhesive dressings,[24] elastic bandages,[25] colonized health care personnel,[26] tap water,[27] or contaminated disinfection solution.[28] When a cluster of SSIs is caused by an unusual pathogen, a formal epidemiologic investigation should be conducted to determine the source of infection.

Pathogenesis of SSI

Microbial contamination of the surgical site is a necessary precursor of SSI. The risk of SSI can be conceptualized according to the following relationship [29]:

$$\frac{\text{Dose of bacterial contamination} \times \text{virulence}}{\text{Resistance of the host}} = \text{Risk of surgical site infection}$$

Quantitatively, it has been shown that if a surgical site is contaminated with $>10^5$ microorganisms per gram of tissue, the risk of SSI is markedly increased, whereas contamination with $<10^5$ microorganisms per gram of tissue usually does not produce infection.[30–32] The risk of SSI is increased when foreign material, such as sutures,[33] indwelling devices, or prostheses are placed. For example, researchers have shown that the insertion of foreign material can decrease the infecting dose of staphylococci from $>10^6$ to $<10^3$ microorganisms per gram of tissue.[34–36]

Organisms may contain or produce substances or toxins that increase their ability to invade a host, produce damage

within the host, or survive on or in colonized or infected host tissue; promoting the development of an SSI.[37–40] For example, endotoxin has numerous effects as a component of the outer membrane of gram negative bacteria, such as a stimulator of cytokine production, and as an initiator of endogenous mediator pathways with significant systemic effects (e.g., hypotension, fever).[41 42] Some bacterial surface components (notably polysaccharide extracellular capsules) inhibit phagocytosis.[43] Some bacteria, such as Clostridium spp., produce powerful cytolytic exotoxins that disrupt cell membranes or alter cellular metabolism.[32 44] Glycocalyx and the more loosely associated component, ''slime'', are produced by a variety of microorganisms, of particular significance gram-positive bacteria, and most notably coagulase negative staphylococci.[45–47] The glycocalyx material slime develops into a biofilm and can shield infecting bacteria from phagocytosis, as well as inhibit the action of antimicrobial agents.[47] Glycocalyx biofilms have been implicated as a significant contributor to infection of surgically implanted prostheses.[47–52] Despite knowledge of these and other virulence factors, in most cases the mechanistic relationship between their presence and SSI development has not yet been fully defined.

The primary reservoir for organisms causing SSI is the patient's endogenous flora. Exogenous sources of SSI pathogens include the operating room environment, hospital personnel (especially those in the operating room),[53–55] or seeding of the operative site from a distant focus of infection.[56–60] Seeding from distant foci is particularly important in patients who have prostheses or other implants placed during the operation since the device provides a nidus for attachment of the organism.[61–66] The endogenous flora causing SSIs vary according to the specific body site.[19 67–71] For example, an SSI arising from the skin is predominant due to gram-positive organisms (e.g., staphylococci). SSIs arising from the gastrointestinal system are composed of a more mixed group of organisms, including enteric, gram-negative bacilli (e.g., E. coli), anaerobes (e.g., B. fragilis), and gram-positive organisms (staphylococci and enterococci). SSIs arising from the genitourinary system are predominantly due to gram-negative organisms (e.g., E. coli, Klebsiella spp., and Pseudomonas), and enterococci. The organisms causing SSIs in the female reproductive system include enteric, gram-negative bacilli; enterococci; group B streptococci; and anaerobes. Exogenous flora are primarily gram-positive organisms (e.g., staphylococci and streptococci) and other aerobes.[19]

Fungal pathogens rarely cause SSIs, and their pathogenesis is not well understood. Factors that increase the risk of fungal infections in surgical patients include (1) fungal colonization of the upper gastrointestinal tract following exposure to broad-spectrum antimicrobials, (2) use of proton pump inhibitors or histamine-2 blockers that decrease stomach acidity and promote growth of microorganisms, including yeast, (3) disruption of the gastrointestinal mucosal barrier, (4) impaired host defenses,[53] (5) implantation of foreign bodies (e.g., prosthetic heart valves), and (6) colonized operating room personnel (e.g., fungal colonization of artificial nails).[72]

Risk and Prevention of SSIs

The term ''risk factor'' has a particular meaning in epidemiology and, in the context of SSI pathophysiology and prevention, strictly refers to a variable that has a significant, independent association with the development of SSIs. Risk factors are identified by multivariable analyses in epidemiologic studies. Unfortunately, the term risk factor often is used in the literature in a broad sense to include patient or operation features which, although associated with SSI development, are not themselves independent.[73] The literature cited in the sections that follow includes both the strict and broad definition of risk factor. Recommendations given a category ranking of IA are generally based on studies using the strict definition.

SSI risk factors (Table 4) are valuable in two ways: (1) they allow useful stratification of operations, making surveillance data more comprehensible, and (2) preoperative knowledge of risk factors may allow for targeted prevention interventions. For example, it is known that remote site infection is an independent SSI risk factor in some operations. If a patient has such an infection, the surgical team may choose to delay an elective operation until the infection resolves.

An SSI prevention measure can be defined as an action or set of actions intentionally taken by caregivers to reduce the risk of an SSI. Many such techniques, to be described subsequently, involve reducing the opportunities for microbial contamination of the patient's tissues or sterile surgical instruments. Other techniques are adjunctive, such as using antimicrobial prophylaxis or avoiding unnecessary traumatic tissue dissection. In general, SSI prevention measures have been based on direct scientific evidence, theoretical rationale, or tradition. In the discussion that follows, the foundation for each given prevention measure will be described. Optimum application of SSI prevention measures requires that a variety of patient and operation characteristics be carefully considered.

In certain kinds of operations, patient characteristics that may be associated with an increased risk of an SSI include coincident remote site infections (e.g., urinary tract, skin, or respiratory tract),[1 31 74–76] diabetes,[77–80] cigarette smoking,[78 81–85] systemic steroid use,[77 80 86] obesity (> 20% ideal body weight),[78–80 87–90] extremes of age,[85 91–95] and poor nutritional status.[78 87 91 96–98]

The contribution of diabetes to SSI risk is controversial[77–79 91 99] because the independent contribution of diabetes to SSI risk has not typically been assessed after controlling for potential confounding factors. In one prospective study of 130 pregnant women, no correlation was found between SSI risk and perioperative glycemic control, as measured by glycosylated hemoglobin (HgA1c) levels. However, the sample size in the study was small and the use of prophylactic antimicrobial agents was not assessed. More recently, the relationship between HgA1c levels and SSI risk in coronary artery bypass graft patients was assessed; a significant relationship was found between increasing levels of HbA1c and SSI rates.[100] Also, increased glucose levels (>200 mg/dl) in the immediate postoperative period (≤48 hours) were associated with increased SSI risk.[101 102] More studies are needed to assess the efficacy of perioperative blood glucose control as an adjunctive measure.

Nicotine use delays primary wound healing and may increase the risk of SSI.[78] In a large prospective study, current cigarette smoking was an independent risk factor for sternal and/or mediastinal SSI following cardiac surgery.[78] Other studies have corroborated cigarette smoking as an important SSI risk factor.[81–85] The limitation of these studies, however, is that terms like ''current cigarette smoking'' and ''active smokers'' are not always accurately defined. To appropriately determine the contribution of tobacco use to SSI risk, standardized definitions of smoking history must be adopted and used in studies designed to control for confounding variables.

Patients who are receiving steroids or other immunosuppressive drugs preoperatively also may be predisposed to developing SSI.[77 80] In a study of long-term steroid use in patients with Crohn's disease, SSI developed significantly more often in patients receiving preoperative steroids (12.5%) than in patients without steroid use (6.7%).[86] In contrast, other investigators have not found a relationship between steroid use and SSI risk.[103–105]

There may be an increased risk of SSI in patients who are malnourished, but the exact relationship between nutritional status and risk of SSI is unclear. Low serum albumin (<3.5 g/dl) has been shown to be associated with an increased risk of SSI.[78 96–98] More precise definitions of malnutrition are needed, along with prospective observational studies, to resolve this issue.

Prolonged preoperative hospital stay is frequently suggested as a patient characteristic associated with increased SSI risk. However, length of preoperative stay is likely a surrogate for severity of illness and co-morbid conditions requiring inpatient work-up and /or therapy before the operation.[8 18 19 75 93 104 106 107]

Preoperative Issues

Preoperative Antiseptic Showers

A preoperative antiseptic shower or bath will decrease the patient's skin microbial colony count. In a study of >700 patients who received preoperative antiseptic showers, chlorhexidine reduced bacterial colony counts nine-fold (2.8×10^2 to 0.3), while povidone-iodine or triclocarban-medicated soap reduced colony counts by 1.3 and 1.9-fold, respectively.[108] A smaller uncontrolled study corroborated these findings.[109] Despite the fact that preoperative showers reduce the skin's microbial colony counts, it has not definitively been shown to reduce SSI rates.[110–112]

Preoperative Shaving/Hair Removal

Preoperative shaving of the surgical site the night before an operation is associated with a significantly higher SSI risk. This risk is greater than that accompanying the use of depilatory agents or no hair removal.[8 113–115] In one study, SSI rates were 5.6% in patients who had hair removed by razor-shave compared to a 0.6% rate among those who had hair removed by depilatory or had no hair removal.[113] The increased SSI risk associated with shaving has been attributed to microscopic cuts in the skin that later serve as foci for infection. Shaving immediately before the operation compared to shaving within 24 hours or > 24 hours preoperatively is associated with decreased SSI rates (3.1% vs. 7.1% and 20% respectively).[113] Clipping hair immediately before an operation is also associated with a lower risk of SSI than shaving or clipping the night before an operation (SSI rates immediately before = 1.8% vs night before = 4.0%).[116–119] Although the use of depilatories is associated with a lower SSI risk than shaving or clipping,[113 114] depilatories sometimes produce hypersensitivity reactions.[113] Other studies show that preoperative hair removal is associated with increased SSI rates and suggest that no hair be removed.[93 120 121]

Patient Skin Preparation in the Operating Room

Several antiseptic agents are available for preoperative preparation of skin at the incision site (Table 5). The iodophors (e.g., povidone-iodine), alcohol-containing products, and chlorhexidine gluconate are the most commonly used agents.[18 31 122] No studies have adequately assessed the comparative effects of these preoperative skin antiseptics on SSI risk in well-controlled procedure-specific studies.

Alcohol is defined by the Food and Drug Administration as having one of the following active ingredients: ethyl alcohol 60–95% by volume in an aqueous solution, or isopropyl alcohol 503–91.3% by volume in an aqueous solution.[4] In this document, -propyl alcohol is included in the definition of alcohol. Alcohol is readily available, inexpensive, and remains the most effective and rapid acting skin antiseptic.[123] Aqueous 70%–92% alcohol solutions have germicidal activity against bacteria, fungi, and viruses, but spores can be resistant.[123 124] One potential disadvantage of the use of alcohol in the operating room is its flammability.[123–125]

Both chlorhexidine gluconate and iodophors have broad spectra of antimicrobial activity.[18 31 124 126] In some comparisons of the two antiseptics, chlorhexidine gluconate achieved greater reduction in skin microflora than did povidone-iodine and also had greater residual activity after a single application.[127–129] Further, chlorhexidine gluconate is not inactivated by blood or serum proteins.[18 123 130 131] Iodophors may be inactivated by blood or serum proteins, but exert a bacteriostatic effect as long as they are present on the skin.[18 125]

Before the skin preparation of a patient is initiated, the skin should be free of gross contamination (i.e., dirt, soil, or any other debris).[132] The patients skin is prepped by applying an antiseptic preparation in concentric circles, beginning in the area of the proposed incision. The prepped area should be large enough to extend the incision or create new incisions or drain sites, if necessary.[1 124 133] The application of the skin preparation may need to be modified, depending on the condition of the skin (e.g., burns) or location of the incision site (e.g., face).

Some modifications of the preoperative skin preparation process include: (1) removing, drying, or wiping off the skin prep antiseptic agent after application, (2) using an antiseptic-impregnated adhesive drape, (3) painting the skin with an antiseptic in lieu of the traditional scrub, or (4) using a ''clean'' versus a ''sterile'' surgical skin prep kit. None of these modifications adds to further reductions in bacterial colony counts at the surgical site or reduces SSI risk.[134 – 137]

Preoperative Hand/Forearm Antisepsis

Members of the surgical team universally wash their hands and forearms by performing a traditional procedure known as scrubbing (or the surgical scrub) immediately before donning sterile gowns and gloves. Ideally, the optimum antiseptic agent should have a broad spectrum of activity, be fast-acting, and have a persistent effect.[1 138 139] Antiseptic agents commercially available in the United States contain alcohol, chlorhexidine, iodine/iodophors, para-chloro-meta-xylenol, or triclosan (Table 5).[18 123 124 140 141] Alcohol is considered the ''gold standard'' for surgical hand preparation in several European countries.[142–145] Alcohol-containing preps have been used less frequently in the United States than in Europe, possibly because of concerns about flammability and skin irritation. Povidone-iodine and chlorhexidine gluconate are the current agents of choice for most U.S. surgical team members.[124] However, when 7.5% povidone-iodine or 4% chlorhexidine gluconate was compared to alcoholic chlorhexidine (60% isopropanol and 0.5% chlorhexidine gluconate in 70% isopropanol), alcoholic chlorhexidine was found to have greater residual antimicrobial activity.[138 146] No agent is ideal for every situation, and a major factor aside from the efficacy of any product is its acceptability by operating room personnel after repeated usage. Unfortunately, most studies evaluating surgical scrub antiseptics have focused on measuring hand bacterial colony counts. No clinical trials have evaluated

the impact of scrub agent choice on SSI risk.[141 147–151]

Factors other than the choice of antiseptic agent influence the effectiveness of the surgical scrub. Scrubbing technique, the duration of the scrub, the condition of the hands, or the techniques used for drying and gloving are examples of such factors. The ideal duration of scrubbing is unknown. Recent studies suggest that scrub times of 3–5 minutes are as effective as the traditional 10-minute scrub in reducing hand bacterial colony counts.[152 153]

A surgical team member who wears artificial nails may have increased hand bacterial and fungal colonization even after performing an adequate hand scrub.[154 155] Hand carriage of gram-negative organisms has been shown to be greater among wearers of artificial nails than among non-wearers.[155] An outbreak of Serratia marcescens SSIs in cardiovascular surgery patients was found to be associated with a surgical nurse who wore artificial nails.[72] Long nails, artificial or natural, may be associated with tears in gloves.[31 124 154] The influence on SSI risk of operating room team members wearing nail polish or jewelry has not been adequately studied.[140 154 156–158]

Antimicrobial Prophylaxis

Well-designed, randomized clinical trials have demonstrated the benefit of antimicrobial prophylaxis in certain kinds of operations.[12 70 159–195] Prophylaxis should not be confused with therapy. Prophylaxis is the administration of an antimicrobial agent for operations where minimal microbial contamination of the surgical site is expected (i.e., clean or clean-contaminated operations, Table 6).[47] Therapy is the administration of an antimicrobial agent in operations where substantial microbial contamination already has occurred (i.e., contaminated or dirty operations).[47 196 197] For prophylaxis to be maximally effective, an appropriate agent must be administered at the correct time to ensure microbiocidal tissue levels before the incision is made, be maintained at adequate levels for the duration of the operation, and not be continued postoperatively.[69–71 198–200] There is no evidence that antimicrobial agents given after incision closure have prophylactic effect on bacterial contamination acquired before incision closure.[47] Also, use of antimicrobial prophylaxis beyond the intraoperative period may increase the risk of toxicity and the development of antimicrobial-resistant organisms.[47 71 201]

Antimicrobial prophylaxis is reserved for clean and clean-contaminated operations. The purpose of antimicrobial prophylaxis in clean operations in which prostheses, grafts, or implants are placed in the patient is to prevent the attachment of organisms to the device since the device can serve as a nidus for infection.[47 69 197 202 203] In clean operations in which no implant or device is placed, there is controversy regarding the use of antimicrobial prophylaxis. Because the risk of developing an SSI following clean operations is generally low,[87] the risk of infection versus the risk of prophylaxis must be considered. The purpose of using antimicrobial prophylaxis in clean-contaminated operations is primarily to reduce the number of mucosal-associated organisms.[71 202]

A prophylactic antimicrobial agent should be chosen based on its efficacy against the SSI pathogens expected as contaminants for a particular operation. Table 6 lists clean and clean-contaminated operations and the most frequently isolated SSI pathogens. The most commonly used agents are cephalosporins, particularly first and second generation cephalosporins.[202] Vancomycin should not be used routinely as a prophylactic agent.[69 70 197 204] However, at institutions with high numbers of infections due to (MRSA) or methicillin-resistant *Staphylococcus epidermidis*, vancomycin has been recommended as a prophylactic agent in major operations involving implantation of prosthetic materials or devices (e.g., cardiac, vascular and orthopedic operations).[69 204 205]

Intravenous administration of the prophylactic antimicrobial agent is the most commonly used route. The intravenous route produces adequate serum and tissue concentrations in a relatively short period of time.[202] A major exception to using the intravenous route is with operations involving the gastrointestinal tract, mainly colorectal operations.[71 181 182 184 202 206–213] In these operations, the antimicrobial agent is administered orally to reduce endogenous flora in the gastrointestinal tract .

Timing and duration of prophylaxis are very important issues. The objective is to administer the antimicrobial agent before the operation starts to assure adequate microbiocidal tissue levels before the skin incision is made. A large, prospective study of antimicrobial prophylaxis in surgical patients undergoing elective clean and clean-contaminated operations showed that when prophylaxis was given 0–2 hours before incision, the SSI rate was 0.59% (10/1708). If given earlier or later, the SSI rate increased (3.8 % [14/369] and 3.3% [16/488], respectively).[214] For a cesarean section, the prophylactic agent is given immediately after umbilical cord clamping to prevent the infant from being exposed to the agent.[69 70]

In modern surgical practice, the optimum strategy for most commonly used agents (first and second generation cephalosporins) entails infusion of the preoperative dose approximately 30 minutes before skin incision and administration of additional doses approximately every 2 hours intraoperatively.[18 69 71 197 202 203] Because an elective operation can be unexpectedly delayed, the practice of administering prophylactic agents ''on call'' to the operating room is not recommended.[70 215] Appropriate timing of prophylaxis may be enhanced by administering the agent as close as possible to the time of anesthetic induction. In general, the duration of an operation will dictate the necessity infusing one or more additional doses of the prophylactic agent to maintain appropriate tissue levels (i.e., for operations whose duration exceeds the estimated serum half-life). Other reasons for additional intraoperative dosing include operations with major intraoperative blood loss or operations on morbidly obese patients.[47 69 71 201 203 216–218]

Intraoperative Issues

Operating Room Environment

Air/Ventilation

Operating room air may contain microbial-laden dust, lint, skin squames, or respiratory droplets. The microbial level in operating room air is directly proportional to the number of people moving about in the room.[219] Therefore, efforts should be made to minimize personnel traffic during operations. Outbreaks of SSIs caused by group A beta-hemolytic streptococci have been traced to airborne transmission of the organism from colonized operating room personnel to patients.[220–223] In these outbreaks, the strain causing the outbreak was recovered from the air in the operating room,[220 221 224] or on settle plates in a room in which the human carrier exercised.[221–223]

Operating rooms should be maintained at positive pressure with respect to corridors and adjacent areas.[225] Positive pressure prevents air flow from less clean areas into clean areas. All ventilation or air conditioning systems in hospitals, including those in operating rooms, should have two filter beds in series with the efficiency of filter bed one ''30% and filter bed two

2'' 90%.[226] Conventional operating room ventilation systems produce a minimum of about 15 air changes of filtered air per hour. Three (20%) of these air changes/hour must be fresh air.[226 227] Air should be introduced at the ceiling and exhausted near the floor.[227 228] Recommended ventilation parameters for operating rooms have been published by the American Institute of Architects, and the U.S. Department of Health and Human Service (Table 7).[226]

Laminar air flow is designed to move particle-free air (called ''ultraclean air'') over the aseptic operating field at a uniform velocity (0.3 to 0.5 μm/sec), sweeping away particles in its path. This air flow can be directed vertically or horizontally, and recirculated air is usually passed through a high efficiency particulate air (HEPA) filter.[229 230] HEPA filters, commonly used in hospitals, remove particles 0.3μm in diameter with an efficiency of 99.97%.[74 227 229 231] Ultraviolet (UV) light has been used as an infection control measure to reduce SSI risk. However, neither laminar flow nor UV light has been conclusively shown to decrease overall SSI risk.[87 225 232–237]

Environmental Surfaces

Environmental surfaces in U.S. operating rooms (e.g., tables, floors, walls, ceilings, lights, and the like) are rarely implicated as the sources of pathogens important in the development of SSIs. Nevertheless, it is important to perform routine cleaning of environmental surfaces to reestablish a clean environment after each operation.[31 154 227 229] There are no data to support routine disinfecting of environmental surfaces or equipment between operations in the absence of contamination or visible soiling. When visible soiling of surfaces or equipment occurs during an operation, an Environmental Protection Agency (EPA)-approved hospital disinfectant should be used to decontaminate the affected areas before the next operation.[31 154 227 229 238–240] This is in keeping with the Occupational Safety and Health Administration (OSHA) requirement that all equipment and environmental surfaces be cleaned and decontaminated after contact with blood or other potentially infectious materials.[240] Wet-vacuuming with an EPA-approved hospital disinfectant is performed routinely after the last operation of the day or night. Care should be taken to insure that medical equipment is covered and that solutions used for cleaning and disinfecting do not contact sterile devices or equipment. There are no data to support special cleaning procedures or closing an operating room after a contaminated or dirty operation has been performed.[227 228]

Tacky mats placed outside the entrance to an operating room/suite have not been shown to reduce the number of organisms on shoes or stretcher wheels, nor do they reduce the risk of SSI.[1 18 219 228]

Microbiologic Sampling

Because there are no standards or acceptable parameters for comparison of microbial levels for ambient air or environmental surfaces in the operating room, routine microbiologic sampling cannot be justified. Such environmental sampling should only be performed as part of an epidemiologic investigation.

Conventional Sterilization of Surgical Instruments

Inadequate sterilization of surgical instruments has resulted in SSI outbreaks.[229 241 242] Surgical instruments can be sterilized by steam under pressure, by dry heat, by ethylene oxide, or other approved methods. The importance of monitoring the quality of sterilization procedures has been established.[1 31 154 226] Microbial monitoring of steam autoclaves performance is necessary and can be accomplished by use of a biological indicator.[154 239 243] Detailed recommendations for sterilization of surgical instruments have been published.[154 239 244 245]

Flash Sterilization of Surgical Instruments

The Association for the Advancement of Medical Instruments (AAMI) defines flash sterilization as ''the process designated for the steam sterilization of patient care items for immediate use''.[245] During any operation, the need for emergency sterilization of equipment may arise (e.g., to reprocess an inadvertently dropped instrument). Flash sterilization is intended to be used for emergent sterilization of surgical instruments and other items and is never used for reasons of convenience such as an alternative to purchasing additional instrument sets and as a general time-saver. Some of the reasons that flash sterilization has not been recommended as a routine sterilization method include lack of timely biologic indicators to monitor performance, absence of protective packaging following sterilization, possible contamination during transportation to the operating rooms, and use of minimal cycle parameters (i.e., time, temperature, pressure).[243] The AAMI has published sterilization cycle parameters for flash sterilization (Table 8).

Until studies are performed to demonstrate that routine flashing for purposes other than emergencies does not increase SSI risk, flash sterilization should be restricted to its intended purpose. Also, flash sterilization is not recommended for implantable devices†† because of the potential for serious infections.[239 244–246]

Surgical Attire and Drapes

In this section the term ''surgical attire'' refers to scrub suits, caps/hoods, shoe covers, masks, gloves, and gowns. Although experimental data show that live microorganisms are shed from hair, exposed skin, and mucous membranes of operating room personnel,[126 247–252] few controlled clinical studies have evaluated the relationship between the use of surgical attire and the risk of SSI. Nevertheless, the use of barriers seems prudent to minimize exposure of a patient to the skin, mucous membranes, or hair of surgical team members and operating room personnel, and to protect operating room personnel from bloodborne pathogens (e.g., human immunodeficiency virus and hepatitis virus).

Scrub Suits

Hospital personnel, especially operating room nurses, surgeons, and anesthesiologists, often wear a uniform throughout the day that consists of pants and top/shirt and is called a ''scrub suit.'' Procedures for laundering, wearing, covering, and changing scrub suits vary greatly. In some facilities, scrub suits are laundered only by the hospital, while in others, scrub suits also may be laundered at the health-care worker's home. Although, there are no well-controlled studies evaluating SSIs risk among hospital-versus home-laundered scrub suits,[253] the Association of Operating Room Nurses (AORN) recommend scrub suits only be laundered in an approved and monitored laundry facility.[154] Some facilities require that scrub suits be worn only in operating room suites, while others allow the wearing of cover gowns over scrub suits when personnel leave the operating room suites. AORN recommends changing scrub suits when they are visibly soiled.[154] OSHA requires that ''if a garment(s) is penetrated by blood or other potentially infectious materials, the garment(s) shall

†† According to the FDA, an implantable device is a ''device that is placed into a surgically or naturally formed cavity of the human body if it is intended to remain there for a period of 30 days or more''.[245]

be removed immediately or as soon as feasible.'' [240]

Masks

Data regarding the possible effect of using surgical masks on SSI risk are limited. However, there is a strong theoretical rationale for wearing surgical masks during all operations. Some studies have evaluated the efficacy of surgical masks in reducing SSI risk and have raised issues regarding cost vs benefit.[254–258] Although surgical masks are effective at filtering out some bacteria, they may not completely prevent passage of organisms around the sides and edges of the mask.[250, 259, 260] Nevertheless, masks protect the surgical team from inadvertent exposures to blood (i.e., splashes) and other body fluids. OSHA requires that masks in combination with eye protection devices, such as goggles or glasses with solid shields, or chin-length face shields be worn whenever splashes, spray, spatter, or droplets of blood or other potentially infectious material may be generated and eye, nose, or mouth contamination can be reasonably anticipated.[240]

Surgical Caps/Hoods and Shoe Covers

Surgical caps/hoods are inexpensive and reduce the shedding of hair and scalp organisms. Rarely, SSI outbreaks have been traced to organisms isolated from the hair or scalp (S. aureus and Group A Streptococcus),[248 261] even when caps were worn by personnel during the operation and in the operating suites.

The use of shoe covers has never been shown to decrease SSI risk or decrease floor bacterial counts.[262 263] Shoe covers may protect a health care worker from exposures to blood and other body fluids during an operation. OSHA stipulates that surgical caps or hoods and/or shoe covers or boots shall be worn in instances when gross contamination can reasonably be anticipated (e.g., autopsies, orthopaedic surgery).[240]

Sterile Gloves

There is a strong theoretical rationale for the use of sterile gloves by all members of the surgical team. Sterile gloves are worn to minimize transmission of microorganisms from the hands of operating room personnel to patient's and to prevent contamination of personnel hands with blood and body fluids. If the integrity of a glove is compromised (e.g., punctured) it should be changed as promptly as safety permits.[240 264–266] Double gloving (i.e., wearing two pairs of gloves) has been shown to reduce bloodborne pathogen contamination of surgical team members' hands.[267–270] Sterile gloves are put on after donning sterile gowns.

Gowns and Drapes

Both sterile surgical gowns and drapes are used to create an aseptic barrier between the surgical site incision and possible sources of bacteria. Gowns are worn by operating room personnel and drapes are laid over the patient. There are limited data to substantiate the impact of surgical gowns and drapes on reducing SSI risk. The wide variation in the products studied and the study designs make available data difficult to evaluate.[251 271–275]

Gowns and drapes are classified as disposable (single use) or reusable (multiple use). Regardless of the material used to manufacture gowns and drapes, these items should be impermeable to liquids and viruses [276 277] and effective when wet.[1] In general, only gowns reinforced with films, coatings, or membranes appear to meet standards developed by the American Society for Testing and Material (ASTM).[276–278] However, the gowns that do meet these standards ''liquid proof'' gowns may be uncomfortable because they also inhibit the evaporation of sweat and heat loss from the wearer's body. These factors should be considered when selecting gowns.[278]

Practice of Anesthesiology

Anesthesiologists and nurse anesthetists perform invasive procedures (e.g., placement of intravascular devices, endotracheal intubation, administering intravenous solutions) and work in close proximity to sterile surgical fields, thus it is imperative that they strictly adhere to recommended infection control practices.[154 279–281] Breaks in aseptic technique,282 including use of common syringes,[283 284] contaminated infusion pumps,[282 285–287] and the assembly of equipment in advance of procedures,[283 288] have been associated with SSI outbreaks. Although a barrier (i.e., sterile drape) is placed between the anesthesiologist's work area and the surgical field, SSIs have occurred in which the source of the pathogen was the anesthesiologist or a member of the anesthesia team (e.g., anesthesia technician).[289–293] Continued efforts must be undertaken to educate and reinforce the importance of good infection control practices in preventing SSIs, not only to surgeons and operating room nurses but to all members of the surgical team.[282 294]

Hypothermia in surgical patients, defined as a core body temperature below 36°C, may result from general anesthesia, exposure to cold, or intentional cooling such as, in cardiac procedures to protect the myocardium or central nervous systems.[295–297] In one study of patients undergoing colorectal operations hypothermia was associated with an increased risk of SSI.[298] However, since any alteration in normal homeostasis alters normal host responses, more studies are needed to establish a relationship between hypothermia and SSI risk.

Surgical Technique

Excellent surgical technique can reduce SSI risk. Maintaining effective hemostasis while preserving adequate blood supply, gently handling tissues, avoiding inadvertent entries into a viscus, removing devitalized (e.g., necrotic or charred) tissues, using drains and suture material appropriately, eradicating dead space, and appropriate post-operative incision management are widely believed to reduce the risk of SSI.[18 19 31 32 299 300]

Any foreign body, including suture material or drains, may promote inflammation at the surgical site [87] and may increase the probability of infection for some levels of tissue contamination. There are two types of suture material: absorbable and non-absorbable. There is extensive literature comparing different types of suture material and their presumed relationships to SSI risk.[301–310] In general, monofilament sutures appear to have the lowest infection-promoting effects.[3 18 31 87]

While appropriate decisions regarding drain placement are beyond the scope of this document, general points should be briefly noted. Drains placed through an operative incision increase SSI risk.[67] Many researchers suggest placing drains through a separate incision distant from the operating incision.[67 197 311] It appears that SSI risk decreases when closed suction drains are used in comparison to open drains. [312 313] Closed suction drains are useful in evacuating postoperative hematomas, seromas, and purulent material. Also, the timing of drain removal is important; bacterial colonization of drains tracts may increase as the duration of drainage increases.[314]

Postoperative Issues

Postoperative Incision Care

Whether the incision is closed primarily (i.e., the skin edges are re-approximated at the end of the operation), left open to be closed later, or left open to heal by secondary

intention determines the details of postoperative incision care.

When a surgical incision is closed primarily, as most are, the surgeon has determined that it is relatively free of microbial contamination (i.e., clean or clean-contaminated). The primarily closed incision is covered with a sterile dressing for 24–48 hours until the incision edges are sealed.[315 316] Beyond 48 hours, it is unclear whether an incision must be covered by a dressing or whether showering or bathing is detrimental.

When a surgical incision is left open for a few days before it is closed (delayed primary closure), a surgeon has determined that it is likely to be contaminated, or that the patient's condition prevents primary closure (e.g., edema at the site). At the end of the operation, such an incision is packed with a sterile dressing (usually moist) and is inspected daily during dressing changes until the decision is made to close it. When a surgical incision is left open to heal by secondary intention, it is also packed with sterile moist gauze and covered with a sterile dressing. For wounds healing by secondary intention, there is no consensus on the benefit of using sterile technique (i.e., using sterile gloves and dressings) vs clean technique during dressing changes. The American College of Surgeons, CDC, and others have described changing dressings with sterile gloves and equipment.[31 317–320] However, a pilot study of 30 patients examined the difference between sterile vs clean technique for dressing changes of surgical incisions left open. No difference was found in SSI rates and the clean technique was less expensive. However, larger studies are needed to confirm these preliminary findings.[321]

Discharge Planning: Care of the Surgical Site

Today, many patients are discharged soon after their operation, with surgical incisions in the early process of healing.[322] There are no set, specific protocols for home incision care, and much of what is done at home by the patient, family, or home care agency has to be individualized for each patient. The intent of discharge planning is to maintain integrity of the healing incision, educate the patient about the signs and symptoms of infection, and inform the patient about whom to contact to report any problems. Written instructions and repeated demonstrations may help reinforce consistency in following verbal directions. It is the responsibility of the surgeon, nurse, discharge planners, and home health agencies to educate the patient and family in a uniform, concise, and coordinated fashion.

SSI Surveillance

Surveillance of SSI with feedback of appropriate data to surgeons has been shown to be an important component of strategies to reduce SSI risk.[8, 323, 324] A successful surveillance program includes epidemiologically sound infection definitions (Tables 1 and 2), effective surveillance methods, and stratification of SSI rates according to risk factors associated with SSI development.[17]

SSI Risk Stratification

Concepts

From the factors found to be associated with SSI, three categories of variables have emerged as good predictors: (1) those that estimate the intrinsic degree of microbial contamination of the surgical site, (2) those that measure the duration of an operation, and (3) those that serve as markers for host susceptibility.[17] The probability of developing an SSI depends upon the interaction of these variables in a given patient.

A widely accepted scheme for classifying the degree of intrinsic microbial contamination of a surgical site was developed by the 1964 National Academy of Sciences/National Research Council cooperative research study and modified in 1982 by CDC for use in SSI surveillance (Table 9).[2, 87] In this scheme, a member of the surgical team classifies the patient's wound at the completion of the operation. Because of its ease and wide availability, the surgical wound classification has been used to predict the risk of SSI.[8, 87, 325–330] Some researchers have suggested that surgeons compare clean wound SSI rates with those of other surgeons.[8, 323] However, two CDC efforts—the Study on the Efficacy of Nosocomial Infection Control (SENIC) Project and the NNIS system—incorporated other predictor variables into SSI risk indices. These showed that even within the category of clean wounds, the risk of SSI varied from 1.1% to 15.8% and from 1.0% to 5.4%, respectively.[328,331] In addition, sometimes the incision is neither classified at the time of surgery nor assigned by a member of the surgical team, calling into question the reliability of the classification. Therefore, reporting SSI rates stratified by wound class alone is not recommended.

Data on 10 variables collected in the SENIC Project were analyzed by using logistic regression modeling to develop a simple additive SSI risk index.[331] Four of these were found to be independently associated with the risk of SSI: (1) an abdominal operation, (2) an operation lasting >2 hours, (3) a surgical site with a wound classification of either contaminated or dirty/infected, and (4) an operation performed on a patient having ≥3 discharge diagnoses. Each of these equally weighted factors contributes a point when present, such that the risk index values range from 0 to 4. By using these factors, the SENIC index was able to predict the risk of SSI twice as well as the traditional wound classification scheme alone.

The NNIS risk index is operation specific and applied to prospectively collected surveillance data. The index can range from 0 to 3 points and is defined by three independent and equally weighted variables. A surgical patient scores one point when any of the following are present: (1) American Society of Anesthesiologists (ASA) class is ≥3 (Table 10), (2) wound classification is either contaminated or dirty/infected, and (3) operation lasts >T hours, where T is the approximate 75th percentile of the duration of the specific operation being performed.[328] The ASA class replaced discharge diagnoses of the SENIC risk index as a proxy for the patient's underlying severity of illness (host susceptibility) [332 333] and is readily available in the chart during the patient's hospital stay (Table 10). Unlike SENIC's constant 2 hour cut-point for duration of operation, the operation-specific cut-points used in the NNIS risk index have been shown to increase discriminatory power.[328]

Issues

Adjustment for variables known to confound rate estimates is critical if valid comparisons of SSI rates are to be made between surgeons or hospitals.[334] Risk stratification, as described above, has proven useful for this purpose, but relies on the ability of surveillance personnel to consistently and correctly find and record the data. For the three variables used in the NNIS risk index, only one study has focused on how accurately any of them are recorded. Cardo et al. found that surgical team members' accuracy in assessing wound classification for general and trauma surgery was 88% (95% CI: 82%–94%).[335] However, there are sufficient ambiguities in the wound class definitions themselves to warrant concern about the reproducibility of Cardo's results. The accuracy of recording the duration of operation (i.e., time from skin incision to skin closure) and the ASA class has not been studied. In an unpublished report from the NNIS system, there was some evidence that

over-reporting of high ASA class existed in some hospitals (Emori TG, personal communication). Further validation of how well the risk index variables are recorded is needed.

Additionally, NNIS data show that the NNIS risk index does not adequately discriminate the risk of SSI for all types of operations.[336 337] It seems likely that a combination of risk factors specific to patients undergoing an operation will be more predictive. A few studies have been performed to develop procedure-specific risk indices [338–342] and the NNIS system continues research in this area.

SSI Surveillance Methods

SSI surveillance methods used in both the SENIC Project and the NNIS system were designed for monitoring inpatients at acute-care hospitals. Over the past decade, the shift from inpatient to outpatient surgical care (also called ambulatory or day surgery) has been dramatic. It has been estimated that 75% of all operations in the United States will be performed in outpatient settings by the year 2000.[343] While it may be appropriate to use common definitions of SSI for inpatients and outpatients, [344] the types of operations monitored, the risk factors assessed, and the case-finding methods used may differ. New predictor variables may emerge from analyses of SSIs among outpatient surgery patients, which may lead to different ways of estimating SSI risk in this population.

Deciding upon which operations to monitor should be done jointly by surgeons and infection control personnel. Rarely do hospitals have the resources to monitor all surgical patients all the time, nor is that level of surveillance intensity probably necessary for certain low-risk procedures. Instead, hospitals should target surveillance efforts towards high-risk procedures.[345]

Inpatient SSI Surveillance

Two methods, alone or together, have been used to identify inpatients with SSIs: (1) direct observation of the surgical site by the surgeon, trained nurse surveyor, or infection control personnel [8 90 323 326 346–350] and (2) indirect detection by infection control personnel through review of laboratory reports, patient records, and discussions with primary care providers.[7 77 323 326 329 346 348 351–357] The surgical literature suggests that direct observation of surgical sites is the most accurate method to detect SSIs, although sensitivity data are lacking.[8 323 326 347 348] Much of the SSI data reported in the infection control literature have relied on indirect case-finding methods,[328 331 352 355 356 358–360] but some studies of direct methods also have been conducted.[90, 346] Some studies use both methods of detection.[77 325 346 354 357 361] A study that focused solely on the sensitivity and specificity of SSIs detected by indirect methods found a sensitivity of 83.8% (95% CI: 75.7%–91.9%) and a specificity of 99.8% (95% CI: 99%–100%).[346] Another study showed that chart review triggered by a computer-generated report of antibiotic orders for post-cesarean section patients had a sensitivity of 89% for detecting endometritis.[362] It is recommended that hospitals use direct, indirect, or a combination of both methods for detecting SSI in postoperative inpatients.

Indirect SSI detection can readily be performed by infection control personnel during surveillance rounds. The work includes gathering demographic, infection, surgical, and laboratory data on patients who have undergone operations of interest to the investigator.[224] These data can be obtained from patients' medical records, including microbiology and histopathology laboratory data and radiology reports, and records from the operating room. Pharmacy records may be useful if data on prophylactic antimicrobial use are to be collected. Additionally, hospital admissions, emergency room, and clinic visit records are sources of data for those postdischarge surgical patients who re-admitted or seek follow-up care.

The optimum frequency of case-finding by either method is unknown and varies from daily to ≤3 times per week, continuing until the patient is discharged from the hospital. Because duration of hospitalization is now so short, postdischarge SSI surveillance has become increasingly important to obtain accurate SSI rates (see ''Postdischarge SSI Surveillance'' section).

To calculate meaningful SSI rates, data must be collected on all patients undergoing the operations of interest (i.e., the population at risk). In the NNIS system, because one of its purposes is to develop strategies for risk stratification, the following data are collected on all surgical patients surveyed: operation date; NNIS operative procedure category; [363] surgeon identifier; patient identifier, age, and sex; duration of operation; wound class; general anesthesia; ASA class; emergency; trauma; multiple procedures; endoscopic approach; and discharge date.[224] With the exception of discharge date, these data can be obtained manually from operating room logs or be electronically downloaded into surveillance software, thereby substantially reducing manual transcription and data entry errors.[224] Depending on the needs for risk-stratified SSI rates by infection control, surgery, and quality assurance, not all data elements may be pertinent for every type of operation. At minimum, however, variables found to be predictive of increased SSI risk should be collected (see ''SSI Risk Stratification'' section).

Postdischarge SSI Surveillance

Between 12% and 84% of SSIs are detected after patients are discharged from the hospital. [91 259 326 358 364–383] At least two investigators have shown that most SSIs become evident within 21 days after operation.[360 376] Since the length of postoperative hospitalization continues to decrease, true estimates of SSI risk will only be possible by performing a combination of inpatient and postdischarge surveillance.

Postdischarge surveillance methods have been used with varying degrees of success for different procedures and among hospitals and include (1) direct examination of patients' wounds during follow-up visits to either surgery clinics or physicians' offices,[323 326 329 360 365 369 370 376 381 384 385]

(2) review of medical records of surgery clinic patients,[329, 360, 368] (3) questionnaire administration to patients by mail or telephone,[364 366 367 370 371 374 375 377 378 384 386 388] or

(4) questionnaire administration to surgeons by mail or telephone.[91 358 360 366 368 372 373 375 377 379 380 384] One study found that patients have difficulty assessing their own wounds for infection (52% specificity, 26% positive predictive value),[389] suggesting that data obtained by patient questionnaire may inaccurately represent actual SSI rates.

Recently, Sands et al. performed a computerized search of three data bases—ambulatory encounter records for diagnostic, testing, and treatment codes; pharmacy records for specific antimicrobial prescriptions; and administrative records for rehospitalizations and emergency room visits. The purpose of the search was to determine which best identified SSIs.[375] These researchers found that pharmacy records indicating a patient had received antimicrobial agents commonly used to treat soft tissue infections had the highest sensitivity (50%) and positive predictive value (19%).

As integrated health information systems expand, tracking surgical patients through the course of their care may become more feasible, practical, and effective. Until then, there is no

consensus on which postdischarge surveillance methods are the most sensitive, specific, and practical. Infection control and surgery personnel must choose from a variety of methods to find those that work for their unique mix of operations, personnel resources, and data needs.

Outpatient SSI Surveillance

Both direct and indirect methods have been used to detect SSIs that complicate outpatient operations. One study used home visits by district health nurses combined with a questionnaire completed by the surgeon at the patient's 2-week postoperative clinic visit to identify SSIs in an 8-year study of operations for hernia and varicose veins.[390] While ascertainment was very high, essentially 100%, this method is impractical for widespread implementation. High response rates have been obtained from questionnaires mailed to surgeons (72%–>90%).[372 373 375 384 391 393] Response rates from telephone questionnaires administered to patients were more variable (38%,[386] 81%,[388] and 85% [384]), and response rates from questionnaires mailed to patients were quite low (15% [384] and 33% [375]). At this time, no single detection method can be recommended. Available resources and data needs determine which method(s) should be used and which operations should be monitored. It is recommended that the CDC NNIS definitions of SSI (Tables 1 and 2) be used without modification in the outpatient setting.

Guideline Evaluation Process

Users of the HICPAC guidelines determine their value. To help assess that value, HICPAC is developing an evaluation tool to learn how guidelines meet user expectations, and how and when these guidelines are disseminated and implemented.

Part II—Recommendations for the Prevention of Surgical Site Infections (SSIs)

Introduction

As in previous CDC guidelines, each recommendation is categorized on the basis of existing scientific data, theoretical rationale, applicability, and possible economic impact. However, the previous CDC system for categorizing recommendations has been modified to include a designation of those recommendations that are required by federal regulations. The document does not recommend specific antiseptic agents for patient preoperative skin preparations or for health-care worker hand/forearm antisepsis. Hospitals should choose from the appropriate products categorized by the Food and Drug Administration (FDA).[4]

Category IA. Strongly recommended for all hospitals and strongly supported by well-designed experimental or epidemiological studies.

Category IB. Strongly recommended for all hospitals and viewed as effective by experts in the field and a consensus of Hospital Infection Control Practices Advisory Committee (HICPAC), based on strong rationale and suggestive evidence, even though definitive scientific studies may not have been done.

Category II. Suggested for implementation in many hospitals. Recommendations may be supported by suggestive clinical or epidemiological studies, a strong theoretical rationale, or definitive studies applicable to some, but not all hospitals.

No recommendation; unresolved issue. Practices for which insufficient evidence or no consensus regarding efficacy exists.

Recommendations

1. Preoperative preparation of the patient

a. Adequately control serum blood glucose level in all diabetic patients before elective operation and maintain blood glucose level <200 mg/dl during the operation and in the immediate postoperative period (48 hours).[77–79 100–102] Category IB

b. Always encourage tobacco cessation. At minimum, instruct patients to abstain for at least 30 days before elective operation from smoking cigarettes, cigars, pipes or any other form of tobacco consumption (e.g., chewing/dipping).[78 81 83–85] Category IB

c. No recommendation to taper or discontinue steroid use (when medically permissible) before elective operation.[77 80 86 103–105] Unresolved issue

d. Consider delaying an elective operation in a severely malnourished patient. A good predictor of nutritional status is serum albumin.[78 96–98] Category II

e. Attempt weight reduction in obese patients before elective operation.[78 79 89 90] Category II

f. Identify and treat all infections remote to the surgical site before elective operation.[31 74–76] Do not perform elective operations in patients with remote site infections. Category IA

g. Keep preoperative hospital stay as short as possible.[18 75 93 104 106] Category IA

h. Prescribe preoperative showers/baths with an antiseptic agent the night before and the morning of the operation.[108 109] Category IB

i. Do not remove hair preoperatively unless the hair at or around the incision site will interfere with the operation.[8 93 113 114 120 121] Category IA

j. If hair is removed, it should be removed immediately before the operation using electric clippers rather than razors or depilatories.[115 117 119] Category IA

k. Thoroughly wash and clean at and around the incision site to remove gross contamination before performing antiseptic skin preparation.[154] Category IB

l. Use an acceptable antiseptic agent for skin preparation, such as alcohol (usually 70%–92%), chlorhexidine (4%, 2%, or 0.5% in alcohol base), or iodine/iodophors (usually 10% aqueous with 1% iodine or formulation with 7.5%) (Table 5).[123 124] Category IB

m. Apply preoperative antiseptic skin preparation in concentric circles moving out toward the periphery. The prepped area must be large enough to extend the incision or create new incisions or drain sites, if necessary.[31 124 154] Category IB

2. Preoperative Hand/Forearm Antisepsis

All members of the surgical team:

a. Keep nails short and do not wear artificial nails.[31 72 124 154 155] Category IB

b. No recommendation on wearing nail polish. Unresolved Issue

c. Do not wear hand/arm jewelry. Category II

d. Perform a preoperative surgical scrub that includes hands and forearms up to the elbows before the sterile field, sterile instruments, or the patient's prepped skin is touched. Category IB

e. Clean underneath each fingernail prior to performing the surgical scrub.[31 140 154] Category IB

f. Perform the surgical scrub for a duration of 3–5 minutes [124 152 153] with an appropriate antiseptic (see Table 5).[123 124–140] Category IB

g. After performing the surgical scrub, keep hands up and away from the body (elbows in flexed position) so that water runs from the tips of the fingers toward the elbows. Dry hands with a sterile towel and don a sterile gown and gloves.[154] Category IB

3. Antimicrobial Prophylaxis

a. Select a prophylactic antimicrobial agent based on its efficacy against the most common pathogens causing SSI for a specific operation (Table 6). Category IA

b. Administer the antimicrobial prophylactic agent by the intravenous route except for colorectal operations.[202] In colorectal operations the antimicrobial agent is administered orally, or a combination of oral and intravenous route is used. Category IA

c. Administer the antimicrobial agent before the operation starts to assure adequate microbiocidal tissue levels before the skin incision is made, ideally antimicrobial prophylaxis should be administered within 30 minutes before, but not longer than 2 hours before, the initial incision.[69 71 202 203 214] Category IA

d. For cesarean section, administer prophylaxis immediately after the umbilical cord is clamped.[69 70] Category IA

e. Administer prophylactic antimicrobial agent as close as possible to the time of induction of anesthesia. Category II

f. Do not extend prophylaxis postoperatively.[47 71 199 –201] Category IB

g. Consider additional intraoperative doses under the following circumstances: (1) operations whose duration exceeds the estimated serum half-life of the agent, (2) operations with major intraoperative blood loss, and (3) operations on morbidly obese patients.[47 69 71 201 203 216 –218] Category IB

h. Do not routinely use vancomycin for prophylaxis.[204 205] Category IB

4. Intraoperative Issues

4–1. Operating Room Environment

A. Ventilation

a. Maintain positive-pressure ventilation in the operating room with respect to the corridors and adjacent areas.[226] Category IB

b. Maintain a minimum of 15 air changes per hour, of which at least 3 should be fresh air.[226] Category IB

c. Filter all air, recirculated and fresh, through the appropriate filters per the American Institute of Architects recommendations.[226] Category IB

d. Introduce all air at the ceiling and exhaust near the floor.[227 228] Category IB

e. No recommendation for the use of laminar flow ventilation or ultraviolet lights in the operating room to prevent SSI.[87 225 232 –237] Unresolved issue

f. Keep operating room doors closed except as needed for passage of equipment, personnel, and the patient.[219] Category IB

g. Limit the number of personnel entering the operating room to necessary personnel.[219] Category IB

B. Cleaning and Disinfection of Environmental Surfaces

a. No recommendation on disinfecting operating rooms between operations in the absence of visible soiling of surfaces or equipment. Unresolved issue

b. When visible soiling or contamination, with blood or other body fluids, of surfaces or equipment occurs during an operation, use an EPA-approved hospital disinfectant to clean the affected areas before the next operation.[31 154 227 –229 238 –240] Category IB*

c. Wet vacuum the operating room floor after the last operation of the day or night with an EPA-approved hospital disinfectant.[154] Category IB

d. Do not perform special cleaning or disinfection of operating rooms after contaminated or dirty operations.[227 228] Category IA

e. Do not use tacky mats at the entrance to the operating room suite for infection control; this is not proven to decrease SSI risk.[1 18 219 228] Category 1A

C. Microbiologic Sampling

Do not perform routine environmental sampling of the operating room. Perform microbiologic sampling of operating room environmental surfaces or air only as part of an epidemiologic investigation. Category IB

D. Sterilization of Surgical Instruments

a. Sterilize all surgical instruments according to published guidelines.[154 226 239 245] Category IB

b. Perform flash sterilization only in emergency situations.[239 244 –246] Category IB

c. Do not use flash sterilization for routine reprocessing of surgical instruments. Category IB

4–2. Surgical Attire and Drapes

a. No recommendations on how or where to launder scrub suits, on restricting use of scrub suits to the operating suite or for covering scrub suits when out of the operating suite.[154 277] Unresolved issue

b. Change scrub suits when visibly soiled, contaminated and/or penetrated by blood or other potentially infectious materials.[154 240] Category IB *

c. Wear a surgical mask that fully covers the mouth and nose when entering the operating room if sterile instruments are exposed, or if an operation is about to begin or already under way. Wear the mask throughout the entire operation.[154 240] Category IB *

d. Wear a cap or hood to fully cover hair on the head and face when entering the operating room suite.[154 240 248 261] Category IB *

e. Do not wear shoe covers for the prevention of SSI.[262 263] Category IA

f. Wear shoe covers when gross contamination can reasonable be anticipated.[240] Category II *

g. The surgical team must wear sterile gloves, which are put on after donning a sterile gown.[240 264–266] Category IB *

h. Use materials for surgical gowns and drapes that are effective barriers when wet.[1 154 169 277] Category IB

4–3. Practice of Anesthesiology

Anesthesia team members must adhere to recommended infection control practices during operations.[154 279–281] Category IA

4–4. Surgical Technique

a. Handle tissue gently, maintain effective hemostasis, minimize devitalized tissue and foreign bodies (i.e., sutures, charred tissues, necrotic debris), and eradicate dead space at the surgical site.[18 19 31 32] Category IB

b. Use delayed primary closure or leave incision open to close by secondary intention, if the surgical site is heavily contaminated (e.g., Class III and Class IV). Category IB

c. If drainage is deemed necessary, use a closed suction drain. Place the drain through a separate incision, rather than the main surgical incision. Remove the drain as soon as possible.[312 313] Category IB

5. Postoperative Surgical Incision Care

a. Protect an incision closed primarily with a sterile dressing for 24–48 hours postoperatively. Also ensure that the dressing remains dry and that it is not removed bathing.[315 316] Category IA

b. No recommendation on whether or not to cover an incision closed primarily beyond 48 hours, nor on the appropriate time to shower/bathe with an uncovered incision. Unresolved Issue

c. Wash hands with an antiseptic agent before and after dressing changes, or any contact with the surgical site. Category IA

d. For incisions left open postoperatively, no recommendation for dressing changes using a sterile technique vs. clean technique. Unresolved Issue

e. Educate the patient and family using a coordinated team approach on how to perform proper incision care, identify signs and symptoms of infection, and where to report any signs and symptoms of infection. Category II

6. Surveillance

a. Use CDC definitions of SSI [16] without modification for identifying SSI among surgical inpatients and outpatients. Category IB

b. For inpatient case-finding, use direct prospective observation, indirect prospective detection, or a combination of both direct and indirect methods for the duration of the patient's hospitalization, and include a method of postdischarge surveillance that accommodates available resources and data needs. Category IB

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*Federal regulation—Occupational Safety and Health Administration

c. For outpatient case-finding, use a method that accommodates available resources and data needs. Category IB

d. For each patient undergoing an operation chosen for surveillance, record those variables shown to be associated with increased SSI risk (e.g., surgical wound class, ASA class, and duration of operation). Category IB

e. Upon completion of the operation, a surgical team member assigns the surgical wound classification. Category IB

f. Periodically calculate operation-specific SSI rates stratified by variables shown to be predictive of SSI risk. Category IB

g. Report appropriately stratified, operation-specific SSI rates to surgical team members. The optimum frequency and format for such rate computations will be determined by stratified case-load sizes and the objectives of local, continuous, quality improvement initiatives. Category IB

h. No recommendation to make available to the infection control committee coded surgeon-specific data. Unresolved issue

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Appendix

Figure1. Schematic of abdominal wall in cross section depicting appropriate surgical site infection classification.

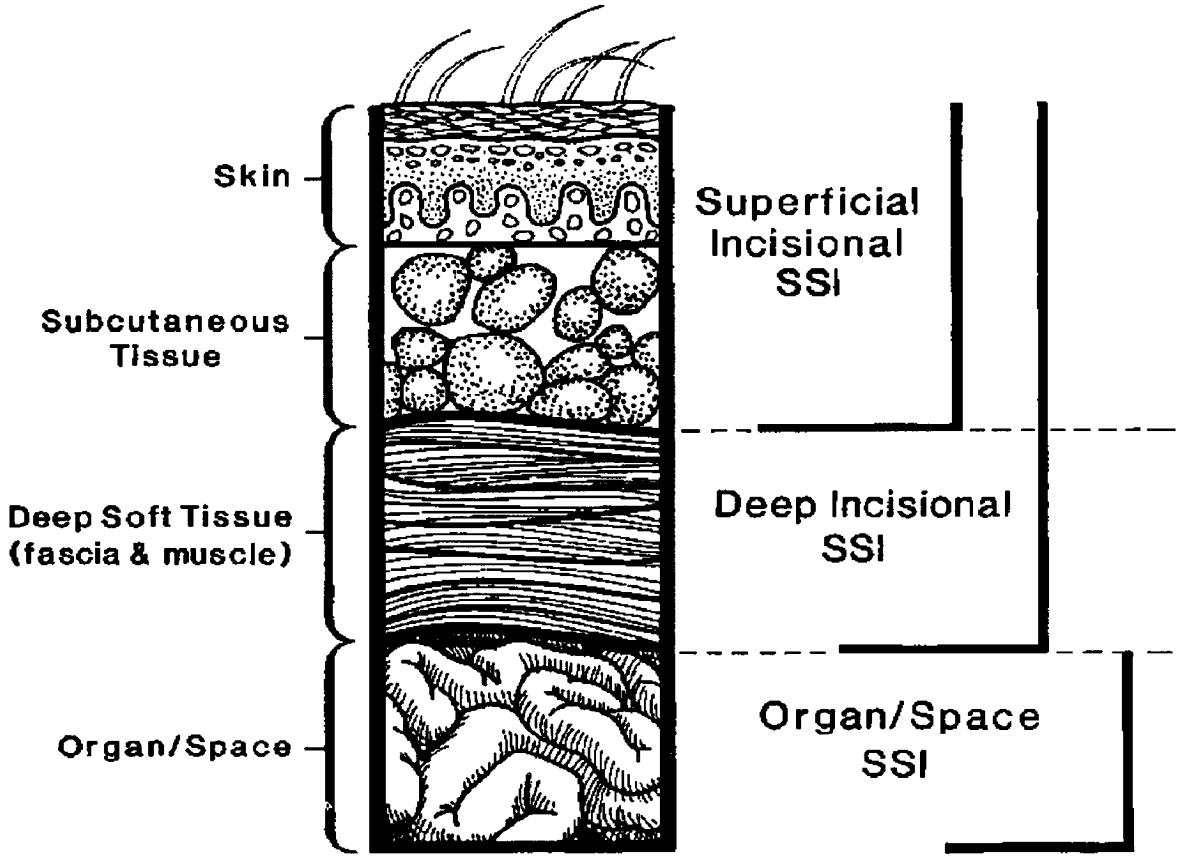

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TABLE 1.—CRITERIA FOR DEFINING SURGICAL SITE INFECTION (SSI).[16]

SUPERFICIAL INCISIONAL SSI

Infection occurs within 30 days after the operation *and* infection involves only skin or subcutaneous tissue of the incision *and* at least *one* of the following:

1. Purulent drainage, with or without laboratory confirmation, from the superficial incision.
2. Organisms isolated from an aseptically obtained culture of fluid or tissue from the superficial incision.
3. At least one of the following signs or symptoms of infection: pain or tenderness, localized swelling, redness, or heat *and* superficial incision is deliberately opened by surgeon, *unless* incision is culture-negative.
4. Diagnosis of superficial incisional SSI by the surgeon or attending physician.

Do *not* report the following conditions as SSI:

1. Stitch abscess (minimal inflammation and discharge confined to the points of suture penetration).
2. Infection of an episiotomy or newborn circumcision site.[3]
3. Infected burn wound.[3]
4. Incisional SSI that extends into the fascial and muscle layers (see deep incisional SSI).

DEEP INCISIONAL SSI

Infection occurs within 30 days after the operation if no implant[4] is left in place or within 1 year if implant is in place and the infection appears to be related to the operation *and*

Infection involves deep soft tissues (e.g., fascial and muscle layers) of the incision *and* at least *one* of the following:

1. Purulent drainage from the deep incision but not from the organ/space component of the surgical site.
2. A deep incision spontaneously dehisces or is deliberately opened by a surgeon when the patient has at least one of the following signs or symptoms: fever (>38°C), localized pain, or tenderness, unless site is culture negative.
3. An abscess or other evidence of infection involving the deep incision is found on direct examination, during reoperation, or by histopathologic or radiologic examination.
4. Diagnosis of a deep incisional SSI by a surgeon or attending physician.

Notes:

1. Report infection that involves both superficial and deep incision sites as deep incisional SSI.
2. Report an organ/space SSI that drains through the incision as a deep incisional SSI.

ORGAN/SPACE SSI

Infection occurs within 30 days after the operation if no implant is left in place or within 1 year if implant is in place and the infection appears to be related to the operation *and*

Infection involves any part of the anatomy (e.g., organs or spaces), other than the incision, that was opened or manipulated during the operative procedure *and* at least *one* of the following:

1. Purulent drainage from a drain that is placed through a stab wound[5] into the organ/space.
2. Organisms isolated from an aseptically obtained culture of fluid or tissue in the organ/space.
3. An abscess or other evidence of infection involving the organ/space that is found on direct examination, during reoperation, or by histopathologic or radiologic examination.
4. Diagnosis of an organ/space SSI by a surgeon or attending physician.

[3] Specific criteria are used for infected episiotomy and circumcision sites and burn wounds.
[4] NNIS definition—A nonhuman-derived implantable foreign body (e.g., prosthetic heart valve, nonhuman vascular graft, mechanical heart, or hip prosthesis) that is permanently placed in a patient during surgery.
[5] If the area around a stab wound becomes infected, it is not an SSI[1]. It is considered a skin or soft tissue infection, depending on its depth.

TABLE 2.—SPECIFIC SITES OF ORGAN/SPACE SURGICAL SITE INFECTION[16]

Arterial or venous infection
Breast abscess or mastitis
Disc space
Ear, mastoid
Endocarditis
Endometritis
Eye, other than conjunctivitis
Gastrointestinal tract

TABLE 2.—SPECIFIC SITES OF ORGAN/SPACE SURGICAL SITE INFECTION[16]—Continued

Intraabdominal, not specified elsewhere
Intracranial, brain abscess or dura
Joint or bursa
Mediastinitis
Meningitis or ventriculitis
Myocarditis or pericarditis
Oral cavity (mouth, tongue, or gums)
Osteomyelitis

TABLE 2.—SPECIFIC SITES OF ORGAN/SPACE SURGICAL SITE INFECTION[16]—Continued

Other infections of the lower respiratory tract (e.g., abscess or empyema)
Other male or female reproductive tract
Sinusitis
Spinal abscess without meningitis
Upper respiratory tract, pharyngitis
Vaginal cuff

TABLE 3.—DISTRIBUTION OF PATHOGENS ISOLATED * FROM SURGICAL SITE INFECTIONS, NATIONAL NOSOCOMIAL INFECTIONS SURVEILLANCE SYSTEM, 1986–1996.[6 18 19]

	Percent of isolates	
	1986–1989	1990–1996
Pathogen	(N=16,727)	(N=17,671)
Staphylococcus aureus	17	20
Coagulase-negative staphylococci	12	14
Escherichia coli	10	8
Enterococcus spp.	8	12

TABLE 3.—DISTRIBUTION OF PATHOGENS ISOLATED * FROM SURGICAL SITE INFECTIONS, NATIONAL NOSOCOMIAL INFECTIONS SURVEILLANCE SYSTEM, 1986–1996.[6 18 19]—Continued

	Percent of isolates	
	1986–1989	1990–1996
Pseudomonas aeruginosa	8	8
Enterobacter spp.	8	7
Proteus mirabilis	4	3
Klebsiella pneumoniae	3	3
Other Streptococcus spp.	3	3
Candida albicans	2	3
Group D streptococci		2
Other gram-positive aerobes		2
Bacteroides fragilis		2

* Pathogens representing less than 2% of isolates are excluded.

TABLE 4.—FACTORS THAT INFLUENCE SURGICAL SITE INFECTION RISK

INTRINSIC—Patient-Related Risk Factors
- Age
- Nutritional status
- Diabetes
- Smoking
- Obesity
- Remote infections
- Endogenous mucosal microorganisms
- Altered immune response
- Preoperative stay—severity of illness

EXTRINSIC—Operation-Related Risk Factors
- Duration of surgical scrub
- Skin antisepsis
- Preoperative shaving
- Preoperative skin prep
- Surgical attire
- Sterile draping
- Duration of operation
- Antimicrobial prophylaxis
- Ventilation
- Sterilization of instruments
- Wound class
- Foreign material
- Surgical drains
- Exogenous microorganisms
- Surgical technique
  - Poor hemostasis
  - Failure to obliterate dead space
  - Tissue trauma

This table has been adopted from references.[17 and 29]

TABLE 5.—MECHANISM AND SPECTRUM OF ACTIVITY FOR COMMONLY USED ANTISEPTICS FOR PREOPERATIVE SKIN PREPARATION AND SURGICAL SCRUBS.[123]

Agent	Mechanism of action	Gram-positive bacteria *	Gram-negative bacteria *	*Mycobacterium tuberculosis* *	Fungi *	Virus *	Rapidity of action	Residual activity *	Toxicity
Alcohol	Denature proteins	E	E	G	G	G	Most rapid	None	Drying, volatile.
Chlorhexidine	Disrupt cell wall	E	G	P	F	G	Intermediate	E	Ototoxicity, Keratitis.
Iodine/Iodophors	Oxidation/substitution by free iodine.	E	G	G	G	G	Intermediate	Minimal	Absorption from skin with possible toxicity, skin irritation.
** PCMX	Disrupt cell wall	G	F	F	F	F	Intermediate	Good	More data needed.
Triclosan	Disrupt cell wall	G	G†	G	P	U	Intermediate	E	More data needed.

** Para-chloro-meta-xylenol
† Good except for Pseudomonas
* E—excellent. G—good. F—fair. P—poor. U—unknown.

TABLE 6.—OPERATIONS, LIKELY SURGICAL SITE INFECTION PATHOGENS, AND REFERENCES REGARDING USAGE OF ANTIMICROBIAL PROPHYLAXIS

Operations	Likely pathogens
Clean—Class I	Endogenous and Exogenous
Placement of all grafts, prostheses, or implants [47 69 197 202 203]	*S. aureus, S. epidermidis.*
Cardiac [190 192–194 205]	*S. aureus, S. epidermidis.*
Neurosurgery [170–174 394 395]	*S. aureus, S. epidermidis.*
If approach through nasopharynx or transphenoid sinus are Class II.	
Ophthalmology [396 397]	*S. aureus; S. epidermidis;* streptococci; enteric, gram-negative bacilli.
—Limited data.	
—However, commonly used in procedures such as anterior segment resection, vitrectomy, and scleral buckles.	

TABLE 6.—OPERATIONS, LIKELY SURGICAL SITE INFECTION PATHOGENS, AND REFERENCES REGARDING USAGE OF ANTIMICROBIAL PROPHYLAXIS—Continued

Operations	Likely pathogens
Orthopedic [57 69 175–180 398–404]	*S. aureus, S. epidermidis.*
—Total joint replacement.	
—Closed fractures/use of nails, bone plates, other internal fixation devices.	
—Functional repair without implant/device.	
—Trauma	
Pulmonary (noncardiac thoracic) [188 191 405 406]	*S. aureus; S. epidermidis; Streptococcus pneumoniae;* enteric, gram-negative bacilli.
—Thoracic (lobectomy, pneumonectomy, wedge resection, other non-cardiac mediastinal procedures)	
—Closed tube thoracostomy	
Vascular [69 189 197 205 407 408]	*S. aureus, S. epidermidis.*
Clean—Contaminated—Class II *	
Appendectomy [185 409 410]	Enteric, gram-negative bacilli, anaerobes.
Biliary (cholecystectomy) [186 187 411–416]	Enteric, gram-negative bacilli, anaerobes.
—For high risk (e.g., age >65, jaundice, acute cholecystitis, choledocholithiasis, or prior biliary surgery) and low-risk patients.	
Colorectal	Enteric, gram-negative bacilli, anaerobes.
—Oral. [71 181 182 184 202 206–213]	
—Oral and IV. [184 211 417–419]	
Gastroduodenal [183 184 420–422]	Enteric, gram-negative bacilli, enterococci.
Head and neck (major procedures with incision through oral or pharyngeal mucosa [423–426].	*S. aureus,* streptococci, oral anaerobes (e.g., peptostreptococci).
Obstetric and gynecologic [159–168 203 364]	Enteric, gram-negative bacilli; enterococci; group B streptococci; anaerobes.
—Cesarean section.	
Low risk and high risk (high risk = prolonged rupture of membranes, no prenatal care, multiple vaginal examines, emergency cesarean, frequent invasive monitoring).	
—Hysterectomy.	
Vaginal and abdominal	
Urology—prostate [68 69 198 203]	*Escherichia coli, Klebsiella spp. Pseudomonas.*
May not be beneficial if urine is sterile.	
Exploratory laparotomy.	Aerobic coliforms Bacteroides fragilis and other anaerobes.
Penetrating abdominal trauma. [193 338 339 427 428]	

* Staphylococci will cause a certain amount of infections in all procedures.

TABLE 7.—DEPARTMENT OF HEALTH AND HUMAN SERVICES' PARAMETERS FOR OPERATING ROOM VENTILATION, AMERICAN INSTITUTE OF ARCHITECTS, 1996.[226]

Normal temperature	68–73°F depending on normal ambient temperatures.
Relative humidity	30%–60%.
Air movement	Out ''clean to less clean'' areas.
Air Changes	Minimum 15 total air changes per hour.
	Minimum 3 air changes of outdoor air per hour.

TABLE 8.—ASSOCIATION FOR THE ADVANCEMENT OF MEDICAL INSTRUMENTS FLASH STERILIZATION CYCLE PARAMETERS.[245]

Gravity-displacement cycles	*Minimum exposure time and temperature*
Porous and nonporous items	Nonporous items—3 min at 132°C (270°F)
	Nonporous and porous items—10 min at 132°C (270°F)
Prevacuum cycles	*Minimum exposure time and temperature*
Porous and nonporous items	Nonporous items (270°F)—3 min at 132°C
	Nonporous and porous items (270°F)—4 min at 132°C

TABLE 9.—SURGICAL WOUND CLASSIFICATION.[1 2]

Class I/Clean: An uninfected operative wound in which no inflammation is encountered and the respiratory, alimentary, genital, or uninfected urinary tract is not entered. In addition, clean wounds are primarily closed and, if necessary, drained with closed drainage. Operative incisional wounds that follow nonpenetrating (blunt) trauma should be included in this category if they meet the criteria.

Class II/Clean-Contaminated: An operative wound in which the respiratory, alimentary, genital, or urinary tracts are entered under controlled conditions and without unusual contamination. Specifically, operations involving the biliary tract, appendix, vagina, and oropharynx are included in this category, provided no evidence of infection or major break in technique is encountered.

Class III/Contaminated: Open, fresh, accidental wounds. In addition, operations with major breaks in sterile technique (e.g., open cardiac massage) or gross spillage from the gastrointestinal tract, and incisions in which acute, nonpurulent inflammation is encountered are included in this category.

Class IV/Dirty-Infected: Old traumatic wounds with retained devitalized tissue and those that involve existing clinical infection or perforated viscera. This definition suggests that the organisms causing postoperative infection were present in the operative field before the operation.

TABLE 10.—AMERICAN SOCIETY OF ANESTHESIOLOGISTS' (ASA) PHYSICAL STATUS CLASSIFICATION

Code	Patient's preoperative physical status
1	Normally healthy patient.
2	Patient with mild systemic disease.
3	Patient with severe systemic disease that is not incapacitating.
4	Patient with an incapacitating systemic disease that is a constant threat to life.
5	Moribund patient who is not expected to survive for 24 hours with or without operation.

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Federal Register

Wednesday
June 17, 1998

Part IV

Department of Transportation

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Final Rule

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 98–3949]

RIN 2127–AG58

Federal Motor Vehicle Safety Standards

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

ACTION: Final rule.

SUMMARY: This final rule responds to a growing public interest in using golf cars [1] and other similar-sized, 4-wheeled vehicles to make short trips for shopping, social and recreational purposes primarily within retirement or other planned communities with golf courses. These passenger-carrying vehicles, although low-speed, offer a variety of advantages, including comparatively low-cost and energy-efficient mobility. Further, many of these vehicles are electric-powered. The use of these vehicles, instead of larger, gasoline-powered vehicles like passenger cars, provides quieter transportation that does not pollute the air of the communities in which they are operated.

Currently, there is a growing conflict between state and local laws, on the one hand, and Federal law, on the other, in the treatment of these small vehicles. That conflict unnecessarily restricts the ability of vehicle manufacturers to produce and sell, and the ability of consumers to purchase, these vehicles. In recent years, a growing number of states from California to Florida have passed legislation authorizing their local jurisdictions to permit general on-road use of ''golf carts,'' subject to speed and/or operational limitations. A majority of those states condition such broad use upon the vehicles' having specified safety equipment. Further, some of these states have opened the way for the use of vehicles that are faster than almost all golf cars. Most conventional golf cars, as originally manufactured, have a top speed of less than 15 miles per hour. These states have either redefined ''golf carts'' to include vehicles designed to achieve up to 25 miles per hour or have established a new class of vehicles, ''neighborhood electric vehicles,'' also defined as capable of achieving 25 miles per hour.

Under current NHTSA interpretations and regulations, so long as golf cars and other similar vehicles are incapable of exceeding 20 miles per hour, they are subject to only state and local requirements regarding safety equipment. However, if these vehicles are originally manufactured so that they can go faster than 20 miles per hour, they are treated as motor vehicles under Federal law. Similarly, if golf cars are modified after original manufacture so that they can achieve 20 or more miles per hour, they too are treated as motor vehicles. Further, as motor vehicles, they are currently classified as passenger cars and must comply with the Federal motor vehicle safety standards for that vehicle type. This creates a conflict with the state and local laws because compliance with the full range of those standards is not feasible for these small vehicles.

To resolve this conflict, and to permit the manufacture and sale of small, 4-wheeled motor vehicles with top speeds of 20 to 25 miles per hour, this final rule reclassifies these small passenger-carrying vehicles. Instead of being classified as passenger cars, they are now being classified as ''low-speed vehicles.'' Since conventional golf cars, as presently manufactured, have a top speed of less than 20 miles per hour, they are not included in that classification.

As low-speed vehicles, these 20 to 25 mile-per-hour vehicles are subject to a new Federal Motor Vehicle Safety Standard No. 500 (49 CFR 571.500) established by this final rule. The agency notes that the growing on-road use of golf cars has already resulted in some deaths and serious injuries, and believes that the new standard is needed to address the effects in crashes of the higher speed of low-speed vehicles. The standard requires low-speed vehicles to be equipped with headlamps, stop lamps, turn signal lamps, taillamps, reflex reflectors, parking brakes, rearview mirrors, windshields, seat belts, and vehicle identification numbers. The agency believes that these requirements appropriately address the safety of low-speed vehicle occupants and other roadway users, given the sub-25 mph speed capability of these vehicles and the controlled environments in which they operate.

This rulemaking proceeding was initiated in response to a request by Bombardier, Inc., that the agency make regulatory changes to permit the introduction of a new class of 4-wheeled, passenger-carrying vehicle that is small, relatively slow-moving, and low-cost.

[1] While many members of the general public use the term ''golf cart,'' the manufacturers of those vehicles use the term ''golf car.'' This final rule uses ''golf car,'' except in those instances in which the other term is used in a quotation.

DATES: The final rule is effective June 17, 1998. Petitions for reconsideration must be filed not later than August 3, 1998.

Incorporation by reference of the materials listed in this document is approved by the Director of the Federal Register and is effective upon publication in the **Federal Register**.

ADDRESSES: Petitions for reconsideration should refer to the Docket number and be submitted to Docket Management, PL–401, 400 7th Street, SW, Washington, DC 20590.

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I. Glossary

Since some of the groups of vehicles discussed in this final rule may be unfamiliar to many readers, the agency has listed and defined them below. In addition, it has shown their relationship to each other in the graph following the list.

''*Sub-25 mph vehicle*'' means any 4-wheeled vehicle whose top speed is not greater than 25 miles per hour. This group includes all of the vehicles in the other groups below, except those speed-modified golf cars whose top speed is greater than 25 miles per hour.

''*Conventional golf car*'' means either a fleet golf car or a personal golf car.

(A) ''*Fleet golf car*'' means a golf car used solely to carry one or more people and golf equipment to play golf. These are sold to golf courses.

(B) ''*Personal golf car*'' means a golf car used to carry one or more people and may carry golf equipment to play golf. These are sold to individual people who may use them to travel on public roads to and from golf courses and to play golf, to travel on public roads on purposes unrelated to golf, or for all of these purposes.

''*Speed-modified golf car*'' means a conventional golf car that was modified, after its original manufacture, so as to increase its speed. While some speed-modified golf cars have a top speed of 20 to 25 miles per hour, others have a higher top speed. That modification may currently be accompanied by the addition of safety equipment required for the on-road use of the golf car.

''*Neighborhood electric vehicle*'' means any 4-wheeled electric vehicle whose top speed is not greater than 25 miles per hour. Some of these vehicles look more like a passenger car than a conventional golf car.

''*Low-speed vehicle*'' means any 4-wheeled motor vehicle whose top speed is greater than 20 miles per hour, but not greater than 25 miles per hour. This group includes neighborhood electric vehicles, and speed-modified golf cars, whose top speed is greater than 20 miles per hour, but not greater than 25 miles per hour.

II. Executive Summary

A. The Final Rule

Since 1966, NHTSA has been directed by the National Traffic and Motor Vehicle Safety Act (''Vehicle Safety Act'') (now codified as 49 U.S.C. Chapter 301) to issue Federal motor vehicle safety standards (FMVSSs) for motor vehicles and to ensure that those standards are appropriate for each class of motor vehicle to which they apply. 49 U.S.C. 30111(a) and (b)(3). As the vehicles within a class evolve in design or use or as the size of a class changes substantially relative to the sizes of other classes, the standards applicable to that class typically must evolve to keep pace with changing safety needs and priorities. For example, the substantial increase in the number of passenger vans and other types of light trucks and multipurpose passenger vehicles (and the increase in the personal use of these vehicles) in the 1980's led the agency to extend the requirements for passenger cars to those classes of vehicles. More recently, the increasing size and prevalence of sport utility vehicles has led the agency to examine the compatibility of those vehicles and smaller vehicles and review the standards applicable to those vehicles. Similarly, the appearance of new vehicles, such as electric vehicles and compressed natural gas vehicles, has made it necessary for the agency to issue new requirements tailored to the particular anticipated safety issues associated with those vehicles.

This rulemaking involves another instance in which the agency is called upon to adjust its standards to reflect changes in the vehicle population. Transportation needs are changing as the number of retirement and other planned communities grow. These communities are particularly numerous in the southern tier or Sunbelt states such as California, Arizona, and Florida.[2] Many residents within these communities do not need or want a conventional motor vehicle like a passenger car to make short trips to visit friends, to run errands, or, if they are golfers, to go to the golf course. They prefer to use a smaller, 4-wheeled vehicle with limited-speed capability, such as a golf car, that is less costly and, if electric, emission free.

For years, a common practice among those relatively few states then permitting on-road use of golf cars was to allow such use only within a specified distance (generally ranging from ½ mile to 2 miles) from a golf course. ''Golf carts'' were defined by several of the states as having a top speed of 15 miles per hour or less.

In recent years, however, a growing number of states from California to Florida have passed legislation eliminating or establishing exceptions to the requirement that the on-road use of golf cars be in the vicinity of a golf course and authorizing their local jurisdictions to permit general on-road use of ''golf carts,'' subject to speed and/or operational limitations.[3] Nine of the 12 states now authorizing general on-road use condition such broader use upon the golf cars' meeting requirements for safety equipment. In all, 16 states[4] now have laws authorizing their local governments to

[2] Some of the better known and most frequently-reported on examples of golf car communities are the City of Palm Desert, California, Sun City and Sun City West, Arizona, Peachtree City, Georgia (golf car operation there is restricted to dedicated paths), and Sun City Center and The Villages of Lady Lake, Florida.

[3] State laws regarding the on-road use of golf cars appear to have gradually evolved in the last 15–20 years, particularly in the last 5 years, so as to expand the extent to which golf cars can be used on public roads. Several distinct stages of evolution are discernible:

- permitting golf car operators to cross public roads cutting through golf course;
- permitting golf cars to be used on roads in vicinity of golf course to make trips to and from golf course within golf community;
- permitting golf car use on roads designated by local governments; and
- permitting use of NEVs and golf cars with top speed of up to 25 miles per hour.

Some states have progressed through several stages in sequence, while others have apparently skipped the first several stages and begun with one of the latter stages.

[4] Twelve states have a law permitting all-purpose trips with potentially broad areas: Arizona, California, Colorado, Florida, Georgia, Illinois (awaiting governor's signature), Iowa, Minnesota, Nevada, New Mexico, Texas, and Wyoming. One state has a law permitting all-purpose trips within vicinity of a person's residence: South Carolina. Three states have a law permitting trips to and from golf course: Arkansas, Oregon and Wisconsin.

permit golf cars either to be used generally on public streets designated by local governments (12 states) or within the vicinity of golf courses or a person's residence (4 states).

Further, three states have changed their laws to reflect the existence of sub-25 mph vehicles that are faster than almost all golf cars. They have either replaced an old statutory provision defining ''golf carts'' as having a top speed up to 15 miles per hour with a new one defining them as having a top speed up to 25 miles per hour[5] or have added a new class of vehicles, ''neighborhood electric vehicles,'' also capable of achieving 25 miles per hour.[6]

In addition to meeting a transportation need of these communities, sub-25 mph vehicles also help them meet some of their environmental goals. These vehicles are energy-efficient. Further, many of them are battery-powered, and thus emission free and quiet. To the extent that emission-free vehicles replace conventional vehicles powered by internal combustion engines, they help state and local officials in meeting ambient air quality standards under the Clean Air Act. For example, the City of Palm Desert, California, estimates that it has achieved an emissions reduction of 16 tons of carbon monoxide annually since implementing its program allowing golf cars to use the public streets. Further, as noted by the Economic Development Department of Arizona Public Service, the state's largest utility company, the use of electric vehicles also produces reductions in emissions of hydrocarbons, nitrogen oxide, and carbon dioxide.

There is currently a Federal regulatory barrier to the manufacture and sale of a segment of the sub-25 mph vehicle group. Under longstanding agency interpretations, vehicles used on public roads are regarded by this agency as ''motor vehicles'' within the meaning of the Vehicle Safety Act if they have a top speed greater than 20 miles per hour. If sub-25 mph passenger-carrying vehicles have a top speed exceeding 20 miles per hour, they are classified in the same manner as much faster and larger motor vehicles (i.e., as passenger cars). Further, they are subject to the same FMVSSs developed to meet the particular safety needs of passenger cars. Since the application of these FMVSSs to these sub-25 mph passenger-carrying vehicles would necessitate the addition of a considerable amount of structure, weight and cost, such application appears to preclude their production and sale. In addition, given the limited-speed capability and relatively controlled operating environments of these vehicles, it does not currently appear necessary from a safety standpoint to design them to meet the full range of passenger car FMVSSs, especially those incorporating dynamic crash requirements.

This rulemaking eliminates the conflict between the state and local laws, on the one hand, and the Federal requirements, on the other, by removing these sub-25 mph vehicles with a top speed range of 20 to 25 miles per hour from the passenger car class of motor vehicles and placing them in a new class subject to its own set of safety requirements.[7] As noted above in the summary section, the new class is called low-speed vehicles (LSV). LSVs include any 4-wheeled vehicle, other than a truck, with a maximum speed greater than 20 miles per hour, but not greater than 25 miles per hour.

There are currently two types of vehicles that will qualify as LSVs. One type is the golf car. All conventional golf cars, as now originally manufactured, have a top speed of less than 20 miles per hour, and thus, do not meet the speed capability threshold for LSVs. However, some conventional golf cars are modified so as to go more than 20 miles per hour. Those speed-modified golf cars whose top speed is between 20 and 25 miles per hour qualify as LSVs. Similarly, there is a very small number of originally manufactured custom golf cars that are not modified conventional golf cars and that have a top speed above 20 miles per hour. Some of them look very much like passenger cars. Those custom golf cars with a top speed between 20 and 25 miles per hour qualify as LSVs.

The other vehicles that will qualify as an LSV are so-called ''Neighborhood Electric Vehicles'' or ''NEVs.'' Current NEVs are bigger and heavier, and have more superstructure than golf cars. Further, as originally manufactured, current NEVs have top speeds of 25 miles per hour. However, like golf cars, they do not have doors, and thus have neither heating systems nor air conditioners.

LSVs will be subject to a new FMVSS, Standard No. 500, *Low-Speed Vehicles*, established by this final rule. This standard is being issued in recognition of the fact that the growing on-road use of golf cars has already resulted in some deaths and serious injuries. The agency has information indicating that there were 16 deaths of golf car occupants on the public roads from 1993 to 1997. The standard's requirements are based primarily upon a regulation that the City of Palm Desert, California, established in 1993 for golf car owners seeking to register their golf cars for use on the city's streets. The new FMVSS requires LSVs to be equipped with basic items of safety equipment: headlamps, stop lamps, turn signal lamps, taillamps, reflex reflectors, parking brake, windshields of either type AS–1 or type AS–5 glazing, rearview mirrors, seat belts and vehicle identification numbers (VINs).

In view of the uncertainty among commenters about compliance responsibilities under Standard No. 500, the agency wants to clarify the responsibilities of each group of interested parties.[8]

• *Manufacturers of conventional golf cars.* Golf car manufacturers have no

[5] For the purpose of statutory provisions relating to golf car transportation plans, California defines a ''golf cart'' as ''a motor vehicle having not less than three wheels in contact with the ground, having an unladen weight less than 1,300 pounds, which is designed to be and is operated at not more than 25 miles per hour and designed to carry golf equipment and not more than two persons, including the driver.'' California Streets & Highways Code § 1951. (For all other purposes, California Vehicle Code § 345 continues to define ''golf carts'' as ''a motor vehicle . . . . which is designed to be and is operated at not more than 15 miles per hour . . . .'') Arizona has a definition similar to § 1951, except that it specifies an unladen weight of less than 1,800 pounds and a capability of carrying not more than four persons, including the driver. A.R.S. § 28–101(22).

[6] Arizona defines a ''neighborhood electric vehicle'' as an emission free motor vehicle with at least 4 wheels in contact with the ground and an unladen vehicle weight of less than 1,800 pounds that is designed to be and is operated at no more than 25 mph and is designed to carry no more than four persons. A.R.S. § 28–101(32). Colorado has a similar term and definition. C.R.S 42–1–102 (60.5).

[7] This action is analogous to the agency's decision in 1968 to regulate small, low-powered motorcycles differently than larger, higher-powered motorcycles. To implement this decision, the agency established a subclass of motorcycles called ''motor-driven cycles.'' NHTSA then determined which of the requirements in the safety standards for the larger, higher-powered motorcycles would be appropriate for application to motor-driven cycles. The agency excluded motor-driven cycles from some requirements, while making them subject to other requirements. By means of this tailoring, the agency effectively balanced its responsibilities to assure that its standards:

• protect the public from unreasonable risk, and

• are practicable and appropriate for the particular vehicle type.

[8] Manufacturers of custom golf cars, dealers and other commercial entities that modify golf cars, and manufacturers of NEVs may wish to obtain a copy of NHTSA regulations (in Title 49 Code of Federal Regulations Parts 400–999 revised as of October 1, 1997, available from a U.S. Government Bookstore). Among other things, these parties will need to obtain a VIN identifier from the Society of Automotive Engineers, as specified in Part 565. They will also have to prepare and affix certification labels in accordance with Part 567 when their low-speed vehicles have been conformed and are ready for sale. Finally, they must file an identification statement that meets the requirements of Part 566 not later than 30 days after beginning manufacture of a low-speed vehicle.

compliance responsibilities so long as they continue their current practice of limiting the top speed of their golf cars, as originally manufactured, to less than 20 miles per hour.

• *Manufacturers of custom golf cars.* Manufacturers of custom golf cars are subject to Standard No. 500 if the top speed of their vehicles is between 20 and 25 miles per hour and to the FMVSSs for passenger cars if their top speed is above 25 miles per hour.

• *Dealers and other commercial entities that modify golf cars.* If dealers and other commercial entities modify conventional golf cars so that their top speed is increased to between 20 and 25 miles per hour, those dealers and entities must conform the modified golf cars to Standard No. 500 and certify their compliance with that standard. This requirement covers all golf cars modified on or after the effective date of Standard No. 500, regardless of when the golf car was originally manufactured.

• *Manufacturers of NEVs.* Any manufacturer of a NEV whose top speed is between 20 and 25 miles per hour must ensure that the vehicle complies with Standard No. 500 and certify its compliance with that standard. This requirement covers all new NEVs manufactured on or after the effective date of Standard No. 500.

In response to concerns expressed by several commenters, NHTSA wishes to address several matters concerning the effect that issuing Standard No. 500 has on state and local laws. First, as noted in the NPRM, this final rule does not alter the ability of states and local governments to decide for themselves whether to permit on-road use of golf cars and LSVs.

Second, state and local governments may supplement Standard No. 500 in some respects. They may do so by requiring the installation of and regulate the performance of safety equipment not required by the standard. However, the states and local governments may not specify performance requirements for the safety equipment that is required by the standard. The agency tentatively decided in the NPRM that LSV manufacturers need not comply with requirements regulating the performance of any items of equipment (except seat belts) required by the standard. Seat belts are required to meet Standard No. 209, *Seat belt assemblies*. The agency is making that decision final in this rule.

Third, the agency notes that the issuance of Standard No. 500 does not require current owners of speed-modified golf cars having a top speed between 20 to 25 miles per hour to retrofit them with the equipment specified in the standard. The decision whether to require retrofitting of golf cars that are already on the road remains in the domain of state and local law.

B. Comparison of Notice of Proposed Rulemaking and Final Rule

NHTSA proposed that the low-speed vehicle standard be designated Standard No. 100. However, since the standard contains both crash avoidance and crashworthiness requirements, NHTSA has decided to adopt a number for the new standard that is outside both the 100 series of standards and the 200 series of standards. The new standard will be known as Standard No. 500, *Low-speed vehicles*, 49 CFR 571.500.

This final rule adopts, in most other respects, the standard as it appeared in the agency's January 8, 1997 notice of proposed rulemaking (NPRM) (62 FR 1077). It requires all the proposed safety equipment, except the warning label, and, as requested by some commenters, adds a requirement for a VIN. In response to comments regarding the need for requiring means of enhancing rear conspicuity beyond that provided by the proposed taillamps and stop lamps, the agency has added a requirement for a rear reflex reflector to help following drivers detect the presence of a parked or stopped LSV at night. In response to a request of the National Golf Car Manufacturers Association (NGCMA) that manufacturers be allowed to install polycarbonate windshields, the final rule permits a choice between either AS–5 polycarbonate glazing or AS–1 safety glass for LSV windshields.[9] In addition, to provide a means for determining whether a vehicle's speed qualifies it as a LSV, the agency has added a test procedure for determining maximum vehicle speed. The procedure is based largely on the maximum speed test procedure in the industry standard for golf cars,[10] and on provisions in American Society for Testing and Materials standards regarding determination of pavement friction.

The final rule differs from the proposal in one other important respect. The standard has been amended so that it applies to a narrower population of vehicles. Before the issuance of the proposal, NGCMA represented that: (1) Its members[11] do not manufacture any golf cars for use on the public roads; (2) the industry standard for all golf cars used exclusively on golf courses specifies a maximum speed of 15 miles per hour; and (3) its members fully meet the industry standard.[12] Also, at a public meeting held by the agency on July 25, 1996, NGCMA asked the agency to mandate speed limits not to exceed 15 miles per hour for golf cars on public roads.

Based on this information and request from NGCMA, it appeared to NHTSA that 15 miles per hour was the appropriate dividing line not only between golf cars manufactured for golf course use and those manufactured for both on-road use and golf course use, but also between conventional golf cars and speed-modified golf cars.[13] The agency tentatively concluded that if a golf car manufacturer produced golf cars with a top speed capability above the industry standard, i.e., above 15 miles per hour, that the ''manufacturer must intend its vehicles to be used on public roads as well as one golf courses.'' (62 FR 1082) Accordingly, the agency drafted the proposal to cover vehicles with a maximum speed capability greater than 15 miles per hour, but not greater than 25 miles per hour. Based on what it had been told by NGCMA, the agency believed that its proposal would affect virtually no conventional golf cars, as originally manufactured.

Since the NPRM, NHTSA has obtained new information from NGCMA. In response to a May 1998 inquiry by the agency, NGCMA said that 1 percent of Club Car's fleet golf cars, and 75 percent of its personal golf cars, have a top speed between 15 and 20 miles per hour.[14] Thus, contrary to the agency's expectation, the proposal would have applied to a significant minority of Club Car's golf cars.

Based on this new information, the agency has decided to limit the application of Standard No. 500 to vehicles whose top speed is between 20 and 25 miles per hour. This decision

[9] Those types of glazing are defined in the American National Standard Institute's ''Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways'' Z26.1–1977, January 26, 1977, as ssupplemented by Z26.1a, July 3, 1980.

[10] ANSI/NGCMA Z130.1–1993, ''American National Standard for Golf Cars—Safety and Performance Requirements.''

[11] NGCMA represents the original equipment manufacturers of 95 percent of all golf cars manufactured and distributed in the United States. Its four largest members, in terms of golf car production, are E–Z–GO, Club Car, Yamaha, and Melex.

[12] The golf car industry indicated at NHTSA's July 25, 1996 public meeting that its members adhere to the standard ''100 percent.''

[13] The agency noted that there was one model of golf car whose top speed, as originally manufactured, reportedly exceeded 15 miles per hour. No information relating to the production volume of that model was available at that time.

[14] NGCMA confirmed that E–Z–GO, Yamaha, and Melex do not produce any golf cars whose top speed exceeds 15 miles per hour.

carries out the agency's original intention of excluding virtually all conventional golf cars, as originally manufactured, from the standard.

The agency also believes that 20 miles per hour is a better dividing line between vehicles designed for use on the golf course and vehicles designed for on-road use. The conventional golf cars with a top speed between 15 and 20 miles per hour have a body and understructure very similar to that of conventional golf cars with a top speed less than 15 miles per hour. Further, while the speed differential between those two groups of golf cars creates a significant difference in their potential crash energy, the energy in the 15 to 20 mile-per-hour range is still modest compared to that of LSVs.[15] According to NGCMA, golf cars with a top speed of less than 15 miles per hour typically have a top speed of about 12 miles per hour. Those with a top speed between 15 and 20 miles per hour are believed by the agency to have a top speed of approximately 17 to 18 miles per hour.

The practical safety effects of raising the speed threshold do not appear to be extensive. Data obtained since the NPRM regarding the limited number of fatalities associated with on-road use of conventional golf cars indicate that the state and local governments are adequately providing for the safety of on-road users of those golf cars.

However, NHTSA concludes that Federal action is needed to address the safety problems that the agency anticipates will be associated with vehicles whose top speed is between 20 and 25 miles per hour. The speed differential between those vehicles and the great bulk of golf cars whose top speed is less than 15 miles per hour is as much as 12 miles per hour, while the speed differential between golf cars whose top speed is between 15 and 20 miles per hour and slower golf cars is about half that, i.e., 5–6 miles per hour. The crash forces that 20 to 25 mile-per-hour vehicles will experience are significantly greater than those for 15 to 20 mile-per-hour golf cars and much greater than those for sub-15 mile-per-hour golf cars. Those greater forces make it necessary to require that LSVs be equipped with more safety features than the states and their local jurisdictions currently require for conventional golf cars used on-road. Most important, it makes it necessary to require seats belts. Seat belts can prevent LSV occupants from falling out during abrupt maneuvers and prevent or reduce their ejection during crashes.

Finally, vehicles with ''work performing equipment'' (i.e., certain trucks) would have been LSVs under the proposal, although not required to meet Standard No. 500. Under the final rule, these vehicles are no longer included LSVs and must continue to meet truck FMVSSs. This change is consistent with the rationale of this rulemaking, which is to eliminate a regulatory conflict involving passenger-carrying vehicles. Further, NHTSA concludes that the truck FMVSSs remain appropriate for trucks with a speed capability between 20 and 25 miles per hour and that these standards have not inhibited their introduction in the past.

III. Background

A. Introduction; Sub–25 MPH Vehicles and the Traditional Interpretation of ''Motor Vehicles''

Title 49 U.S.C. Chapter 301 grants NHTSA regulatory authority over ''motor vehicles.'' All ''motor vehicles'' are subject to the Federal motor vehicle safety standards promulgated by NHTSA pursuant to 49 U.S.C. 30111, and to the notification and remedy provisions of 49 U.S.C. 30118–30121. A ''motor vehicle'' is a vehicle ''manufactured primarily for use on the public streets, roads, and highways'' 49 U.S.C. 30102(a)(6). The agency's interpretations of this term have centered around the meaning of the word ''primarily.'' The agency has generally interpreted the term to mean that a significant portion of a vehicle's use must be on the public roads in order for the vehicle to be considered to be a motor vehicle.

NHTSA's principal interpretation of the definition of ''motor vehicle'' dates from 1969, and addressed the status of mini-bikes. NHTSA said that it would initially defer to the manufacturer's judgment that a vehicle was not a ''motor vehicle.'' However, the agency said, the decision and subjective state of mind of the manufacturer ''* * * cannot be conclusive * * *.'' NHTSA said that to resolve the question of whether a particular vehicle is a motor vehicle, it would

> invoke the familiar principle that the purpose for which an act, such as the production of a vehicle, is undertaken may be discerned from the actor's conduct in the light of the surrounding circumstances. Thus, if a vehicle is operationally capable of being used on public thoroughfares, and if in fact, a substantial proportion of the consumer public actually uses [it] in that way, it is a ''motor vehicle'' without regard to the manufacturer's intent, however manifested. In such a case, it would be incumbent upon a manufacturer of such a vehicle either to alter the vehicle's design, configuration, and equipment to render it unsuitable for on-road use or, by compliance with applicable motor vehicle safety standards, to render the vehicle safe for use on public streets, roads, and highways.

(October 3, 1969; 34 F.R. 15147)

To resolve borderline cases, NHTSA set forth criteria that it said it would employ in determining whether a particular vehicle is a ''motor vehicle.'' The agency stated:

> [p]erhaps the most important of these [criteria] is whether state and local laws permit the vehicle in question to be used and registered for use on public highways. The nature of the manufacturer's promotional and marketing activities is also evidence of the use for which the vehicle is manufactured.

Noting the comparative rarity of mini-bike use on public streets, and that the registration of mini-bikes for use on public streets was precluded by laws of most jurisdictions unless they were equipped with Standard No.108-type lighting devices, NHTSA said it would not consider mini-bikes to be ''motor vehicles'' if their manufacturers met the following criteria:

> (1) Do not equip them with devices and accessories that render them lawful for use and registration for use on public highways under state and local laws;
> (2) Do not otherwise participate or assist in making the vehicles lawful for operation on public roads (as by furnishing certificates of origin or other title document, unless those documents contain a statement that the vehicle was not manufactured for use on public streets, roads, or highways);
> (3) Do not advertise or promote them as vehicles suitable for use on public roads;
> (4) Do not generally market them through retail dealers of motor vehicles; and
> (5) Affix to the mini-bikes a notice stating in substance that the vehicles were not manufactured for use on public streets, roads, or highways and warning operators against such use.

The agency's interpretations since 1969 have added new elements to the mini-bike criteria for determining whether vehicles capable of on-road use are ''motor vehicles.'' The most important exclude vehicles that have ''abnormal'' configurations and a top speed of 20 miles per hour or less. As an example, NHTSA informed Trans2 Corporation in 1994 that its ''low-speed electric vehicle'' intended for use in residential communities, university campuses, and industrial complexes was not a ''motor vehicle'' because it had a top speed of 20 mph and unusual body features that made it readily distinguishable from ''motor vehicles.'' These features included an oval-shaped passenger compartment, taillamps built into headrests, and a configuration the

[15] The potential crash energy of a vehicle increases at a greater rate than increases in the vehicle's speed. This is because an object's acceleration (or deceleration) equals the mass of the object times the velocity squared.

approximate size and height of a golf cart. On the other hand, in 1995, NHTSA informed Goodlife Motors Corporation that its ''super golf car'' was a motor vehicle because it had a top speed of 29 mph and its configuration resembled that of a prototype Volkswagen passenger car.

B. 1996 Request for Regulatory Relief

In the spring of 1996, Bombardier, Inc., asked NHTSA to make regulatory changes to permit the introduction of a new class of 4-wheeled vehicle that is small, relatively slow-moving, and low-cost. The company had identified retirement communities in the Sunbelt states as likely prospects for a NEV that it was developing. Bombardier's NEV is a two-passenger vehicle, closed at the top but open at the sides, intended for use on city streets at speeds up to 25 miles per hour. It looks very much like a very small passenger car. The Bombardier NEV will be available with a ''low speed golf mode'' option that reduces the vehicle's maximum speed to 15 miles per hour when the ignition key is turned from ''D''(rive) to ''G''(olf). However, because Bombardier's NEV would have been classified as a passenger car under the agency's existing interpretations and regulations and because its NEV could not meet the FMVSSs for passenger cars, Bombardier could not offer its small vehicle for sale in the United States.

Accordingly, Bombardier asked the agency to change its longstanding interpretations of what constitutes a motor vehicle as they apply to 4-wheeled vehicles. Under those interpretations, vehicles that were used on-road, but that had a distinctive configuration setting them apart from the normal traffic flow and that were not capable of exceeding 20 miles per hour, were not regarded as motor vehicles. The company asked that the maximum speed threshold used in the agency's interpretations be increased from 20 miles to 25 miles per hour. Bombardier stated that limiting the top speed of its NEV to 20 miles per hour would compromise the ability of the NEV to maneuver in traffic on public streets where it would be operating in a mix with larger and faster vehicles, and limit the marketability of the NEV. Accordingly, it sought a revision of the NHTSA interpretation instead.

C. Pre-rulemaking Study and 1996 Public Meetings

Since the use of sub-25 mph vehicles on public roads was a relatively new phenomenon, NHTSA took special steps to acquire information regarding such use. First, the agency commenced a survey of state laws regarding the use of golf cars on public roads. NHTSA found that the statutes of various states, e.g., California, Arizona, and Florida, gave local governments the authority to allow the use of ''golf carts'' on public streets. California has authorized all of its cities and counties to establish a Golf Cart Transportation Plan area in which golf carts are permitted to operate on ''golf cart lanes,'' defined as ''roadways * * * shared with pedestrians, bicyclists, and other motorists in the plan area.'' Each plan must include minimum design criteria for safety features on golf carts as well. Arizona provides for registration of both NEVs and golf cars, each of which is defined as a vehicle with a maximum speed of not more than 25 miles per hour, and forbids NEVs from being driven on public roads with posted speed limits higher than 35 miles per hour. Florida has no speed restrictions for golf cars, but requires them to be equipped with ''efficient brakes, reliable steering apparatus, safe tires, a rearview mirror, and red reflectorized warning devices in both the front and rear.'' That state permits operation of golf cars on county roads which have been designated by a county for use by golf cars, or on city streets which have been so designated by a city. Golf cars cannot be operated during the hours between sunset and sunrise under California and Florida law, except that local entities may allow nighttime use of golf cars equipped with headlamps, taillamps and stop lamps.

NHTSA decided to study the California statutes in detail because that state appeared to have the most extensive requirements concerning the on-road safety of golf cars. In 1992, California amended its Streets and Highway Code (''CSHC'') to authorize the City of Palm Desert to establish a Golf Cart Transportation Pilot Program (CSHC Secs. 1930–37), and later adopted amendments to giving similar authority to any city or county in California. As noted above, this legislation allows local jurisdictions to establish a Golf Cart Transportation Plan area in which golf cars are permitted to operate on ''golf cart lanes'', defined as ''roadways * * * shared with pedestrians, bicyclists, and other motorists in the plan area'' (CSHC 1951). Each plan must include minimum design criteria for safety features on golf cars as well (CSHC 1961).

A plan under the California law must also include a permit process for golf cars to ensure that they meet the minimum design criteria (CSHC 1961). At that time, those criteria were required to include seat belts.[16] Also, the California law requires an operator to have a valid California driver's license and carry a minimum amount of insurance.

In addition, the law requires a plan to allow only golf cars equipped with the requisite safety equipment to be operated on ''separated golf cart lanes'' identified in the plan. Lane striping on the pavement surface is sufficient for a lane to qualify as a ''separated golf cart lane.''

Pursuant to this law, the City of Palm Desert drew up and implemented a golf car transportation plan. As required by then existing state law, the plan included a requirement for seat belts. NHTSA has been informed by the City of Palm Desert that this plan will cover NEVs as well as golf cars.

Under that plan, there are three classes of golf car facilities:

- A ''Class I Golf Cart Path,'' completely separated from public roads, for use by golf cars and bicycles only.
- A ''Class II Golf Cart Lane,'' marked on public roads with posted speed limits up to 45 miles per hour (the separate lane is designated by striping), for use by golf cars and bicycles only.
- A ''Class III Golf Cart Route,'' i.e., public roads with speed limits of 25 miles per hour or less (the route is identified by placing Golf Cart Route signs along roadways). They are for shared use by golf cars and automobile traffic.

To gather further information, NHTSA held a public meeting on July 18, 1996, in the City of Palm Desert, attended by state, county, and city officials from both California and Arizona, golf car manufacturers, owners, a dealer, and two NEV manufacturers.

Fourteen commenters spoke at the meeting, all expressing support for the use of small, 4-wheeled electric vehicles on city streets because of environmental enhancement, consumer benefits, and a good safety record.

The first speaker was Roy Wilson, representing the fourth district of the Riverside County Board of Supervisors, a member of the governing board of the South Coast Air Quality Management District and a member of the Riverside County Transportation Commission. He asked for NHTSA's ''approval in allowing Neighborhood Electric Vehicles and other slow-moving vehicles to operate on public roadways and to increase the maximum speed limit to 25 miles an hour.'' Supervisor

[16] The requirement for seat belts was replaced in September 1997 by a provision authorizing, but not requiring golf cart transportation plans to include a requirement for seat belts.

Wilson advised the panel that ''you have a unique opportunity to provide leadership in an area of public policy which has both transportation and air quality ramifications and which directly addresses the lifestyle of our growing senior population.'' With respect to the golf car program, which was established when he was a member of the City of Palm Desert Council, Supervisor Wilson stated that

> it has reduced congestion on city streets, provided affordable user friendly alternatives to transportation needs, and based on this experience as well as those in areas—programs that are similar in areas like Davis [California]; Sun City, Arizona and Lady Lake, Florida, I believe this program has tremendous potential.

Supervisor Wilson stated that favorable action by NHTSA

> would expand the pool of electric vehicles which * * * from an environmental, primarily air quality perspective, * * * are also extremely beneficial. They do not emit toxins including carbon monoxide into the air.

He was followed by Ramon Diaz, the city manager of the City of Palm Desert. Mr. Diaz told the panel that ''the golf cart program has been very successful * * * Areas of the city that are being annexed in are asking us, 'When can we have our golf cart lanes? When can we begin driving our golf carts?'''

The next commenter, Commander Steven Bloomquist of the Palm Desert Section, Riverside Sheriff's Office, spoke ''from a law enforcement perspective.'' Initially, there were concerns

> about the mixing of slower moving vehicles with faster moving vehicles and also the size difference, mentioning the physics of the speed difference between golf carts and passenger vehicles and trucks and the like.

However, Commander Bloomquist had been reassured after his three year experience with the program:

> To date * * * we have not had any accidents involving the larger vehicles which move at a greater speed with the slower moving golf carts.

Assemblyman James F. Battin, Jr., represented by his district manager Kim Estock, addressed the importance of alternative transportation for senior citizens:

> With a limited income comprised of social security and perhaps a small retirement fund, some seniors have been able to cut the cost of an automobile with insurance out of their budget altogether because of the option of using an electric vehicle with a one time purchase cost.

The California commenters were supported by those from Arizona, beginning with R. H. Stranger, regional manager of Southern California Edison for Coachella Valley. Mr. Stranger was followed by David Bentler, Electric Transportation Project Manager for the largest electric utility in Arizona (Arizona Public Service Economic and Community Development). Mr. Bentler showed a video in which the affordability, accessibility, and utility of the NEV were promoted by the [unidentified] executive director of the homeowners association of Westport Village as well as by the Village's recreational office manager, Donna Highley, two Village residents, Joan and Larry Thomas, Jerry Unger, a director of the Sun City Homeowners' Association, and Ray Prendergast of the Sierra Club.

Arizona golf car dealer, Steve Pohle of Sun City, spoke in favor of allowing the vehicles he sells to use the public roads at speeds up to 25 miles per hour. He said that

> (i)t is [a speed] that many of our customers obtain now with their golf carts and are doing it safely. I think the biggest advantage of that speed is the ability to be able to, after stopping at an intersection or wherever they are traveling, * * * quickly maneuver out of the way of traffic.

The agency held another public meeting in Washington, D.C., on July 25, 1996. At that meeting, NGCMA indicated its objection to the requirement in the California statutes and in the City of Palm Desert plan for seat belts. NGCMA viewed the requirement as ''antithetical to the personal safety of drivers and occupants of golf cars.'' The association thought that legislative bodies have ''a very limited understanding of the physical limitations of the golf car as it presently is constructed and the consequent susceptibility for personal injury and even death, if seat belts were to be required.'' NGCMA apprised the panel of the industry's standard, ANSI/NGCMA Z130.1–1993. It presented reasons why the industry believed that a golf car should not be considered a ''motor vehicle,'' i.e., it stated that golf cars are designed primarily for use on golf courses and not the public streets. The association noted that the industry does not equip golf cars with equipment that make them lawful for registration and use on the public roads. It argued that accordingly if an owner chooses to operate a golf car on the public roads, the manufacturer should not be penalized for it. NGCMA further stated that ''(t)he maximum recommended speed for golf cars under ANSI/NGCMA Z130.1 is 15 miles per hour.'' In addition, it stated that ''the golf car manufacturers believe that any speed in excess of 15 miles per hour begins to approach problems with stability, and increases the risk of injury or death on account of the loss of stability and increased braking distance.'' (Transcript, July 25, 1996, p. 15)

Given NHTSA's developing interest, NGCMA asked that the agency consider the following:

> (1) Initiate steps to preempt all state and local regulation of golf cars on public roads * * * until a thorough investigation and analysis has been made of the safety issues and optimum responses to these issues;
> (2) Mandate speed limits not to exceed 15 miles per hour for any golf car used on public streets and highways;
> (3) Solicit from the golf car manufacturers recommendations for safety accessories that might be utilized or recommended for golf cars whose owners desire to utilize their golf cars on public streets and highways;
> (4) Advise NGCMA of what additional signage or documentation, if any, should preferably be furnished golf car purchasers to ensure the purchaser understands the golf car was not manufactured for use on public streets * * * and cautioning operators against such use unless the vehicle is equipped with whatever minimum requirements might be deemed appropriate by NHTSA;
> (5) Consider defining and regulating light-weight vehicles capable of being driven on public roads as * * * NEVs, to distinguish NEVs from golf cars which are self-regulated pursuant to ANSI/NGCMA Z130.1. References to ''golf cars'' as such should be deleted from any state and federal laws and regulations dealing with motor vehicles.

Further, NGCMA said that NHTSA ''needs to preempt state and local initiatives on this subject until NHTSA has clearly identified the safety issues and appropriate responses to these issues in a cautious and careful manner.''

NHTSA had also asked for written comments from those who could not attend its public meetings. The commenters included representatives of state and local governments including law enforcement officials, manufacturers and users of NEVs and golf cars, representatives of utilities, a public interest group, and other interested persons. Specifically, written comments were received from Rep. Sonny Bono, and, in the order received, from Lois Wolk (mayor, City of Davis), J. Douglass Lynn (Lynn & Associates with a subsequent submission as well), Bombardier, Dr. Tim Lynch (Director, Center for Economic Forecasting and Analysis, Institute for Science and Public Affairs, Florida State University), the City of Palm Desert, Richard S. Kelley (president, Southern California Association of Governments, two comments by Mr. Thomas of Trans2

Corporation,[17] Jim Douglas (assistant director, Motor Vehicle Division, Arizona Department of Transportation, the written remarks of the NGCMA general counsel, several video tapes, Dr. James M. Lents (executive officer, South Coast Air Quality Management District), George Boal (resident of the City of Palm Desert), Marilyn D. McLaughlin (resident of the City of Palm Desert), David Guthrie (deputy director, Arizona Department of Commerce, Harry C. Gough (automotive engineering professional specialist, Connecticut Department of Motor Vehicles), Paul and Jacklyn Schlagheck (residents of Lady Lake, Florida), Dr. Gerald Donaldson (senior research director, Advocates for Highway and Auto Safety (''Advocates''), Jim Prentice (resident of Port St. Lucie, Florida), Paul Jackson Rice, Esq. (Arent, Fox, Kintner, Plotkin & Kahn), Sheriff Ralph E. Ogden of Yuma, Arizona, Lawrence Lingbloom (Sierra Club California), Cynthia Kelly, Esq., (government relations counsel, Golf Course Superintendents Association of America), the Board of Directors of the Palm Desert Country Club Association, Gerald W. (''Wally'') Powell (reliability engineer, E–Z–GO Textron (''E–Z–GO''), Bob Doyle (assistant sheriff, patrol and investigations division, Riverside County Sheriff's Office), Wayne Balmer (community development director, Mesa, Arizona), and Marvin B. Jaques (vice president special projects, Ransomes American Corporation (''Cushman''), the manufacturer of Cushman utility vehicles.

In brief, the governmental authorities and the public supported the on-road use of electric golf cars and NEVs as addressing the public interest in a cleaner environment. Users noted approvingly the mobility that is afforded by the ability to use golf cars and NEVs on the public roads as an alternative to the passenger car for short in-town trips. These groups testified to the absence of any on-road safety problems involving golf cars and opposed any regulation by NHTSA that would curtail driving them on the public roads, or that would increase their costs. Golf car manufacturers objected to the possible classification of their products as ''motor vehicles'' and wished to remain free of Federal regulation.

D. Regulatory Options Considered

After considering the results of its survey of state and local locals and its public meetings, the agency identified three options for responding to Bombardier's request. The first was to grant Bombardier's request to revise the agency's interpretive test for determining whether an on-road vehicle is a motor vehicle by raising the threshold top speed capability from 20 miles per hour to 25 miles per hour. This option had a number of drawbacks. If the agency had granted Bombardier's request, it would have placed LSVs beyond its regulatory reach. This would have been undesirable from a safety standpoint since, as noted above, there appeared to be a greater need for Federal action with respect to LSVs than with respect to slower vehicles. Further, by relinquishing its jurisdiction over these vehicles, NHTSA would have lost the flexibility to adjust its LSV regulatory actions in response to any changes in the safety record of those vehicles. Finally, this approach would have allowed the states to adopt differing requirements for the same aspects of safety performance, vitiating the intent of Congress that motor vehicles be subject to a uniform national set of Federal safety standards. For these reasons, NHTSA decided not to grant Bombardier's request.

The second option was to maintain the existing line of interpretations and vehicle classifications, under which all vehicles capable of being driven at speeds of more than 20 miles per hour, regardless of their configuration, size or weight, are treated as ''motor vehicles'' and are subject to the same safety performance requirements. But simply leaving the current interpretations and vehicle classifications in place effectively would have subjected LSVs to requirements they could not meet and thereby effectively prohibited the manufacture and sale of LSVs. Thus, this option would not be responsive to the growing public interest in using low-cost and low-speed 4-wheeled vehicles within limited operating environments.

The third option was for the agency to revise its existing system of vehicle classifications by creating a new class of vehicles comprising LSVs and applying to them new safety requirements that would be appropriate for and accommodate this emerging form of transportation while addressing its safety needs. Developing this option necessitated defining the new class of vehicles in such a way as to include the appropriate vehicles and exclude others. It appeared that standards applicable to current passenger cars could not, and need not, be applied in all aspects to LSVs, but it was not clear what standard should take their place. Moreover, since LSVs had not entered the country's motor fleet in significant numbers, there were few crash and injury data on which to base a judgment about the extent and nature of the safety need.

Despite these challenges and uncertainties, the agency determined the third option to be the most prudent approach and accordingly used it as the basis for its proposal.

E. 1997 Notice of Proposed Rulemaking

Based on the information gathered through autumn of 1996, NHTSA developed a proposed regulation for LSVs, a new vehicle class including both NEVs and golf cars with a top speed between 15 and 25 miles per hour. Both types of vehicles have similar design and operational characteristics and are likely to have common safety problems. As such, NHTSA decided that the issues of the proper regulatory treatment for them should be considered together.

The basic jurisdictional issue was how to differentiate between golf cars that were manufactured exclusively for use on golf courses and those that are being permitted by states and municipalities to be operated as on-road vehicles. NHTSA tentatively decided to adopt a speed criterion to address this question. The industry's standard Z130.1, which applies to all golf cars, contains a specification for ''Maximum vehicle speed ''(paragraph 9.6.1) under which ''(t)he average speed [of runs in opposite directions] shall not exceed 15 mi/h (24 km/h)'' (paragraph 9.6.1.3). Further, NGCMA stated at the July 25, 1996 public meeting that its primary activity since its inception had been the promotion and sponsorship of standard Z130.1 and that 100 percent of its members adhered to it. Accordingly, the record before the agency at the time of its proposal indicated that if a golf car could go faster than 15 miles per hour, the maximum speed permitted by the industry standard for golf cars to be used solely on golf courses, the golf car was not only more likely to be driven on the public streets than slower golf cars, but was intended by its manufacturer to be so used. For these reasons, NHTSA chose a maximum speed capability of 15 miles per hour to distinguish between golf cars truly manufactured for exclusive golf course use, and faster golf cars that might properly be considered ''motor vehicles'' for purposes of Federal safety regulation.

In considering what safety equipment to propose requiring, NHTSA reviewed the requirements of the states and municipalities for golf cars to be used on the public roads, and found them

[17] After Trans2 submitted comments on the notice of proposed rulemaking in this proceeding, its assets were purchased by Global Electric MotorCars (GEM) of Fargo, North Dakota.

varied and sometimes unclear. The exception was the City of Palm Desert. The city requires ''golf carts'' offered for registration for on-road use to be equipped with headlamps, front and rear turn signal lamps, taillamps, stop lamps, rear side reflex reflectors, rearview mirrors, a parking brake, horn, windshield, and seat belts.

Since a Federal motor vehicle safety standard must be ''reasonable, practicable, and appropriate'' for the types of motor vehicles to which it applies, NHTSA reviewed the record to see whether imposition of the City of Palm Desert equipment requirements would be reasonable, practicable and appropriate for golf cars and NEVs. Steve Pohle had told the NHTSA panel at the meeting in the City of Palm Desert that Arizona requires street-legal golf cars to have head lamps, stop lamps, taillamps, a horn, and a rearview mirror. He added, ''the majority of the [golf] cars I was speaking about are all equipped that way, so if they are using it on the street * * * they are equipped that way. We also always equip them, although it's not required by the state, with a Plexiglass windshield.'' In reply to a question as to the difference in cost ''between a cart equipped versus a cart not equipped,'' Mr. Pohle estimated ''* * * about $400 if we're including the windshield which would be about $115 of that.'' The NEV manufacturers represented that their vehicles would be manufactured from the start with all the equipment required by the City of Palm Desert.

Accordingly, NHTSA considered the requirements of the City of Palm Desert to be an appropriate basis for a proposed Federal safety standard for LSVs. It was reasonable and appropriate because NEVs were designed to comply from the start, and testimony indicated that the equipment was easily added to existing golf car designs. It seemed practicable because there was testimony that new vehicles could be equipped at reasonable cost. It addressed the need for safety because the experience of the City of Palm Desert had indicated that on-road safety problems were virtually nonexistent.

Therefore, NHTSA proposed that LSVs (defined in the proposal as golf cars with maximum speeds between 15 and 25 miles per hour, and all vehicles other than motorcycles and vehicles with work-performing equipment, with a top speed of not more than 25 miles per hour), be equipped with the same equipment required by the City of Palm Desert. (January 8, 1997; 62 FR 1077) There were several minor differences. First, NHTSA proposed that the windshield be of AS–1 glazing, the type that is found in passenger cars. Second, NHTSA did not propose that LSVs be equipped with horns. No other FMVSS requires the installation of horns because motor vehicles were equipped with horns long before the first FMVSS was issued. NHTSA believed that LSV manufacturers would similarly incorporate horns as a matter of course. Third, the agency proposed to require a label indicating that LSVs should not be driven at speeds greater than 25 miles per hour on any road. NHTSA proposed that the new standard be designated ''Standard No. 100.''

F. Summary of Comments on Notice of Proposed Rulemaking

Over 100 comments were received from three major groups: elected national, state, and local officials; golf car manufacturers and dealers; and advocacy groups. (NHTSA's Docket Room has assigned a number to each comment. For example, the 20th comment is denoted ''96–65–NO1–020.'' For simplicity, in discussing specific submissions in this preamble to the final rule, the agency uses only the last three digits to identify the comment, i.e., ''020.'')

1. State and Local Officials; Utilities

State and local officials, with one exception, supported the proposal. These included Ralph E. Ogden, Yuma County (AZ) Sheriff's Office (002); Rollie K. Seebert, Maricopa County (CA) Sheriff (005); Richard S. Kelly, Mayor, City of Palm Desert (CA)(006); D.O. Helmick (California Highway Patrol (013); Dottie Berger, Commissioner, Hillsborough (FL) (014); Michael D. Branham, Assistant City Manager, Surprise (AZ)(015); Assemblyman Jim Battin (CA)(019); David Guthrie, Arizona Department of Commerce (021); Ted Hidinger, Electric Transportation Manager, Arizona Public Service Economic Development Department (026); Lois Wolk, Mayor, Davis (CA)(027); L. Denno, California Highway Patrol (028); Nancy J. Deller, Deputy Director, California Energy Commission (036), Richard D. Lamm, former Governor, Colorado (056); Pamela Bass, Vice President, Southern California Edison (061); Robert H. Cross, Chief Mobile Source Control Division, California Air Resources Board (80); and Kirk Brown, Secretary, Illinois Department of Transportation (088).

The principal reasons for supporting the proposal were the enhancement of air quality that electric-powered LSVs would bring, and the importance of developing alternative forms of transportation. This was most cogently expressed by David Guthrie, Deputy Director, Arizona Department of Commerce (021), who said:

> NEV's * * * provide an affordable, environmentally friendly alternative to gasoline powered automobiles that is consistent with our goal of promoting ''cleaner'' vehicles without hampering economic growth or putting undue financial burdens on our citizens.
> We believe the proposed rule is appropriate for three reasons. First, it allows local and state governments to continue to regulate the use of these vehicles, giving them the ability to set speed zones, require specialized lanes and establish other requirements as appropriate. Second, the draft rule [would require] manufacturers to equip LSVs with basic safety features like seat belts and mirrors. Finally, the rule sends a strong message to states that their alternative vehicle policies are being received with respect and support in Washington * * *.

The one exception was C. I. MacGillvray, Director, Department of Engineering, Iowa Department of Transportation (022) who expressed concern ''at the State level'' for the changes ''required to safely integrate these vehicles into legal operations on Iowa's public roadways,'' citing licensing of operators, registration of vehicles, financial responsibility, and the like.

(B) Manufacturers and Dealers of Golf Cars and Neighborhood Electric Vehicles

The two identified categories of vehicles that would be covered by the final rule are NEVs and golf cars. NEV manufacturers and dealers supported the proposed rule. Commenters included James M. Thomas, Vice President Sales and Marketing, Trans2 Corporation (007); Bombardier Corporation through its outside counsels Paul Jackson Rice and Lawrence F. Henneberger (008); Charles E. Towner, a franchised dealer of personal and low-speed community vehicles (AZ)(030); and Delmar C. Gilchrist, a Trans2 dealer (CA) (034).

The initial response of the golf car industry was to oppose the proposal. Comments were submitted by A. Montague Miller, president and CEO of Club Car, Inc. (011); the NGCMA general counsel (016); Gerald W. Powell, Reliability Engineer, E-Z-Go Textron, Inc. (017); Scott J. Stevens, President, Western Golf Car Manufacturing, Inc. (039); and Charles A. Fain, Vice President Design Engineering, Club Car, Inc. (043).

The principal objections were to the proposed requirements for AS–1 windshields and for seat belts. The industry asked that an alternative windshield material (polycarbonate) be permitted because it ''as well as other

transparent materials are more effective to provide shatterproof protection to occupants of golf cars.'' Seat belts were opposed in NGCMA's comments because they

> may enhance the risk of injury or even death if the occupant is restrained in the vehicle by a seat belt assembly upon rollover * * *. Golf carts are equipped with a standard hip or hand hold restraint located towards the outside of the seat. However, the hand hold does not prevent the occupant from jumping or leaping out of the golf car to avoid further injury if the golf cart is about to roll over. For this reason, * * * in lieu of a seat belt requirement for golf cars, a hand hold or hip restraint should be required as set forth in ANSI/NGCMA Z 130.1.

The industry also objected to the proposed effective date of 45 days after the issuance of the final rule, saying that ''a minimum of 24 to 36 months'' would be required ''to achieve the design and tooling required by the proposed standard.'' Finally, the industry submitted that

> to properly comply with the seat belt FMVSS Standard No. 209, together with the other items to be required, the manufacturing cost to comply will exceed $800 to $1,000 per vehicle without regard to design and tooling expenditures approximating $500,000 per manufacturer.

Golf car manufacturers and dealers apprised Members of Congress of their opposition to the proposal. As a result, letters of inquiry were received from a number of Senators and Representatives (see, e.g., comment 033, which was signed by six Representatives from Georgia).

3. Advocacy Organizations

NHTSA also received comments from a number of public interest or advocacy organizations. These included: Consumer Federation of America (''CFA'')(001), Advocates for Highway & Auto Safety (''Advocates'')(020), Sierra Club California (032), and Washington Legal Foundation (''WLF'')(038).

Sierra Club California supported the proposed rule without qualification. It stated that

> * * * (i)t was happy to see the federal government is acting to form a consensus regarding the use of LSVs at the national and state levels. The Sierra Club California hopes that other states and municipalities will follow your lead in developing localized alternative transportation program consistent with this rule, and in consultation with the appropriate law enforcement and public safety agencies.

It stated further that ''(a)s an alternative to automobiles, LSVs can reduce the number of trips by car and eliminate the need for cold starts, e.g., the first few minutes of operation where the majority of toxic emissions are generated from gasoline-powered vehicles.''

However, the other advocacy organizations were not in favor of the proposal. WLF opposed subjecting LSVs to safety performance requirements, arguing that ''NHTSA has not shown that there is a problem that requires attention.'' It cites the preamble's statements that ''there are virtually no accident data concerning [golf cars]'' and ''intuitively, it appears that passengers in LSVs might be at significant risk because of the small size and relative fragility of LSVs.'' In WLF's view, ''NHTSA has not shown that any safety problem exists and has no justification whatsoever for implementing these costly and extensive regulations.'' WLF also argued that, given the alleged propensity of golf cars to roll over, the net effect of requiring seat belts could be to increase deaths and injuries.

On the other hand, Advocates and CFA opposed allowing the manufacture and sale of a class of passenger vehicles subject to a lesser set of safety performance requirements than those applicable to passenger cars. Advocates opposed allowing ''a new class of motor vehicles on public roads which are unable to protect their occupants in crashes up to 25 mph.'' Advocates argued that the agency had not provided any documentation of the current on-road crash experience of golf cars, that the agency had not adequately examined the regulatory and safety record of allegedly similar vehicles in Japan and France, that there was no agency plan to organize the collection, retrieval and analysis of LSV crash data, and that pressure for inexpensive transportation and claims of environmental benefit would inevitably lead to the designing and marketing of LSVs that are increasingly car-like and to future requests for the agency to increase the upper speed threshold for LSVs. CFA, too, thought that safety problems would arise with the advent of a new, small class of vehicles, and recommended that all vehicles with a maximum speed of 15 miles per hour or more be required to meet all Federal motor vehicle safety standards.

4. Other Commenters

A number of additional comments were submitted by other persons, some of them supporting the proposal, others opposing it.

Dr. Tim Lynch, Director, Center for Economic Forecasting and Analysis, Florida State University, concluded that promotion of electric vehicles would lead to fuel savings and would benefit the environment (023).

Kevin Breen, Chair of the SAE Special Purpose Vehicle Committee, apprised the agency of SAE Standard J2258, *Light Utility Vehicles*, issued in 1996, and draft SAE J2358, *Closed Community Vehicles*. The light utility vehicles covered by SAE Standard J2258 are off-highway vehicles 72 inches or less in overall width, with a gross vehicle weight rating (GVWR) of 5,000 pounds or less and a maximum design speed of less than 25 miles per hour. The standard specifies requirements for ''elements of design, operation, and maintenance.'' The Committee is studying ''the use of golf-car based vehicles for closed community applications,'' with attention to ''issues such as braking, lighting, crashworthiness, stability, etc.'' In his opinion, NHTSA's proposed standard is inappropriate because

> 1. The standard permits vehicles to be operated in an on-highway situation in a traffic mix with typical highway vehicles without adequate consideration for braking, crashworthiness, etc.
>
> 2. The proposed requirements for seat belts in an open vehicle are contrary to current occupant protection technology relating to open vehicles (i.e., motorcycles, snowmobiles, etc.).
>
> * * * * *
>
> 4. The exemption of certain ''work class'' vehicles from this standard opens acceptance of their use in a highway situation creating a potential hazard for both the users of those vehicles and the general motoring public who may interact with them.
>
> 5. The standard as currently drafted includes too broad of a scope of vehicles. If adequate data exists, rulemaking could be limited at this time to NEVs. Vehicles such as golf car or golf-cart based vehicles should not be considered in proposed FMVSS 100 at this time.

Two residents of Ypsilanti, Michigan questioned the wisdom of NHTSA's action (003, 004). Manufacturers of vehicles that are not ''motor vehicles,'' as that term is interpreted by NHTSA, wanted reassurance that their products would not inadvertently be included in the new rule (Truck Manufacturers Association (009), Toro (012), and Industrial Truck Association (024)). The American Insurance Association claimed that NHTSA's action is an ''abuse of discretion'' because the agency lacks authority to dilute safety regulations and increase crashes, deaths and injuries. That organization argued further that the proposal was ''arbitrary and capricious'' because the agency lacks sufficient crash data to enable it to make reasonable projections about the safety record of LSVs. (010)

Other commenters were concerned with specific aspects of the proposed equipment. Transportation Safety Equipment Institute argued that performance requirements should be specified for LSV lighting devices (018). George Ziolo thought that LSVs should have a flashing amber light at the rear or on the top as a low-speed warning (040). SMV Technologies sent examples of a warning triangle which some states require be affixed to farm tractors using the public roads, and recommended that LSVs be similarly equipped (068).

G. Post-Comment Period Comments and Information

1. Manufacturers and Dealers of Golf Cars; Members of Congress

Although the comment period closed on February 24, 1997, a substantial number of comments were received after that date. Many of them were letters from Members of Congress on behalf of golf car manufacturers, dealers, and users. The letters from the Members of Congress, as well as the letters from the parties on whose behalf they were writing, typically expressed many of the same concerns, e.g., concern that the proposal would regulate fleet and personal golf cars, that requiring seat belts in golf cars might increase danger in a rollover, and that AS–1 windshields would not be sufficiently protective against golf balls.

In an August 12, 1997 letter, NGCMA submitted suggested revisions to the agency's proposed standard. (NGCMA, 073) NGCMA suggested that personal golf cars be defined as vehicles that may carry golf equipment and have a maximum speed greater than 15, but less than 20 miles per hour. It suggested that personal golf cars be regulated in the same fashion as LSVs, except that personal golf cars would not be required to have seat belts. Further, NGCMA suggested that personal golf cars and any other LSV be permitted to have a windshield of ''shatter resistant polymer'' instead of AS–1 glazing.

In a December 22, 1997 letter, NGCMA informed NHTSA its members were amendable to equipping personal golf cars with all of the proposed items of equipment, with two exceptions. NGCMA asked that its members not be required to install seat belts and that they be given a choice between using AS–1 glazing or shatter resistant polymer for the windshield. It indicated that an effective date of from six to twelve months after publication would be acceptable, provided that its suggestions about seat belts and windshield glazing were adopted by the agency. (NGCMA, 104). In the letter, that organization reaffirmed its desire to limit the top speed of personal golf cars to 20 miles per hour and indicated that the industry does not manufacture personal golf cars which have a higher top speed.

During February 1998, the agency received letters from over 30 commenters who identified themselves, generally, as dealers of golf carts and such other products as watercraft and motorcycles. All said that the issuance of a final rule was necessary for their livelihood and asked NHTSA to issue it immediately. These letters unqualifiedly supported the proposal, without stating any reservations about to the proposed requirements for windshields and seat belts.

In March 1988, over 30 dealers and distributors of Club Car golf cars informed NHTSA that if the agency limited the seat belt requirement as requested by NGCMA in its December 1997 letter, they would not oppose the issuance of an LSV final rule. (March 20, 1998 letter from Eileen Bradner, Counsel to Club Car, Inc.)

2. Other sources

In February 1998, NHTSA obtained from the Consumer Product Safety Commission (CPSC) data concerning injuries and deaths involving golf car occupants. This information covers all types of golf cars, and all uses (on and around golf courses and on streets and highways).

CPSC provided the agency with information from four different sources:

- A summary of incidents and national estimates for injuries involving golf cars from the National Electronic Injury Surveillance System (NEISS) for the years 1993 to 1997. NEISS is comprised of a sample of hospitals that are statistically representative of hospital emergency rooms nationwide. From the data collected, estimates can be made of the numbers of injuries associated with consumer products and treated in hospital emergency departments.
- A printout of crash investigations involving golf cars, conducted by CPSC on-site or by telephone. This information is obtained from NEISS files, newspaper clippings, consumer complaints and Underwriters Laboratory.
- A printout of reported incidents involving golf cars. The reports are obtained from CPSC's Medical Examiners and Coroners Alert Program (MECAP), Underwriters Laboratory, American Trial Lawyers Association, Consumers Union, and newspaper clippings.
- A printout of death certificates in which a golf car was mentioned. CPSC has contracts with all 50 State Health Departments to provide information about death certificates that mention the use of certain products, including golf cars.

The agency notes that there are limits to the conclusions that can be drawn from these data for the purposes of this rulemaking. First, only the data from the first of these four sources can be used to make national projections about the size of health significance of the operation of golf cars. Second, much of the CPSC data relate to incidents that occurred when golf cars were being operated on a golf course or in other off-road situations.

During March 1998, NHTSA's Vehicle Research Test Center (VRTC) conducted a study of a Bombardier NEV, a Global Electric MotorCars NEV, and a Yamaha golf car. As described in the study report, the study was intended to provide the basis for an evaluation of the potential stability of LSVs on public highways and the safety potential of these vehicles in a crash. VRTC examined the vehicles with respect to seat belts, stability, stopping distance, electrolyte spillage, and glazing, and subjected them to braking and dynamic handling tests. The seat belts on the NEVs were deemed to be anchored to adequate structure. The golf car had no seat belts. Regarding stability, the study concluded that an LSV with a static stability factor below 1.0 with two occupants could probably tip easily in a tight turn at 20 mph. As for stopping distance from 20 miles per hour, the Bombardier NEV easily passed the requirements of FMVSS No. 135, *Passenger Car Brake Systems,* while the Global Electric MotorCars NEV passed marginally. The golf car could not meet these requirements. With respect to the issue of electrolyte spillage in a crash or rollover, it was noted that the Bombardier NEV appeared to be capable of shielding the occupants from the batteries so long as the fiberglass shell was intact. The other NEV did not have the batteries shielded from the occupant area. The golf car was gasoline-powered. VRTC also conducted impact tests on windshield glazing, which is discussed in some detail below under ''Safety Engineering Issues.''

In April 1998, NHTSA asked the City of Palm Desert for an update on the implementation of its plan. In the 21 months since the agency's public meeting in July 1996, the number of golf carts registered for use under the plan rose from 193 to approximately 250. Two crashes have occurred since then, although neither caused an injury. The

first crash occurred when the driver of a conventional car turned the corner and hit a golf car that was being illegally driven in the pedestrian crosswalk. In the second crash, a golf car operator had left the City of Palm Desert plan area and was struck just over the border of the next town, Indian Wells, when the golf car turned into the driveway of a country club. As noted in the NPRM, the only crash that occurred between 1993 and 1996 involved the overturning of a golf car being operated by joy-riding teenagers.

IV. Final Rule and Resolution of Key Issues

A. Summary

The final rule establishes a new class of 4-wheeled vehicles, called LSVs, and excludes them from passenger car class. LSVs are 4-wheeled vehicles, other than trucks, whose maximum speed exceeds 20 but is not greater than 25 miles per hour. By removing them from the passenger car class, the rule relieves manufacturers of LSVs of the need they would otherwise have of complying with the full range of FMVSSs for those classes and substitutes Standard No. 500 as the only applicable FMVSS. With the exception of the warning label, which was not adopted, LSVs are required to have all the safety features and equipment proposed in the NPRM, including seat belts, plus two additional items added in response to comments: a VIN, and a reflex reflector on the rear. However, as an alternative to an AS–1 windshield, an AS–5 plastic windshield may be used.

B. Authority and Safety Need for this Final Rule

NHTSA was presented with a variety of arguments regarding its authority to regulate low-speed vehicles. WLF raised questions whether the vehicles covered by the agency's proposal are motor vehicles. That organization also argued that issuing the final rule would not promote safety because there is no safety problem to be addressed. Conversely, Advocates and CFA argued that excluding small vehicles from the FMVSSs will create a safety problem. AIA and Advocates stated that the agency had not adequately gathered and considered relevant data prior to issuing the proposal, citing agency statements about the dearth of data on LSV crashes and about the foreign experiences with small vehicles.

1. Low-Speed Vehicles are Motor Vehicles

Title 49 U.S.C. Chapter 301 grants NHTSA regulatory authority over ''motor vehicles.'' A ''motor vehicle'' is defined as a vehicle ''manufactured primarily for use on the public streets, roads, and highways'' (Sec. 30102(a)(6)). As noted above, NHTSA's principal interpretation of the definition of ''motor vehicle'' dates from 1969, and addressed the status of mini-bikes. NHTSA said that if a type of vehicle is physically capable of being operated on the public roads and if a substantial portion of the users of those vehicles uses them on the road, those vehicles are motor vehicles, without regard to the intent of the manufacturer. It bears repeating that the agency said that perhaps the most important criterion to be used in resolving borderline cases

> * * * is whether state and local laws permit the vehicle in question to be used and registered for use on public highways. The nature of the manufacturer's promotional and marketing activities is also evidence of the use for which the vehicle is manufactured.

a. Speed-modified golf cars are motor vehicles. Not only are speed-modified golf cars whose top speed is between 20 and 25 miles per hour fast enough to be capable of being used on roads with low-posted speed limits, but also their operation on public roads is commonplace.[18] (See the testimony regarding their on-road use in Arizona at the agency's first public meeting.) Further, much of the on-road use is not incidental to the playing of golf. Instead, many trips are made for purposes unrelated to golf, such as shopping or visiting friends. The agency notes that Club Car, one of the larger manufacturers of golf cars, stated that the market for and use of personal golf cars are largely limited to the states and local jurisdictions that permit the on-road use of golf cars. NHTSA believes that it is reasonable to conclude that the market for speed-modified golf cars is similarly limited, and that virtually all users of those vehicles use them on the road.

Although the agency does not regard the question of whether speed-modified golf cars are motor vehicles to be a borderline one, the agency notes that even if it were, those vehicles meet several of the key criteria considered by the agency in borderline cases. As noted above, 12 states authorize their local governments to permit general purpose use of golf cars on designated roads and another four permit more limited on-road use. A majority of those states require either that the golf cars be registered or that the user have a driver's license, or both. The modifiers of these vehicles do not label these vehicles as being not manufactured for on-road use. Quite the contrary, they equip them with the equipment required by states and local jurisdictions for on-road use. Further, their top speed capability is far above the maximum average permissible speed specified in the voluntary industry for golf cars intended exclusively for use on golf courses. Finally, they advertise the top speed capability of their vehicles. Since driving these golf cars at or near their top speeds on golf courses is presumably impermissible and since their on-road use is commonplace, such advertising is tantamount to advertising them for on-road use.

b. Neighborhood Electric Vehicles are Motor Vehicles. The agency begins its analysis of whether NEVs are motor vehicles by noting that neither of the two current NEV manufacturers contest that NEVs may properly be regarded as motor vehicles under the Vehicle Safety Act. The agency's analysis is essentially the same as that for speed-modified golf cars, except that since only a few NEVs have been sold in this country, the agency must base its analysis for NEVs on their anticipated marketing and use. Not only are NEVs fast enough to be capable of being used on roads with low-posted speed limits, but also they are expected to be used extensively for that purpose. It is further anticipated that much of the on-road use will not be incidental to the playing of golf. NHTSA believes that it is reasonable to conclude that the market for NEVs will be limited to the states and local jurisdictions that permit the on-road use of golf cars or NEVs, and that virtually all users of those vehicles will use them on the road.

As in the case of speed-modified golf cars, the agency does not regard the question of whether NEVs are motor vehicles to be a borderline one. Nevertheless, the agency notes that even if it were, those vehicles meet several of the key criteria considered by the agency in borderline cases. 12 states authorize their local governments to permit general purpose use of golf cars and/or NEVs on designated roads and another four permit more limited on-road use. A majority of those states require either that the golf cars or NEVs be registered or that the user have a driver's license, or both. As originally manufactured, these vehicles are equipped with the safety devices and features required by states and local jurisdictions for on-road use. Further, their top speed capability is far above the maximum average permissible speed

[18] Indeed, it is possible that the very modifications that are made to enhance on-road performance could render speed-modified golf cars unsuitable for golf course use if their low speed torque is increased too much. Excessive torque could damage the turf on golf courses.

specified in the voluntary industry for golf cars intended exclusively for use on golf courses. While both NEV manufacturers provide a device that can be used to reduce vehicle speeds to levels appropriate for golf course use, that device is available from one of the manufacturers only as an item of optional equipment. Finally, the two NEV manufacturers advertise their vehicles for on-road use.

2. The Agency Has Authority to Regulate Anticipated as well as Current Safety Problems

In response to WLF's argument, NHTSA observes that its authority is preventive in nature. Congress has charged it with issuing standards to protect the public against ''unreasonable risk'' of crashes and of deaths and injuries resulting from crashes. 49 U.S.C. 30102(8) and 30111(a). This means that the existence of a risk is sufficient to justify the issuance of standards. If the occurrence of deaths and injuries is reasonably anticipated, NHTSA need not wait until they actually begin to occur in large numbers before taking action to prevent them.

3. Issuance of this Rule Appropriately Addresses an Anticipated Safety Problem

a. Crash Data Show a Limited Safety Problem Involving the On-Road Use of Fleet and Personal Golf Cars. Crash data have become available since the NPRM showing that although deaths and serious injuries resulting from the on-road use of golf cars are not numerous, they are occurring. NHTSA's Fatal Analysis Reporting System (FARS) is a census of all fatalities and fatal crashes occurring on U.S. roads open to the public and resulting in the death of an occupant or nonmotorist within 30 days of the crash. FARS has records of nine deaths of golf car occupants on the public roads from 1993 to February 1998.[19] Three of the deaths occurred in Arizona, three in North Carolina, one each in California, Florida and Iowa. Eight of the nine deaths resulted when the golf car collided with a car or truck. The ninth occurred when the golf car ran off the road and its occupants were ejected. Data from CPSC include an additional seven deaths in on-road crashes not included in FARS, implying a total of 16 fatalities over a 5-year period. The city that has recorded the most deaths appears to be Sun City, Arizona. According to an Associated Press story dated March 12, 1998, there had been four deaths in golf car crashes in Sun City since 1995.[20]

In addition, NHTSA obtained data from CPSC regarding injuries and deaths involving the operation of golf cars. This information covers all types of golf cars, and all uses (on and around golf courses, as well as on public streets and roads). CPSC provided the agency with four different sources of information about golf cars. Three of these were relevant:

1. A printout of reported incidents involving golf cars. The reports are obtained from CPSC's Medical Examiners and Coroners Alert Program, Underwriters Laboratory, American Trial Lawyers Association, Consumers Union, consumer complaints, and newspaper clippings, and are not statistically reliable for national estimates. The reported incident data set included 19 on-road incidents between 1993 and February 1998, 14 of which were fatalities. All 9 of the FARS cases were included in these 14 cases. These fatalities mostly occurred when the golf car collided with a passenger car or light truck on roadways.

2. A printout of death certificates in which a golf car was mentioned. CPSC has contracts with all 50 State Health Departments to provide information about death certificates that mention the use of certain products, including golf cars; however, not all states reported during the entire period. The Death Certificate file reported 3 on-road fatalities involving golf cars during the period 1993 to February 1998. One of these cases was included in the 14 cases mentioned above and 2 were not. Thus, there are a total of at least 16 on-road fatalities to occupants of golf cars during the period 1993 to February 1998.

3. A summary of incidents and national estimates for injuries involving golf cars from the National Electronic Injury Surveillance System (NEISS) for the years 1993 to 1997. These data are a compilation of information derived from reports of product-associated injuries treated in hospital emergency departments that participate in the National Electronic Injury Surveillance System. The NEISS estimates are calculated using data from a probability sample of hospitals with emergency departments located within the United States and its territories.

The following table presents incidents for ''golf carts'' reported by CPSC's NEISS during the years 1993–1997:

NEISS REPORTED INCIDENTS

[1993–1997]

Type of injury	1993	1994	1995	1996	1997	5 year total
Pedestrian injury	36	19	18	16	30	119
Off-road injury	96	138	145	146	168	693
On-road injury	3	4	5	5	6	23
On-road fatality	1	0	0	0	0	1
Rollover injury	4	4	8	4	7	27
Ejection injury	26	17	14	11	12	94
Total[21]	100	142	149	161	174	726

[21] The figures in the columns are not additive because some injuries fit into more than one category.

Based on the data in the above table, the agency has estimated the total national injuries associated with ''golf carts'' of all types and uses (i.e., on-road as well as on golf courses) to be 6,372, 6,808, 7,603, and 7,218 for the years 1993 through 1996.

The agency estimates that there were an average of 222 on-road golf car injuries per year over the 5-year period. This injury estimate is calculated as follows: 7,000 injuries (national annual injury average for 1993–1998) × 23 (on-road or vehicle-involved injuries) / 726 (NEISS reported incidents 1993–1997) = 222 annual average of national injuries.

[19] Although designed to be a census of all traffic fatalities, FARS does not contain all of the on-road golf car fatalities reported by CPSC to NHTSA. The submissions from CPSC include information on an additional seven deaths.

[20] This number was confirmed in a June 3, 1988 telephone conversation with Detective Jeffrey Childs of the Maricopa County Sheriff's Department.

There is only 1 fatality involving a golf car in the 5 years of NEISS data. However, based on the reported incident and death certificate data provided to NHTSA, there were 16 on-road golf car fatalities over a 5-year period, an average of 3 fatalities per year.

NHTSA anticipates that the number of on-road serious injuries and deaths involving occupants of fleet and personal golf cars will grow with the growth in number and speed of the same or similar vehicles on the road. The number of golf cars operated on public roads is currently limited. As more state legislatures authorize their local jurisdictions to designate public roads for use of low-speed vehicles and other vehicles, and especially as more local jurisdictions use that authority, the sale and use of low-speed vehicles will increase. Further, to the extent that NEV manufacturers are successful, it seems likely that golf car manufacturers will respond to that competition by intensifying their efforts to sell personal golf cars whose top speed is between 15 and 20 miles per hour.

b. The States Have Adopted Laws Requiring Safety Equipment on Fleet and Personal Golf Cars Used on Public Roads. The majority of the 12 states that have enacted legislation permitting all-purpose on-road use of golf cars and/or NEVs believe that there is a need for safety requirements and have taken steps to satisfy that need. Nine of those 12 states have mandated that those vehicles have specified safety equipment if they are used on-road and a tenth state authorized its local governments to adopt safety requirements. (See the table below.) Further, in their comments on the NPRM, state officials in California, Arizona, and Iowa indicated that they believe that the issuance of Federal safety requirements is warranted.

STATES PERMITTING ALL-PURPOSE GOLF CAR TRIPS ON PUBLIC ROADS WITHIN JURISDICTION OF LOCAL GOVERNMENTS

State	Roads on which operation is permitted	Required safety equipment
California	On private and public roadways designated by local government.	Local government may require safety devices. Headlamps, taillamps, reflectors, stop lamps, and brakes for nighttime operation.
Nevada	On public roadways designated by local government	Headlamps, taillamps, reflectors, stop lamps, mirror, brakes and an emblem placard for slow moving vehicles.
Arizona	On roadways with posted speed limit of 35 mph or less	Headlamps, taillamps, reflectors, stop lamps, mirror, brakes, and a notice of operations and restrictions in full view of driver.
New Mexico	On private and public roadways designated by local government. Carts may not be operated on state highways.	An emblem placard or flashing yellow light for slow moving vehicles is required.
Colorado	On private and public roadways designated by local government.	Headlamps, taillamps, reflectors, stop lamps, mirror, and brakes.
Wyoming	On public streets and roadways designated by local government.	Local government may require safety devices.
Illinois[22]	On roadways designated by local governments	Steering apparatus, rearview mirror, front and rear red reflectorized warning devices, slow moving vehicle emblem, headlight, brake lights and turn signals
Minnesota	On roads designated by local government	Slow moving vehicle emblem and a rear view mirror.
Iowa	On private and public roadways designated by local government. Carts may not be operated on primary roads.	Slow moving vehicle emblem, bicycle safety flag, adequate brakes. Local government may require other safety equipment.
Florida	On private and public roadways designated by local government and in self-contained retirement communities.	Efficient brakes, reliable steering apparatus, safe tires, rearview mirror, and red reflectorized warning device in front and rear. Headlamps, taillamps, and stop lamps for nighttime operation.
Georgia	On private and public roadways designated by local government.	None.
Texas	On private and public roadways designated by local government.	None.

[22] Passed by legislature May 6, 1998; sent to Governor June 4, 1998.

c. There is a similar, but greater anticipated safety problem involving low-speed vehicles. Largely because of their greater speed, the potential for growth in the numbers of LSVs, and in the number of deaths and serious injuries associated with LSVs, is even greater. NHTSA anticipates that sales of LSVs will steadily grow and that, as a result, there will be increased exposure leading to increased numbers of serious injuries and deaths. While the number of LSVs is limited now, it will grow, particularly with the introduction and sale of NEVs. To the extent that the NEV market expands, existing NEV manufacturers will be induced to make further improvements to increase consumer appeal and new manufacturers may be induced to enter the market. The product improvements resulting from this competition will likely boost sales further. Further, to the extent that NEV manufacturers are successful, new manufacturers of speed-modified golf cars may be induced to enter the market. Since LSVs will likely be faster than most of the sub-25 mph vehicles on the road during 1993–1997, the crash forces of single and multiple vehicle crashes involving LSVs will tend to be greater than the crash forces in those 1993–1997 crashes. As a result, the LSV crashes will be more likely to result in serious or fatal injuries to their occupants. Further, the higher speed of an LSV, while enabling a driver to pass through risky driving situations more quickly, may also induce a driver to take risks in more situations.

d. This rule requires safety equipment on low-speed vehicles consistent with their characteristics and operating environment. Advocates and CFA were concerned about the risk to safety posed by a growing class of small vehicles and argued that NHTSA's actions are contrary to its statutory mandate

because they will exacerbate the risk. Their concern related to the potential for crashes involving small vehicles such as LSVs and larger ones that may be sharing the same roadway, and the threat that this poses to occupants of LSVs.

NHTSA has carefully reviewed their argument about the effects of this rulemaking. LSV safety, and thus the need for FMVSSs for LSVs, will be determined by the combination of three factors: vehicle design and performance; operator training and ability; and the operating environment. The agency believes that Standard No. 500, in combination with a limited operating environment and appropriate operator training and ability, will appropriately address the safety needs of LSV users.

With respect to the LSV itself, the safety goal is that the vehicle have crash avoidance and crash protection characteristics appropriate for its speed and size, and its operating environment. Seat belts will afford protection against ejection. In the mixed motoring environment that will result when LSVs are introduced, crash avoidance will become all the more important. The small LSV must be easily detectable by drivers of larger vehicles. The requirements for lamps and reflectors should enhance the conspicuity of LSVs. Further, the LSV must have sufficient capability to move out of the way of faster traffic. LSVs designed to travel at speeds approaching 25 miles per hour will give them greater ability than fleet and personal golf cars to maneuver in and out of on-road situations that threaten them, e.g., when passing through an intersection after stopping at a stop sign or when turning left across lanes for oncoming traffic.

With respect to the operator, the safety goal is that the driver be familiar with the operating characteristics of the LSV so that he or she may drive appropriately to minimize the possibility of rollover, or hitting a pedestrian or other vehicle. States can contribute to driver safety by requiring LSV operators to be licensed.

The driving environment should be appropriate to the vehicle and its characteristics. Limitation of LSV use to low-speed city and suburban streets is necessary, but not eliminate the safety risks. In this regard, the agency notes that there have been four fatalities in golf car crashes in Sun City, Arizona. Conversely, none have occurred in the City of Palm Desert.

There are a number of possible reasons for the reported different safety records of these two cities. A very large difference in the number of golf cars used on-road may be one reason. Approximately 6,000 golf cars are driven on the roads of Sun City, while the number of golf cars registered for on-road use in City of Palm Desert is only approximately 250. Also, neither Arizona nor Sun City requires all of the safety equipment (e.g., seat belts) that the City of Palm Desert requires.

Still another reason may lie in the different operating environments in the two communities. The City of Palm Desert has a more controlled environment than Sun City for golf car use. The City of Palm Desert permits on-road use of golf cars in the same lanes as passenger cars and other larger motor vehicles in speed zones posted for speeds up to 25 miles per hour. In speed zones posted for speeds over 25 miles per hour, golf cars may be operated on-road only if there is a lane designated for their use and if the golf car is, in fact, operated within that lane. By contrast, NHTSA understands that Sun City, under state law, allows golf cars to operate in the same lanes as larger traffic on any road with a maximum speed of 35 miles per hour.

NHTSA recognizes that not all operating environments may be as controlled as that of the City of Palm Desert. The agency encourages other states and municipalities to study the features of the City of Palm Desert's plan, and to adopt those features to the extent practicable.

4. The Agency Has Appropriately Considered the Experience of Foreign Small Vehicles

In the NPRM, the agency noted that small, but generally higher speed passenger vehicles were being marketed in Japan (''kei'' cars) and France (Voiture Sans Permis (VSP) and Tricycles et Quadricycles a Moteur (TQM)). Within the limits of its knowledge at the time of the NPRM, the agency described the physical attributes of these vehicles and some of the operating limitations.

Advocates responded to this discussion in the NPRM by arguing that the agency had not adequately considered these foreign experiences with small vehicles. Since the NPRM, the agency has obtained additional information regarding both kei cars and the French voiturettes. The limits on length, width and engine displacement of kei cars have been steadily eased over the last 20 years. Limit on engine displacement has increased from less than 360 cc prior to 1976, to less than 550 cc in 1976, to less than 660 cc in 1990. Length limits have increased slightly, from approximately 3.2 m in 1976, to 3.3 m in 1990 to 3.4 m in October 1998. Width limits have slightly increased from less than 1.4 in 1976 to less than 1.48 in October 1998.

NHTSA is also aware that the safety requirements for kei cars have been steadily increased in the 1990's. Beginning in 1994, frontal crash protection requirements had to be met by kei cars at 40 km/hr and by passenger cars at 50 km/hr. Those requirements are a HIC not greater than 1000, thorax acceleration not greater than 60g and femur load not greater than 10kn. The test speed for the frontal crash protection requirements will become the same (50 km/hr) for kei cars and passenger cars in October of this year, when the most recent increases in kei car length and width become effective.

As for the two classes of voiturettes in Europe, the agency has learned that the European Union (EU) issued a directive last year harmonizing laws in EU for mopeds, auto-cycles, motorcycles and motorized tricycles and quadricycles (''voiturettes'') with respect to tires, lighting, signaling, mirrors, fuel tanks, seat belts, and belt anchorages, washers, wipers, and demisters. Under the directive, a voiturette approved in one European country is automatically marketable in all 14 other member states.

The critical point, however, concerning the Japanese kei cars and the faster class of voiturettes is that they are not similar to LSVs and their experiences are not directly relevant. Their operating characteristics and environment are so different from those of LSVs that the experiences of those foreign cars are not predictive of the experiences of LSVs. The kei cars and TQM voiturettes can travel at approximately twice the speed of LSVs and have a much longer operating range. Further, their operating environment is not nearly so restricted by law as that of LSVs.

C. Safety Engineering Issues

There were a number of issues involving scope of the standard and the equipment that would be required.

1. Speed Range of Motor Vehicles Subject to This Standard.

a. Minimum Threshold of 20 Miles Per Hour. The NPRM proposed to regulate golf cars with a top speed range of 15 to 25 miles per hour, and other 4-wheeled motor vehicles, other than vehicles with work-performing equipment, with a top speed of up to 25 miles per hour.[23] The final rule applies to a smaller group of vehicles, i.e., 4-wheeled motor vehicles, other than

[23] Motorcycles are already subject to a variety of FMVSSs.

trucks, with a top speed of 20 to 25 miles per hour.

In issuing the NPRM, NHTSA did not intend to regulate conventional golf cars. To carry out that intent, the agency proposed to include only those vehicles whose maximum speed exceeded 15 miles per hour. That speed was selected on the basis of information indicating that fleet and personal golf cars had a maximum speed of 15 miles per hour. As noted above, standard Z130.1, the industry standard for golf cars to be ''used solely on golf courses'' (paragraph 1.1), contains a specification for ''Maximum vehicle speed'' (paragraph 9.6.1). That specification states that when a golf car is operated on a straight track at maximum speed, once in either direction, the ''(t)he average speed [of the two runs] shall not exceed 15 mi/h (24 km/h)'' (paragraph 9.6.1.3). Accordingly, the agency tentatively concluded that if a golf car had a top speed greater than 15 miles per hour, that capability evidenced an intent that the golf car be operated on the road as well as on golf courses. Further, NGCMA stated at the July 25, 1996 public meeting that ''100 percent'' of the golf car manufacturers adhered to the standard. This statement led the agency to believe that virtually all fleet and personal golf cars met the industry standard.

The submissions by the golf car industry after the NPRM contained significant new information. While the pre-NPRM information represented the annual fleet of new golf cars as an essentially homogeneous, undifferentiated collection of vehicles, the post-NPRM information drew distinctions between a variety of subgroups within the new golf car fleet. One distinction was made between fleet golf cars and personal golf cars. Another and more important distinction was made between the vast majority of golf cars that have a top speed of about 12 miles per hour versus the much more limited, but not insignificant number of golf cars that have a top speed of 15–20 miles per hour.[24]

In its February 1997 comment on the NPRM, Club Car, the second largest member of NGCMA, confirmed that it produces personal golf cars whose top speed is between 15 and 20 miles per hour. It did not specify, however, the percentage of its personal golf cars with that top speed. Further, Club Car gave no indication in that comment that it produced any fleet golf cars with such a top speed. However, in response to this agency's May 1998 inquiry about the percentage of fleet and personal golf cars with a top speed above 15 miles per hour produced by each of the major NGCMA members, NGCMA stated in a telephone conversation on June 3 that 1 percent of Club Car's fleet golf cars, and 75 percent of its personal golf cars, have a top speed between 15 and 20 miles per hour. None of the other large members produce any golf cars with such a top speed. Prior to that conversation, NGCMA had not explicitly stated that any of its members currently produce golf cars exceeding 15 miles per hour. However, NGCMA did suggest in its post-NPRM submissions that personal golf cars be defined as having a top speed between 15 and 20 miles per hour and explicitly stated that none of its members are now manufacturing personal golf cars capable of exceeding 20 miles per hour.

In light of this new information and on further consideration, the agency has decided to limit the application of Standard No. 500 to vehicles whose top speed is between 20 and 25 miles per hour. This decision carries out the agency's original intent of excluding virtually all conventional golf cars from the standard.

The agency believes that 20 miles per hour is a better dividing line between vehicles designed for use on the golf course and vehicles designed for on-road use. The conventional golf cars whose top speed is between 15 and 20 miles per hour have a body and understructure ver similar to that of conventional golf cars whose top speed is less than 15 miles per hour. Further, while the speed differential between those two groups of golf cars creates a significant difference in their potential crash energy, the energy in the 15 to 20 mile-per-hour range is still modest compared to that of LSVs. As noted above, golf cars with a top speed of less than 15 miles per hour reportedly have a top speed of about 12 miles per hour. Those golf cars with a top speed between 15 and 20 miles per hour are believed by the agency to have a top speed of approximately 17 to 18 miles per hour.

The practical safety effects of raising the speed threshold does not appear to be extensive. Data obtained since the NPRM regarding the limited number of fatalities associated with on-road use of fleet and personal golf cars indicate that the state and local governments are adequately providing for the safety of on-road users of those golf cars. The agency recognizes that the limited number may partially reflect the currently limited extent of general on-road use of golf cars. However, NHTSA believes that it also reflects the efforts being made by state and local governments to regulate the safety of the on-road use of golf cars. Even as the number of golf cars used on-road increases, there will be less reason for safety concern about vehicles whose maximum speed is 15 to 20 miles per hour than about vehicles whose maximum speed is 20 to 25 miles per hour. This is because, as also noted above, the potential crash energy of a vehicle traveling 20 to 25 miles per hour is significantly greater than one traveling at less than 20 miles per hour.

By excluding fleet and personal golf cars from the standard's applicability, NHTSA emphasizes that it has not decided or implied that these vehicles should not be subject to any safety regulation by state or local authorities. Moreover, since the agency is not treating those vehicles as motor vehicles, its standard setting activities cannot pre-empt any such state or local regulation. State and local jurisdictions may continue to adopt such safety equipment requirements as they deem appropriate for vehicles, including golf cars, with a maximum speed of 20 miles per hour or less.

b. Upper Limit of 25 Miles Per Hour. NHTSA notes Advocates' apprehension that there might be a future increase in the upper speed threshold for low-speed vehicles. This issue was discussed in the City of Palm Desert meeting (see text of Transcript, beginning at p. 17). There was no sentiment for increasing the permissible speed for on-road golf cars beyond 25 miles per hour. Further, while the agency cannot predict the future, it does not contemplate the possibility that future circumstances might justify increasing the upper threshold for LSVs. Even if it did occur, the changed circumstances would cause the agency to examine significantly narrowing the differences between the safety requirements for LSVs and passenger cars.[25] In this regard, as NHTSA has already noted above, the steady increase in Japanese kei car size and engine displacement has resulted, effective in October of this year, in the elimination of any difference between the frontal crash protection safety requirements for kei cars and those for passenger cars. Finally, the agency notes

[24] In submissions made after the NPRM, NGCMA stated that sales of new golf cars are divided into two categories; ''fleet golf cars'' and ''personal golf cars.'' Fleet golf cars are sold directly to golf courses. They comprise approximately 89 percent of sales. In an April 16, 1998 letter, NGCMA estimated that fleet golf cars have a maximum speed of approximately 12 miles per hour or less. Personal golf cars are sold to individuals, and comprise approximately 11 percent of sales.

[25] NHTSA notes that in the 30 years since the creation of the motor-driven cycle subclass, there has not been any increase in the level of horsepower that divides those vehicles from other motorcycles.

that it would not be appropriate for it to issue this final rule just because of the possibility that there may be future requests for the agency to take additional actions.

NHTSA is aware that a state legislature could define NEVs as vehicles capable of speeds in excess of 25 miles per hour. The agency emphasizes that the enactment of such definition would have no impact upon the Federal definition of LSV, or on the applicability of Standard No. 500. Any NEV or other small passenger vehicle whose maximum speed is higher than 25 miles per hour would not qualify as an LSV. Accordingly, it would have to comply with the full range of Federal motor vehicle safety standards applicable to its type. As noted above, such a vehicle would most likely be classified as a passenger car, and be subject to the full range of FMVSSs for passenger cars.

2. Seat belts

The proposed requirement for seat belts is supported by the two known manufacturers of NEVs, both of which advertise their vehicles as being equipped with seat belts, and is not opposed by dealers who produce speed-modified golf cars with a top speed greater than 20 miles per hour.

Based primarily on the fact that the proposal would have applied to those golf cars capable, as originally manufactured, of exceeding 15 miles per hour, golf car manufacturers and dealers initially strenuously opposed requiring seat belts. According to NGCMA:

> such a requirement in a golf car as presently manufactured is not necessarily going to provide increased safety to occupants but may enhance the risk of injury or even death if the occupant is restrained in the vehicle by a seat belt assembly upon rollover. Engineering consensus is seat belts on golf cars are inappropriate as is the case with motorcycles, ATVs, snowmobiles and personal watercrafts. An optional passenger roof may be affixed to a golf car for weather protection, but the roofs so installed do not comply with standard ROPS [rollover protection system] criteria.
>
> Golf cars are equipped with a standard hip or hand hold restraint located towards the outside of the seat. However, the hand hold does not prevent the occupant from jumping or leaping out of the golf car to avoid further injury if the golf car is about to roll over. For this reason, NGCMA submits that in lieu of a seat belt requirement for golf cars, a hand hold or hip restraint should be required as set forth in ANSI/NGCMA Z130.1

In its February 21, 1997 comments on the NPRM, NGCMA sought a delay in the implementation of the proposed standard to give the industry time to study ''occupant dynamics and a review of seat belt design and seat belt mounting and attachment methods.'' It estimated that a minimum of 24 to 36 months would be needed for that purpose.

In its December 22, 1997 submission to the docket, NGCMA clarified its previous statements and indicated that the industry does not manufacture golf cars that exceed 20 miles per hour, and asked that golf cars incapable of exceeding that speed not be required to be equipped with seat belts. Subsequently, over 30 dealers and distributors informed NHTSA that if the agency limited the seat belt requirement as requested by NGCMA in its December 1997 letter, they would not oppose the issuance of an LSV final rule. (March 20, 1998 letter from Eileen Bradner, Counsel to Club Car, Inc.) Given that this final rule does not apply to the golf cars that concerned the industry and its dealers, i.e., golf cars incapable of exceeding 20 miles per hour, the golf car industry's concerns about seat belts and golf cars have been resolved.

Nevertheless, it is necessary to address the safety value of requiring seat belts in speed-modified and custom golf cars whose speed capability exceeds 20 miles per hour, thus qualifying them as LSVs. WLF argued that the use of seat belts by golf car users would lead to decreased, instead of increased, safety.

Seat belts reduce occupant ejection from all types of vehicles. They are highly effective in preventing occupants of open vehicles from falling out during abrupt maneuvers and in preventing or reducing ejection from both closed and open body vehicles in crashes. This is important for safety since ejection onto hard road surfaces in traffic substantially increases the likelihood of death or serious injury.

Support for seat belts in golf cars has been expressed in Sun City, Arizona, the scene of four golf car crash fatalities between 1995 and early 1998, and in nearby Sun City West. In 1996, the Sun City West Property Owners-Resident Association and Sun City Homeowners Association reportedly responded to a perceived increase in the number of golf car crashes by asking local golf car dealers and distributors to install seat belts in all golf cars used on public roads. (The Arizona Republic/The Phoenix Gazette, July 15, 1996).[26] More recently, in a March 12, 1998 Associated Press story, Detective Jeffrey Childs of the Maricopa County (Arizona) Sheriff's Department was reported as saying that use of seat belts in golf cars would prevent injuries and deaths. Maricopa County includes Sun City, which, as noted above, was the site of four golf car crash fatalities between 1995 and the date of that story. Detective Childs reportedly stated his belief that the last person killed in a Sun City golf car crash, a woman thrown from her golf car when it was struck by a passenger car, would have survived had she been wearing a seat belt. He also noted more generally, ''(w)e've had incidents where they'll take a corner too fast and get pitched out * * *. At that age, that'll kill them.''

Further, seat belt installation continues to have support in the City of Palm Desert. The agency notes that although California eliminated its requirement that local golf car transportation plans include a requirement for seats belts, the City of Palm Desert has retained its seat belt requirement.

The agency concludes that the primary value of seat belt use in LSVs will be in reducing the frequency and severity of injuries in non-rollover crashes of LSVs by preventing occupant ejection. NHTSA estimates that 12–13 percent of the fatalities and injuries in on-road crashes of golf cars involved ejection of the golf car occupants. The importance of preventing ejection may also be seen from examining FARS data. Although those data relate to vehicles with higher speed capability and, in most instances, with enclosed occupant compartments, they are nevertheless instructive. Those data show that the likelihood of a vehicle occupant's being killed if ejected is 4 times greater than the likelihood of being killed if the occupant remains within the vehicle. Seat belts are 99 percent effective at preventing full ejection and 86 percent effective at preventing partial ejection. Even if these compelling data are discounted to reflect differences in the vehicle populations being compared, they still lead the agency to determine that seat belts will enhance the safety of LSV occupants in non-rollover crashes.

In on-road rollover crashes, the LSV occupants are likely to be injured, perhaps seriously, regardless of whether they are belted or unbelted. The agency does not believe that the frequency or severity of on-road rollover injuries will increase if LSV occupants use seat belts.

The conjectures by some commenters that it would be valuable to be able to jump out of an LSV are unsubstantiated speculation that is especially

[26] In a May 27, 1998 telephone conversation with an agency official, Mr. Paul Schwartz, Chairman of the Transportation Committee, Sun City Homeowners Association, Inc., said his association continued to support seat belts. In a May 28, 1998 telephone conversation, Mr. Noel Willis, President of the Sun City West Property Owners-Residents Association, said his association has no position on seat belts in golf cars.

unpersuasive given the volume of data showing that ejection is extremely dangerous and that seat belts are remarkably effective at preventing ejection. NHTSA notes that there may be less opportunity for, and less potential benefit from, attempting to jump out of an overturning LSV traveling down a road than one being driven on a golf course. Even if there is sufficient time for some occupants to jump out of a golf car during a rollover at speeds under 15 miles per hour on a golf course, there is less likely to be an opportunity to do so during a rollover at 20 to 25 miles per hour. This seems especially true if an LSV rolls over on a road as a result of being struck by a larger, faster moving vehicle. Further, jumping out of an LSV traveling down a road at speeds up to 25 miles per hour onto the hard surface of that road in traffic is more likely to cause serious injury than jumping out of an LSV traveling at a speed of 15 miles per hour or less onto the surface of a golf course. NHTSA also notes that people using seat belt equipped golf cars need not wear the seat belts while driving on a golf course.

Based on these considerations, the agency concludes that it is desirable to require seat belts in LSVs. The agency notes that States and local jurisdictions are free to require safety belts on golf cars whose top speed does not exceed 20 miles per hour.

NHTSA will monitor the safety record of LSVs manufactured in compliance with Standard No. 500. Although the agency does not expect that crash data will bear out WLF's concerns, NHTSA, together with State and local authorities, will respond appropriately if any changes are needed.

3. Windshields

The golf car industry argued that installation of an AS–1 windshield would require modification of the windshield mounting brackets, would add weight to the upper area of a golf car, thereby increasing the likelihood of its rollover, and would be easily shattered if struck by a golf ball. Accordingly, the industry recommended allowing a ''shatter resistant polymer'' windshield as a substitute.

Although NHTSA's reference standard, the City of Palm Desert requirements, did not specify the type of glazing to be used in a windshield, NHTSA tentatively decided that safety would be enhanced by requiring a passenger car-type windshield, i.e., by requiring AS–1 glazing. One basis for this tentative decision was that AS–1 glazing is not subject to diminution of light transparence through haze and scratches. However, given the industry's concern in its comments on the NPRM that golf car safety might be compromised were their windshields to be cracked by errant golf balls, the agency looked for acceptable alternatives.

The agency conducted a series of tests on various types of glazing materials using a projectile to simulate the impact of a golf ball. One type was AS–1 glazing. The AS–1 glazing effectively stopped a golf ball from penetration at the fastest velocities at which a golf ball is likely to travel after being driven off a tee by the average male golfer. However, the impact caused glass fragments of the reverse side of the glazing to be flung into the passenger compartment, creating a possible safety risk for occupants.

Another series of tests was conducted on an AS–6 motorcycle windshield made of ''Lucite.'' When this acrylic plastic windshield was impacted at approximately 120–125 miles per hour, it shattered.

Finally, a series of tests were conducted on polycarbonate plastic glazing at speeds up to 225 miles per hour. No penetration, clouding, or cracking/shattering occurred.

After reviewing these tests and the ANSI standard, the agency judged that AS–5 glazing is preferable to AS–6 glazing for use as a golf car windshield. The specifications for the two types of glazing are similar except that, unlike the AS–6 specifications, the AS–5 specifications include an additional abrasion test that precludes acrylic plastic windshields. While AS–4 glazing specifications also include the additional abrasion test, they do not include the dart drop test requirement in the AS–5 specifications. The agency decided, therefore, to change the standard to provide LSV manufacturers with a choice between AS–1 and AS–5 windshields. NHTSA is retaining AS–1 glazing as an option since some LSVs may not be intended for golf course use at all. In this regard, the agency notes that the device for limiting speed to levels appropriate for golf course use is not standard equipment, but a several hundred dollar option, on the vehicles of one NEV manufacturer. LSV manufacturers which intend and equip their vehicles for golf course use as well as on-road use can choose AS–5 glazing for their windshields.

4. VINs, Horn, and Warning Label

Bombardier (008) and CHP (013) recommended that the new class of motor vehicle be required to have a Vehicle Identification Number (VIN), as do other classes of motor vehicles subject to the FMVSSs. In their opinion, VINs are necessary for state registration and licensing, and for effective and efficient safety enforcement regulation and recalls. Further, VINs could prove a useful tool in NHTSA's monitoring of the record of LSVs.

The agency agrees with these comments and has added a VIN to the list of required safety features. A VIN is necessary to assure timely and correct data collection of LSV crashes, and to assure that the data is electronically searchable. Additionally, because LSVs, as motor vehicles, will be subject to the statutory notification and remedy (recall) requirements, equipping LSVs with VINs will also aid in identifying the vehicle population involved in a given recall and assuring that owners are notified of safety-related defects and noncompliances with this standard.

The commenters suggested that Table 1 of Sec. 565.4, 49 CFR, should also be amended to allow for the use of special characters designating a vehicle as an LSV. This would avoid any confusion in identifying LSVs and other vehicles in crash reports. The agency is interested in this suggestion, and will consider it as a possible candidate for future rulemaking.

Both commenters also recommended that LSVs be required to be equipped with a horn. The City of Palm Desert and Roseville, California require a horn because of the potential safety hazard posed by silent electric vehicles to other users of the roadway, such as pedestrians and bicyclists. The CHP stated that the horn should be capable of emitting a sound audible under normal conditions from a distance of not less than 200 feet, but that it should not be unreasonably loud or harsh.

The NPRM did not propose including a horn because there is no requirement in the FMVSSs that other motor vehicles be equipped with one. A horn is an equipment item that has been standard equipment on every motor vehicle since the earliest days of motor vehicles. Accordingly, there does not appear to be any need to require one for LSVs. Moreover, local jurisdictions, such as the City of Palm Desert, may adopt their own requirements for a horn, including requirements regulating its performance.

NHTSA also proposed that LSVs be equipped with a permanently affixed label warning the driver against operating the vehicle at speeds over 25 miles per hour. As stated in the NPRM, the purpose of the label was to ensure that the driver of an LSV modified so that its top speed exceeds 25 mph would have a permanent reminder that the vehicle was not designed to be operated at speeds greater than 25 mph.

The agency has decided not to adopt this proposal. The underlying problem is addressed by the prohibition in the Vehicle Safety Act against commercial entities making inoperative any safety feature required by the FMVSSs, including the feature(s) limiting an LSV's top speed to not more than 25 miles per hour. Further, if a person decided to purchase a speed-modified LSV, notwithstanding the presence of the label, having a permanent reminder is unlikely to dissuade the owner from operating that vehicle in excess of 25 miles per hour.

5. Other Areas of Safety Performance; Future Considerations

NHTSA will monitor the safety record of LSVs as the use of those vehicles increases. The agency will also consider whether Standard No. 500 meets the anticipated safety needs of LSV users.

As the agency noted above, crash avoidance considerations make it important that small vehicles be readily detectable by other drivers in the traffic stream. Although LSVs are expected to be somewhat larger than other small vehicles sharing the roadways with them, e.g., motorcycles and bicycles, it is difficult to ensure that drivers of larger vehicles are aware of smaller vehicles that may be sharing the roadway. Smaller vehicles can more easily get lost in the rearview blind spots, or be obscured by an A-pillar when turning in front of larger vehicles from the opposite direction. To offset this problem, motorcycles are manufactured today so that their headlamps are on (or on and modulating) when the ignition is on during daytime operation as a means of enhancing the conspicuity of cyclists, who are also advised to wear bright colored clothing.

NHTSA intends to examine the Federal lighting requirements presently applicable to motor driven cycles to judge their appropriateness and feasibility for LSVs, and to consider whether any of the LSV lighting equipment should be required to meet performance specifications such as those of the SAE or those currently included in Standard No. 108. The agency will also consider the suggestions of some commenters. TSEI (018), CHP (028), Brownell (035), Ziolo (040), and SMV Technologies (068) were concerned that, if lighting equipment were not required to comply with minimum Federal regulations for signals and visibility as well as physical endurance requirements, the danger of crashes will increase.

A further issue is whether the drivers of vehicles approaching LSVs from behind can detect them in a timely fashion. TSEI also asked for identification of LSVs with a conspicuity device that would make it clear that these vehicles are operating at lower speeds. Ziolo suggested that they be equipped with a high-intensity flashing yellow lamp on the rear or on the top. SMV Technologies recommended a retroreflective orange triangle to be applied front and rear. NHTSA will examine these suggestions. For the present, in consideration of these comments, it has added a rear reflex reflector to Standard No. 500's required lighting equipment.

NHTSA will also further examine braking performance issues as part of its crash-avoidance standards review.

The agency is also interested in considering further the appropriateness of applying other small-vehicle standards to LSVs, particularly with reference to occupant protection in crashes and safety from propulsion systems after crashes. The first of these standards is the golf car industry standard, Z130.1. Although this standard is predicated on a vehicle maximum speed of 15 miles per hour, the standard contains tests and procedures that warrant examination with respect to vehicles with a maximum speed of 20 to 25 miles per hour. For example, requirements are specified for static stability in both longitudinal and lateral test attitudes (9.6.3) and service and parking brake performance (9.6.4). Service brake performance tests are conducted on a horizontal flat surface at maximum vehicle speed. Specifications are also specified for battery installation (9.7) whose impact containment is demonstrated under a dynamic test in which a golf car is propelled at maximum speed into a concrete or steel barrier in both forward and reverse directions. Golf cars are also subject to specifications for wiring systems (paragraph 10.1, for electric-powered vehicles; paragraph 11.1, for gasoline-powered vehicles) and heat-generating components (paragraph 10.2, for electric golf cars; paragraph 11.2 for others). Gasoline-powered golf cars are also subject to specifications for fuel systems (paragraph 11.3) whose impact containment is demonstrated in frontal and reverse barrier tests at maximum speed. These latter include containment in a roll-over situation.

NHTSA will also follow the ongoing SAE efforts to develop a standard applicable to ''closed community vehicles.'' It is anticipated that this standard will address rollover characteristics of small vehicles with relatively high centers of gravity, and the concomitant risk of leaking of fuel or caustic fluids into the passenger compartment in the event of a rollover.

Finally, the agency intends to examine the appropriateness of specifying strength requirements for seat belt anchorages in LSVs.

D. Compliance with other Statutory Requirements Relating to Safety and with Federal Statutes Regulating Non-Safety Aspects of Motor Vehicles

1. Other Statutory Requirements Relating to Safety

This rulemaking places NEVs and golf cars capable of exceeding 20 miles per hour in a new class of ''motor vehicles,'' and excludes them from the FMVSSs that they would otherwise have to meet. Notwithstanding their classification as LSVs, instead of passenger cars, these NEVs and golf cars remain subject to other safety statutes and regulations implementing Chapter 301 that establish obligations for manufacturers of ''motor vehicles,'' such as the requirement to file an identification statement under Part 566, *Manufacturer Identification*; to certify vehicles pursuant to Part 567, *Certification*; to provide notification and remedy of safety-related defects and noncompliances (49 U.S.C. §§ 30118–30120; Part 573, *Defect and Noncompliance Reports*; and Part 577, *Defect and Noncompliance Notification*); to retain records (Part 576, Record Retention); and to provide consumer information (Part 575, *Consumer Information Regulations*). However, since LSVs are excluded from the requirement of Standard No. 110 that they be equipped with tires complying with Standard No. 109, NHTSA regards Part 574, *Tire Identification and Recordkeeping*, as inapplicable to manufacturers of LSVs, notwithstanding that LSVs are ''motor vehicles.''

2. Federal Statutes Regulating Non-Safety Aspects of Motor Vehicles

NHTSA's vehicle safety program is but one of a number of Federal regulatory programs affecting motor vehicles. Others include NHTSA's fuel economy, theft, property damage reduction (bumpers), and domestic content labeling programs, and the Environmental Protection Agency's emissions program. Having been able to use the discretion granted the agency by the Vehicle Safety Act to tailor the FMVSS to the particular safety problems and compliance capabilities of low-speed vehicles, NHTSA has considered whether the Congressional statutes regulating various non-safety aspects of motor vehicles give the agency similar

discretion to determine whether and to what extent low-speed vehicles should comply with the requirements of those statutes.

a. Theft. NHTSA issued Part 541, Federal Motor Vehicle Theft Prevention Standard, pursuant to 49 U.S.C. Chapter 331, Theft Prevention. The purpose of the standard is to reduce the incidence of passenger motor vehicle thefts by facilitating the tracing and recovery of parts from stolen vehicles. The standard seeks to facilitate such tracing by requiring marking of major component parts of higher theft vehicle lines.

While LSVs subject to Standard No. 500 would be passenger motor vehicles under Chapter 331, NHTSA believes there would not, for the immediate future, be any reliable way of evaluating their likely theft rates. This is because LSVs do not currently exist as a vehicle class, and they are sufficiently different from other classes of vehicles to make comparisons related to theft unreliable. Thus, it could not be determined whether their rates were high enough to subject them to parts marking.

Given that application of the Theft Prevention Standard is necessarily dependent on making determinations concerning theft rates, the agency has decided not to apply the standard to LSVs until there is sufficient information to make such determinations. Once sufficient information becomes available, NHTSA will revisit this issue.

b. Content Labeling. The American Automobile Labeling Act (AALA), codified at 49 U.S.C. § 32304, requires passenger motor vehicles to be labeled with information about their domestic and foreign content. More specifically, the Act generally requires each new passenger motor vehicle to be labeled with the following five items of information: (1) U.S./Canadian parts content, (2) major sources of foreign parts content, (3) the final assembly point by city, state (where appropriate), and country; (4) the country of origin of the engine parts, and (5) the country of origin of the transmission parts. The Act specifies that the first two items of information, the U.S./Canadian parts content and major sources of foreign parts content, are calculated on a ''carline'' basis rather than for each individual vehicle. NHTSA's regulations implementing the AALA are set forth in Part 583, Automobile Parts Content Labeling.

NHTSA notes that the LSVs subject to Standard No. 500 come within the definition of ''passenger motor vehicle'' under the AALA. Therefore, manufacturers of LSVs are necessarily subject to the requirements of Part 583, subject to certain important limitations discussed below.

A manufacturer that produces LSVs from various parts at a final assembly point is subject to Part 583 in the same manner as manufacturers of passenger cars and light trucks. The manufacturer is required to affix the required label containing content information to all new LSVs.[27] The manufacturer must calculate the information for the label by using information provided to it by suppliers. Under Part 583, the manufacturer is required to request its suppliers to provide the relevant content information specified in Part 583, and the suppliers are required to provide the specified information in response to such requests. The agency notes that it recently issued a letter of interpretation (dated March 5, 1998, and addressed to Erika Z. Jones, Esq.) concerning how Part 583 applies to electric vehicles. This letter is available on NHTSA's website.

The agency has concluded that Part 583 does not, however, apply to dealers and entities that modify golf cars so that their top speed is increased so that it is between 20 and 25 mph. This conclusion is based on the overall structure of the AALA. The agency notes that it considered a similar issue in promulgating Part 583. NHTSA decided that alterers are not covered by the Act. The agency explained: ''Alterers modify completed vehicles, after they have left the manufacturer's final assembly point. The parts they use are not considered equipment by [the AALA], because they are never shipped to the final assembly point.'' 59 FR 37321; July 21, 1994. The agency notes that while the golf cars these dealers and other entities would be modifying are not considered motor vehicles prior to the modification, they are nonetheless completed vehicles after they have left the final assembly point. Therefore, NHTSA believes it is appropriate to apply the same result as it reached for alterers.

c. Corporate Average Fuel Economy. NHTSA observes that LSVs are expected to have very high fuel economy because of their small size. Accordingly, a fleet consisting solely of LSVs should not have any difficulty meeting the corporate average fuel economy standards applicable to passenger motor vehicles and light trucks pursuant to 49 U.S.C. Chapter 329, Automobile Fuel Economy. The standards are set forth at 49 CFR Parts 531 and 533. The agency notes that while it has the responsibility for setting fuel economy standards, the procedures for measuring and calculating fuel economy are established by EPA. See 49 U.S.C. 32904.

NHTSA enforces the fuel economy standards based on information developed by EPA under those procedures. However, the present EPA test procedure specifies that test vehicles must operate during testing at speeds that are above the capability of LSVs. Accordingly, the procedure cannot be used to measure the fuel economy of these vehicles.

NHTSA will not enforce fuel economy standards, or regulations related to those standards (e.g., reporting requirements) for any vehicles for which EPA does not have procedures for measuring and calculating fuel economy. Manufacturers of LSVs, including modifiers of golf cars, should contact EPA concerning their emissions responsibilities and concerning any changes in that agency's procedures for measuring and calculating fuel economy.

d. Bumper Standards. Under 49 U.S.C. Chapter 325, Bumper Standards, NHTSA is required to issue bumper standards for passenger motor vehicles. The purpose of that chapter is to reduce economic loss resulting from damage to passenger motor vehicles involved in motor vehicle crashes. Under 49 U.S.C. § 32502(c), the agency may, for good cause, exempt from any part of a standard a multipurpose passenger vehicle or a make, model, or class of a passenger motor vehicle manufactured for a special use, if the standard would interfere unreasonably with the special use of the vehicle.

NHTSA's regulations implementing Chapter 325 are set forth in Part 581, Bumper Standard. The standard applies to passenger motor vehicles other than multipurpose passenger vehicles. The agency has not applied Part 581 to multipurpose passenger vehicles because of concerns that the standard could interfere with the use of these vehicles, particularly with respect to off-road operation.

In the NPRM, NHTSA proposed to conclude that LSVs are not passenger motor vehicles within the meaning of 49 U.S.C. Chapter 325, and that the bumper standard is therefore not applicable to LSVs. On further consideration, the agency has decided that it cannot make that conclusion consistent with Chapter 325. However, NHTSA has concluded that the special use rationale for not applying the Bumper Standard to multipurpose passenger vehicles also applies to LSVs subject to Standard No. 500. Many of these vehicles are golf cars

[27] A manufacturer that produces a total of fewer than 1000 passenger motor vehicles in a model year is subject to more limited labeling requirements. See 49 CFR § 583.5(g).

or are largely derived from golf cars. All or most are currently intended for both on-road and off-road use. Application of the Bumper Standard to these vehicles could interfere with off-road operation, e.g., the need of these vehicles to negotiate the uneven terrain of a golf course. Therefore, the agency finds good cause for exempting them from part 581.

V. Effective Date.

The agency has decided to make its vehicle classification changes and new Standard No. 500 effective upon the publication of this final rule in the **Federal Register**. These actions relieve a restriction on the manufacturers of LSVs. They do so by bringing an immediate end to the regulatory conflict between State and local laws on the one hand and Federal laws on the other, and replacing the current impracticable and overly extensive set of Federal requirements with a set that is more appropriate and reasonable for this new, emerging class of vehicles. NEV manufacturers and modifiers of golf cars wish to have the opportunity to begin the manufacture and sale of vehicles complying with the new standard as soon as possible.

The golf car industry's initial 36-month lead time request was based upon the proposed lower threshold of 15 miles per hour, the industry's opposition to seat belts and its wish to develop and implement an integrated rollover protection system that might require modifications to its existing vehicle designs. In its December 22, 1997 letter, NGCMA shortened the requested lead time to 6 to 12 months, provided that seat belts were not required for their golf cars as originally manufactured. This request, like the first, was based on the proposed 15-mile-per-hour threshold. As noted above, the lower threshold has been raised to 20 miles per hour in this final rule, thus excluding golf cars as they are now originally manufactured, and resolving the lead time concerns of the golf car manufacturers.

Bombardier indicated that its NEV is equipped to comply with the new standard, as proposed, and that it needed no lead time. Information in the VRTC study indicates that the Global Electric MotorCars' NEV complies, except for red reflex reflectors and mirrors which can be readily added.

The remaining lead time issue concerns those golf car dealers who, on or after the effective date of the final rule, modify the maximum speed capability of golf cars so that it is between 20 and 25 miles per hour. The salient fact is that this rulemaking eliminates existing unnecessary restrictions on those modifications. Prior to the effective date, those speed modifications have the effect of converting the golf cars into passenger cars, making it necessary for the modifiers to conform the golf cars to the FMVSSs for passenger cars. Since such conformance is not practicable, modifiers are currently legally unable to increase the top speed of golf cars above 20 miles per hour. Beginning on the effective date, the legal obligations of the modifiers under the Vehicle Safety Act are significantly reduced. Instead of being responsible for conforming the golf cars with the FMVSSs for passenger cars, the modifiers will be responsible for conforming them with the less extensive array of requirements applicable to LSVs.

In consideration of the foregoing, the agency has decided to make this final rule effective upon the publication of this final rule in the **Federal Register**. For the reasons discussed above, NHTSA finds that there is good cause for setting an effective date earlier than 180 days after issuance of the final rule is in the public interest. Accordingly, the final rule becomes effective upon publication in the **Federal Register**.

VI. Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This action is not significant under Executive Order 12866 and has not been reviewed by the Office of Management and Budget under that Executive Order. Further, this action is not significant under the Department of Transportation's Regulatory Policies and Procedure. NHTSA has prepared and docketed a final regulatory evaluation (FRE) for this final rule.

Since LSVs are a new type of motor vehicle, it is not possible to determine annual benefit and cost figures. As to benefits, the agency notes that the demand for sub-25 mph vehicles is currently being met primarily by fleet and personal golf cars and by speed-modified golf cars that were not originally manufactured for on-road use. If the agency did not take the actions specified in this final rule, the demand would continue to be met in that manner. The vehicles would be equipped with at least some of the safety features required by Standard No. 500, but not seat belts except in the City of Palm Desert. The issuance of this final rule ensures that the demand will be met in the future by vehicles originally manufactured for on-road use and equipped with the full array of safety features required by that standard.

As to the costs of producing NEVs and other LSVs in compliance with Standard No. 500, the significance of those costs can be fully appreciated only by comparing them with the costs that the manufacturers of those vehicles would have had to bear in the absence of this rulemaking. If the agency had adopted the regulatory option of making no change in its regulations and standards, LSV manufacturers would have been subject to the considerably more costly array of passenger car standards.

As discussed previously in this document, manufacturers of both the Bombardier NEV and Global Electric MotorCars NEV have designed their vehicles to incorporate basic safety equipment such as three-point seat belts, headlamps, and stop lamps before NHTSA's first public meeting in July 1996. In response to the NPRM, Bombardier termed the City of Palm Desert's requirements ''entirely practicable'' and remarked that ''Indeed, Bombardier currently complies with these existing state safety equipment requirements'' (008). Although Global Electric MotorCars' predecessor, Trans2, was silent on the subject, its lack of comment and request for ''expedited rulemaking'' leading to a final rule by ''June 1997'' has been read to mean that it, too, found compliance with Standard No. 500 to be practicable (007).

In NHTSA's judgment, the final rule will not affect golf car manufacturers since it applies only to vehicles with a top speed of more than 20 miles per hour and the industry has represented that it does not manufacture any such vehicles. Should a golf car ever be modified to have a top speed capability of 20 to 25 miles per hour, it would then be subject to Standard No. 500.

In November 1993, the City of Palm Desert initiated a survey of golf car owners who registered their vehicles in its golf car program. The responses from 61 owners indicated that the cost to retrofit a golf car with the equipment prescribed by that city was an average of $150 in January 1994. At the July 1996 public meeting in the City of Palm Desert, an Arizona golf car dealer estimated that the cost of adding the equipment required in Arizona (which does not include seat belts) could be as high as $400.

This latter figure roughly accords with NHTSA's own total equipment cost estimates for taking a golf car that complies with none of the requirements in Standard No. 500 and modifying it to comply with the standard. In the FRE, the agency estimates $357 for modifying a golf car to conform to Standard No. 500 with a two-point belt system, and

$370 for achieving conformance with a three-point belt system (in 1997 dollars). Either type of belt system is permissible under the new standard. NHTSA's cost estimates, however, do not cover the cost of modifications that a dealer or other commercial entity itself may deem desirable for the on-road use of a golf car, such as modifications to the brake system to accommodate faster speeds. NHTSA estimates that the compliance costs for the two current makes of NEVs will be only about $25 since they already have most of the required equipment. The additional cost is for side and rear reflex reflectors, driver or passenger side mirror, and a vehicle identification number label.

Regulatory Flexibility Act

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

The following is NHTSA's statement providing the factual basis for the certification (5 U.S.C. Sec. 605(b)). The final rule primarily affects manufacturers of non-conventional motor vehicles not heretofore regulated by NHTSA. Under 15 U.S.C. Chapter 14A ''Aid to Small Businesses'', a small business concern is ''one which is independently owned and operated and which is not dominant in its field of operation'' (15 U.S.C. Sec. 632). The Small Business Administration's (SBA) regulations at 13 CFR part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.''

The record of this rulemaking indicates that there is only one entity in the United States that intends to produce an LSV as defined by the final rule, Global Electric MotorsCars. As noted in a footnote above, Global Electric MotorCars has taken over Trans2 Corporation and will market the Trans2 as the ''GEM.'' Therefore, it is ''dominant in its field of operation.'' A second entity that intends to manufacture LSVs, Bombardier, operates primarily outside the United States. There were four golf car manufacturers who commented on the NPRM, E-Z-Go Textron, Club Car, Inc., Melex, Inc., and Western Golf Car, all located in the United States. Golf car manufacturers are not ''manufacturers'' of LSVs under the final rule because the record indicates that none produces a vehicle whose maximum speed exceeds 20 miles per hour.

However, a person who modifies a golf car so that its maximum speed is between 20 miles and 25 per hour is a ''manufacturer'' of an LSV and is legally responsible for its compliance and for certifying that compliance. As noted above in the discussion of the effective date, the salient fact with respect to the impact of this rulemaking on modifiers is that it replaces one set of requirements with which the modifiers cannot comply with a set with which they can comply. Prior to this final rule, those speed modifications convert the golf cars into passenger cars, making it necessary for the modifiers to conform the golf cars to the FMVSSs for passenger cars. Since this is not possible, modifiers have been legally unable to modify golf cars so that their top speed exceeds 20 miles per hour. Beginning on the effective date of this final rule, the legal obligations of the modifiers under the Vehicle Safety Act are significantly reduced. Instead of being responsible for conforming the golf cars with FMVSSs for that type of vehicle, the modifiers are responsible for conforming them with the less extensive array of requirements applicable to LSVs. Further, the equipment necessary to comply with Standard No. 500 can be obtained and added by modifiers readily and at moderate cost.

Further, small organizations and governmental jurisdictions will not be significantly affected. The testimony at the public meetings and comments to the docket indicate that the purchasers of LSVs will be private individuals who want a small, alternative mode of transportation instead of a conventional motor vehicle, as a second vehicle for use in their immediate residential area. Nevertheless, the availability of these small vehicles to small organizations and governmental jurisdictions may assist them in reducing costs associated with their motor vehicle fleets and in achieving local clean air goals.

Paperwork Reduction Act

The vehicles affected by this final rule are presently classified as passenger cars and, as such, are subject to various information collection requirements, e.g., Part 537, *Automotive Fuel Economy Reports* (OMB Control No. 2127–0019); Part 566, *Manufacturer Identification* (OMB Control No. 2127–0043); Consolidated VIN and Theft Prevention Standard and Labeling Requirements (Parts 541, 565 and 567)(OMB Control No. 2127–0510); Section 571.205, *Glazing materials* (OMB Control No. 2127–0038); Section 571.209, *Seat belt assemblies* (OMB Control No. 2127–0512); Part 573 *Defect and Noncompliance Reports* (OMB Control No. 2127–0004); Part 575, *Consumer Information Regulations* (OMB Control No. 2127–0049); and Part 576, *Record Retention* (OMB Control No. 2127–0042). The final rule removes those vehicles from the passenger car class and places them in a new class, i.e., low-speed vehicles. As low-speed vehicles, they remain subject to those requirements.

Executive Order 12612 (Federalism) and Unfunded Mandates

This rulemaking has also been analyzed in accordance with the principles and criteria contained in Executive Order 12612. NHTSA has determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This final rule will, as a practical matter, have only limited effect on state and local regulation of the safety equipment on golf cars and NEVs whose top speed qualifies them as LSVs.

The definition of LSV in Standard No. 500 does not encompass a golf car with a maximum speed of 20 miles per hour or less, or a NEV with a maximum speed of more than 25 miles per hour. Thus, this final rule has no effect on the ability of state and local governments to specify requirements for vehicles other than LSVs. State and local governments continue to be able to adopt or continue to apply any safety equipment standard it wishes for golf cars with a maximum speed of 20 miles per hour or less.

However, it does encompass golf cars and NEVs with a maximum speed greater than 20 miles per hour, but not greater than 25 miles per hour. Under the preemption provisions of 49 U.S.C. 30103(b)(1), with respect to those areas of a motor vehicle's safety performance regulated by the Federal government, any state and local safety standards addressing those areas must be identical. Thus, the state or local standard, if any, for vehicles classified as LSVs must be identical to Standard No. 500 in those areas covered by that standard. For example, since Standard No. 500 addresses the subject of the type of lights which must be provided, state and local governments may not require additional types of lights. Further, since the agency has not specified performance requirements for any of the required lights, state and local governments may not do so either.

NHTSA is not aware of any aspects of existing state laws that might be regarded as preempted by the issuance of this final rule. Those laws do not contain performance requirements for the items of equipment required by Standard No. 500. Further, state and local governments may supplement

Standard No. 500 in some respects. They may do so by requiring the installation of and regulate the performance of safety equipment not required by the standard. NHTSA wishes to make several other observations regarding the ability of state and local governments to make regulatory decisions regarding LSVs. First, NHTSA recognizes that while some states and local governments have taken steps to permit on-road use of golf cars and LSVs, others have not. In the agency's view, this final rule does not alter the ability of states and local governments to make that decision for themselves. Similarly, this rulemaking has no effect on any other aspect of State or local regulation of golf carts and NEVs, including classification for taxation, vehicle and operator registration, and conditions of use upon their state and local roads.

Second, the agency notes that the issuance of Standard No. 500 does not require current owners of golf cars having a top speed between 20 to 25 miles per hour to retrofit those golf cars with the equipment specified in the standard. Standard No. 500 applies to new LSVs only. The decision whether to require retrofitting of golf cars that are already on the road remains in the domain of state and local law.

In issuing this final rule, the agency notes, for the purposes of the Unfunded Mandates Act, that it is pursuing the least cost alternative for addressing the safety of LSVs. As noted above, the agency is substituting a less extensive, less expensive set of requirements for the existing full array of passenger car safety standards. Further, the agency is basing almost all of the requirements of Standard No. 500 on state and local requirements for on-road use of golf cars. Finally, the agency has not, at this time, adopted any performance requirements for the required items of safety equipment other than seat belts.

State and local agencies in California and Arizona, including the California Air Resources Board, as well as Sierra Club California and a Florida State University professor who analyzed the deployment of electric cars in the MetroDade Transit System Station Car Program, submitted comments suggesting that the final rule will encourage the manufacture and use of electric vehicles and thus have beneficial environmental effects. Southern California Edison and the Arizona Economic Development Department noted at the first public meeting that their statements about such beneficial effects included consideration of power plant emissions. Commenters also indicated that any increase in the number of sub-25 mph vehicles as a result of this rulemaking is likely to be primarily in vehicles powered by electricity as opposed to gasoline. There is already a strong and growing interest in sub-25 mph cars that are electric. Commenters submitted data showing that over 60 percent of conventional golf cars are electric and that the percentage has been fairly steadily increasing in this decade. Further, both NEVs are electric.

The agency agrees with these comments, and believes that the final rule will have a generally stimulating effect on the deployment of electric LSVs. This final rule may also lead to modifications in the speed of conventional golf cars, and expanded use of these vehicles as LSVs. According to VRTC, these modified vehicles, too, are likely to be electric vehicles. They are generally easier to modify than LSVs with internal combustion engines to gain cost-effective, significant increases in speed.

It is the judgment of the agency that this rule will not result in significant impacts to the environment, within the meaning of National Environmental Policy Act. The increased use of zero-emission electric vehicles, in lieu of vehicles with internal combustion engines, is likely to have a beneficial effect on the environment, particularly in urban corridors where air pollution is often greatest. However, inasmuch as LSVs are specialty vehicles with a relatively limited niche market, the environmental effects are necessarily limited in scope.

Civil Justice

The final rule does not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 30163 sets forth a procedure for judicial review of final rules establishing, amending, or revoking safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects

49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Incorporation by reference.

49 CFR Part 581

Imports, Motor vehicles, Incorporation by reference.

In consideration of the foregoing, 49 CFR parts 571 and 581 are amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30166; delegation of authority at 49 CFR 1.50.

2. Paragraph 571.3(b) is amended to add a definition of ''low-speed vehicle'' and to revise the definitions of ''multipurpose passenger vehicle,'' and ''passenger car,'' to read as follows:

§ 571.3 Definitions.

* * * * *

(b) * * *

Low-speed vehicle means a 4-wheeled motor vehicle, other than a truck, whose speed attainable in 1.6 km (1 mile) is more than 32 kilometers per hour (20 miles per hour) and not more than 40 kilometers per hour (25 miles per hour) on a paved level surface.

* * * * *

Multipurpose passenger vehicle means a motor vehicle with motive power, except a low-speed vehicle or trailer, designed to carry 10 persons or less which is constructed either on a truck chassis or with special features for occasional off-road operation.

* * * * *

Passenger car means a motor vehicle with motive power, except a low-speed vehicle, multipurpose passenger vehicle, motorcycle, or trailer, designed for carrying 10 persons or less.

* * * * *

3. A new section 571.500 is added to read as follows:

§ 571.500 Standard No. 500; Low-speed vehicles.

S1. *Scope.* This standard specifies requirements for low-speed vehicles.

S2. *Purpose.* The purpose of this standard is to ensure that low-speed vehicles operated on the public streets, roads, and highways are equipped with the minimum motor vehicle equipment appropriate for motor vehicle safety.

S3. *Applicability.* This standard applies to low-speed vehicles.

S4. (Reserved.)

S5. *Requirements.*

(a) When tested in accordance with test conditions in S6 and test procedures in S7, the maximum speed attainable in 1.6 km (1 mile) by each low-speed vehicle shall not more than 40 kilometers per hour (25 miles per hour).

(b) Each low-speed vehicle shall be equipped with:

(1) headlamps,

(2) front and rear turn signal lamps,
(3) taillamps,
(4) stop lamps,
(5) reflex reflectors: one red on each side as far to the rear as practicable, and one red on the rear,
(6) an exterior mirror mounted on the driver's side of the vehicle and either an exterior mirror mounted on the passenger's side of the vehicle or an interior mirror,
(7) a parking brake,
(8) a windshield of AS–1 or AS–5 composition, that conforms to the American National Standard Institute's ''Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways,'' Z-26.1–1977, January 28, 1977, as supplemented by Z26.1a, July 3, 1980 (incorporated by reference; see 49 CFR 571.5),
(9) a VIN that conforms to the requirements of part 565 *Vehicle Identification Number* of this chapter, and
(10) a Type 1 or Type 2 seat belt assembly conforming to Sec. 571.209 of this part, Federal Motor Vehicle Safety Standard No. 209, *Seat belt assemblies*, installed at each designated seating position.

S6. *General test conditions.* Each vehicle must meet the performance limit specified in S5(a) under the following test conditions.

S6.1. *Ambient conditions.*

S6.1.1. *Ambient temperature.* The ambient temperature is any temperature between 0 °C (32 °F) and 40 °C (104 °F).

S6.1.2. *Wind speed.* The wind speed is not greater than 5 m/s (11.2 mph).

S6.2. *Road test surface.*

S6.2.1. *Pavement friction.* Unless otherwise specified, the road test surface produces a peak friction coefficient (PFC) of 0.9 when measured using a standard reference test tire that meets the specifications of American Society for Testing and Materials (ASTM) E1136, ''Standard Specification for A Radial Standard Reference Test Tire,'' in accordance with ASTM Method E 1337–90, ''Standard Test Method for Determining Longitudinal Peak Braking Coefficient of Paved Surfaces Using a Standard Reference Test Tire,'' at a speed of 64.4 km/h (40.0 mph), without water delivery (incorporated by reference; see 49 CFR 571.5).

S6.2.2. *Gradient.* The test surface has not more than a 1 percent gradient in the direction of testing and not more than a 2 percent gradient perpendicular to the direction of testing.

S6.2.3. *Lane width.* The lane width is not less than 3.5 m (11.5 ft).

S6.3. *Vehicle conditions.*

S6.3.1. The test weight for maximum speed is unloaded vehicle weight plus a mass of 78 kg (170 pounds), including driver and instrumentation.

S6.3.2. No adjustment, repair or replacement of any component is allowed after the start of the first performance test.

S6.3.3. *Tire inflation pressure.* Cold inflation pressure is not more than the maximum permissible pressure molded on the tire sidewall.

S6.3.4. *Break-in.* The vehicle completes the manufacturer's recommended break-in agenda as a minimum condition prior to beginning the performance tests.

S6.3.5. *Vehicle openings.* All vehicle openings (doors, windows, hood, trunk, convertible top, cargo doors, etc.) are closed except as required for instrumentation purposes.

S6.3.6. *Battery powered vehicles.* Prior to beginning the performance tests, propulsion batteries are at the state of charge recommended by the manufacturer or, if the manufacturer has made no recommendation, at a state of charge of not less than 95 percent. No further charging of any propulsion battery is permissible.

S7. *Test procedure.* Each vehicle must meet the performance limit specified in S5(a) under the following test procedure. The maximum speed performance is determined by measuring the maximum attainable vehicle speed at any point in a distance of 1.6 km (1.0 mile) from a standing start and repeated in the opposite direction within 30 minutes.

* * * * *

PART 581—BUMPER STANDARD

4. The authority citation for part 581 is revised to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 32502, 32504; delegation of authority at 49 CFR 1.50.

5. Section 581.3 is revised to read as follows:

§ 581.3 Application.

This standard applies to passenger motor vehicles other than multipurpose passenger vehicles and low-speed vehicles as defined in 49 CFR part 571.3(b).

Issued on: June 9, 1998.

Ricardo Martinez,

Administrator

[FR Doc. 98–16003 Filed 6–12–98; 10:00 am]

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Federal Register

Wednesday
June 17, 1998

Part V

Department of Transportation

National Highway Traffic Safety Administration

23 CFR Part 1331

State-Issued Driver's Licenses and Comparable Identification Documents; Proposed Rule

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1331

[Docket No. NHTSA–98–3945]

RIN 2127–AG–91

State-Issued Driver's Licenses and Comparable Identification Documents

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes regulations to implement the requirements contained in section 656(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Section 656(b) of the Act, entitled State-Issued Driver's Licenses and Comparable Identification Documents, provides that a Federal agency may only accept as proof of identity a driver's license or identification document that conforms to specific requirements, in accordance with regulations issued by the Secretary of Transportation. This Notice of Proposed Rulemaking proposes those regulations. The agency requests comments on its proposal.

DATES: Comments must be received by August 3, 1998.

ADDRESSES: Written comments should refer to the docket number and the number of this notice, and be submitted (preferably two copies) to: Docket Management, Room PL–401, National Highway Traffic Safety Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. (Docket hours are Monday-Friday, 10 a.m. to 5 p.m., excluding Federal holidays.)

FOR FURTHER INFORMATION CONTACT: Mr. William Holden, Chief, Driver Register and Traffic Records Division, NTS–32, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590; telephone (202) 366–4800, or Ms. Heidi L. Coleman, Assistant Chief Counsel for General Law, NCC–30, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590; telephone (202) 366–1834.

SUPPLEMENTARY INFORMATION: On September 30, 1996, the Omnibus Consolidated Appropriations Act for Fiscal Year 1997, P.L. 104–208, was signed into law. Included in the Omnibus Act were the provisions of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (hereinafter, the ''Immigration Reform Act''). The purpose of the Immigration Reform Act was to improve deterrence of illegal immigration into the United States.

Section 656(b) of the Act, entitled State-Issued Driver's Licenses and Comparable Identification Documents, provides that, after October 1, 2000, Federal agencies may not accept as proof of identity driver's licenses or other comparable identification documents, issued by a State, unless the driver's license or identification document conforms to certain requirements.

A. Statutory Requirements

Section 656(b) establishes three requirements that State-issued driver's licenses or other comparable identification documents must meet, to be acceptable as proof of identity:

1. *Application Process*—The application process for the driver's license or identification document shall include the presentation of such evidence of identity as is required by regulations promulgated by the Secretary of Transportation, after consultation with the American Association of Motor Vehicle Administrators (AAMVA).

2. *Form*—The driver's license or identification document shall be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation, after consultation with AAMVA. The form shall contain security features designed to limit tampering, counterfeiting, photocopying, or otherwise duplicating, the driver's license or identification document for fraudulent purposes and to limit the use of the driver's license or identification document by imposters.

3. *Social Security Number*—The driver's license or identification document shall contain a social security number that can be read visually or by electronic means, unless the State issuing such driver's license or identification document meets certain conditions.

To meet the conditions, the State must not require the driver's license or identification document to contain a social security number and the State must require the submission of the social security number by every applicant for a driver's license or identification document. The State must also require that a State agency verify the validity of the social security number with the Social Security Administration (SSA).

B. Promulgation of Regulations, After Consultation With AAMVA

The Immigration Reform Act requires that the Secretary of Transportation issue regulations governing State-issued driver's licenses and comparable identification documents. The Act provides, however, that the Department must first consult with the American Association of Motor Vehicle Administrators.

AAMVA is a voluntary, nonprofit, membership organization that represents the State and provincial officials (generally, referred to as motor vehicle administrators) in the United States and Canada who are responsible for the administration and enforcement of laws pertaining to motor vehicles and their use. The issue of fraudulent driver's licenses and identification documents has been of concern to AAMVA for many years. In an effort to address this problem, AAMVA formed a Uniform Identification Working Group to establish uniform identification procedures. In May 1996, the working group published the Uniform Identification Practices Model Program (hereinafter, the ''model program'').

In accordance with the dictates of the Immigration Reform Act, NHTSA consulted with AAMVA prior to issuing this Notice of Proposed Rulemaking and it considered carefully the contents of the working group's model program. Although not directed to by the legislation, NHTSA also consulted with officials of interested Federal agencies, including the Social Security Administration and the Immigration and Naturalization Service (INS).

C. Requirements in Proposed Regulation

This Notice of Proposed Rulemaking (NPRM) proposes a regulation that would implement the requirements of Section 656(b) of the Immigration Reform Act. The requirements being proposed are discussed below.

1. Evidence of Identity

As explained above, Section 656(b) provides that driver's licenses or other comparable identification documents issued by a State will not, after October 1, 2000, be accepted by a Federal agency for any identification-related purpose unless the application process for the driver's license or identification document shall include the presentation of such evidence of identity as is required by regulations promulgated by the Secretary of Transportation.

Consistent with the working group's model program, NHTSA proposes that identical identification standards be followed for both driver's licenses and identification documents. The proposed rule provides that an applicant would be required to submit one primary and one secondary document for a new or duplicate driver's license or identification document. Renewal applicants would be required to show

only their current driver's license or identification document. If the current driver's license or identification document is unavailable, the applicant would be required to submit instead a primary and secondary document.

The purpose of the primary document is to establish identity. As proposed in this NPRM, the primary document would need to contain the applicant's full legal name (including middle name) and date of birth, and it would need to be verifiable. The purpose of the secondary document is to assist in confirming identity. As proposed in this NPRM, the secondary document would need to contain the applicant's name, plus sufficient substantiating information for all or part of the information contained on the primary document, to confirm the identity of the individual.

The agency proposes to list acceptable primary and secondary documents in appendices to the final rule. As needed, the agency would publish subsequent documents in the **Federal Register**, updating these appendices. Proposed lists of acceptable primary and secondary documents are attached to today's NPRM as Appendix A and Appendix B to part 1331. The proposed rule provides that exceptions to the published lists of acceptable documents could be made by States, provided the exceptions are made in accordance with established procedures and on an infrequent basis and only in extreme circumstances, such as a fire or natural disaster.

2. Form and Security Features

To be acceptable after October 1, 2000, driver's licenses or identification documents shall also be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation. The statute requires that the form shall contain security features designed to limit tampering with, counterfeiting, photocopying, or otherwise duplicating, the driver's license or identification document for fraudulent purposes and to limit the use of the driver's license or identification document by imposters.

Consistent with the working group's model program, NHTSA proposes that, at a minimum, certain features shall be included on both driver's licenses and identification documents. The proposed list of features is included in the proposed regulation. The agency believes that some of the features included on the proposed list will help to limit the use of the driver's license or identification document by imposters, such as the applicant's date of birth and signature, and a color photograph or image.

''Security features'' is also included as an item on the proposed list. The incorporation of security features into a driver's license and identification document will make it more difficult for persons to tamper with, counterfeit, photocopy, or otherwise duplicate, a driver's license or identification document for fraudulent purposes. Various techniques and technologies are currently available to State licensing agencies that are effective at deterring these practices. The proposed rule requires States to include one or more security features on driver's licenses and identification documents. The agency urges States, however, to adopt as many such features as is practicable, because the more features a State includes on its driver's licenses and identification documents, the more difficult it would be for individuals to counterfeit or otherwise misuse these documents.

The agency proposes to provide a list of suggested security features in an appendix to the final rule. As needed, the agency would publish subsequent documents in the **Federal Register**, updating this appendix. A proposed list of such features is attached as Appendix C to part 1331 in today's NPRM.

3. Social Security Number

The Immigration Reform Act provides that, to be acceptable after October 1, 2000, driver's licenses or identification documents shall contain a social security number that can be read visually or by electronic means, except in States that meet certain conditions.

As stated previously, States meet the conditions if they require the submission of the social security number by every applicant for a driver's license or identification document, but do not require that the social security number be included on the driver's license or identification document. The State must also require that an agency of the State verify the validity of the social security number with the Social Security Administration. The NPRM implements this provision by indicating that States may include social security numbers on driver's licenses and identification documents, but must require all applicants to submit their social security number and must verify each applicant's social security number as described below.

a. Validation

The proposed regulation specifies that, with one exception described below, all States shall verify the validity of each applicant's social security number with the Social Security Administration, whether or not the social security number is to be included on the driver's license or identification document, unless previously validated.

The working group's model program recommended that ''key'' information, such as social security numbers, should be verified for each transaction. The model program, which was published in May 1996, stated, ''Electronic verification with the Social Security Administration is now possible,'' and the model program urged all States to ''take advantage of the electronic access and verify [social security numbers] with the SSA.''

For those States that were not capable at that time of performing electronic verification, the model program stated that ''manual verification should be required.'' It was recommended that certain documents could be used to verify social security numbers manually, such as social security cards (but not metal cards), letters from the Social Security Administration, IRS/State tax forms (but not a W–2 form), financial statements containing social security numbers, payroll stubs containing social security numbers or military ID's containing social security numbers.

The agency hopes that, by October 1, 2000, each State will be capable of verifying social security numbers electronically, rather than manually. Therefore, the agency has proposed in the NPRM that, beginning October 1, 2000, each State shall verify each application for a new, duplicate or renewal driver's license or identification document electronically with the Social Security Administration, unless previously validated.

The agency requests comments on this proposed requirement. In particular, the agency seeks comments regarding whether States do not expect to be capable of verifying the social security numbers for all driver's license and identification document applicants by October 1, 2000. If it is expected that any State may not have such a capability by that date, the agency requests that comments include a prediction of the date by which such State may have this capability.

b. Individuals Unable to Obtain Social Security Numbers

The Immigration Reform Act requires all States to request the social security number from every applicant for a driver's license or identification document.

It has been brought to the agency's attention, however, that some individuals who may wish to apply for

a driver's license or identification document may not have a social security number. Many nonimmigrant aliens (such as foreign students) are lawfully present in the United States long enough to need to obtain a State issued driver's license, but may not have INS work authorization or any other reason to be eligible to obtain a social security number. Some States have sought guidance from the agency on how they can comply with the Immigration Reform Act without having to deny a driver's license to ''legal aliens'' who are prevented by their status from obtaining a social security number.

The Immigration Reform Act was not enacted into law to prevent individuals who are legally in the United States from holding valid driver's licenses or identification documents. Rather, the statute was enacted to deter illegal immigration into the United States.

The agency proposes to permit States to continue processing applications for driver's licenses and identification documents for individuals legally in the United States. At the time of application for a new or duplicate driver's license or identification document, such individuals would be required under the proposed rule to submit (in addition to primary and secondary documents) a document demonstrating their lawful presence in the United States. This ''proof of lawful presence'' document would need to be verified by confirming that the document reasonably appears on its face to be genuine as it relates to the applicant.

The agency proposes to list acceptable ''proof of lawful presence'' documents in an appendix to the final rule. As needed, the agency would publish subsequent documents in the **Federal Register**, updating this appendix. A proposed list of acceptable ''proof of lawful presence'' documents is attached to today's NPRM as Appendix D to part 1331.

States that include an individual's social security number on driver's licenses and identification documents may choose to include instead on documents for individuals who do not have a social security number an alternative numeric identifier. An alternative numeric identifier is a unique identification number issued by a State driver licensing agency to an individual who does not have a social security number. The alternative numeric identifier should not contain the same number sequence as a social security number to protect against confusion with or duplication of a social security number. In addition, the agency proposes that States must require applicants who claim not to hold social security numbers to sign certifying statements to that effect.

4. Certification of Compliance

The proposed rule provides that States must demonstrate compliance with the requirements of the regulation by submitting a certification to the National Highway Traffic Safety Administration. The certification shall contain a statement by an appropriate State official, that the State's driver's licenses and identification documents conform to the requirements contained in the regulation.

The agency seeks comments regarding whether States expect to be able to meet all requirements of the regulation by October 1, 2000. If it is expected that any State may not be able to meet all requirements by that date, the agency requests comments about whether the regulation should contain a provision setting forth a procedure to allow States to request an extension of time to comply with the requirements of the regulation. If such a provision should be included, the agency seeks comments about what criteria should be used to determine when an extension should be granted.

5. Grants

Section 656(b)(2) requires the Secretary of Transportation to make grants available to the States to assist them in issuing driver's licenses and comparable identification documents that satisfy the requirements of the law. The President included a request for $325,000 in his fiscal year 1999 budget for these grants. The Department of Transportation is still developing its fiscal year 2000 budget.

Written Comments

Interested persons are invited to comment on this Notice of Proposed Rulemaking. It is requested, but not required, that two copies be submitted.

All comments must be limited to 15 pages in length. Necessary attachments may be appended to those submissions without regard to the 15 page limit. (49 CFR 553.21.) This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

Written comments to the public docket must be received by August 3, 1998. All comments received before the close of business on the comment closing date will be considered and will be available for examination in the docket at the above address before and after that date. To the extent possible, comments received after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date. NHTSA will continue to file relevant material in the docket as they become available after the closing date, and it is recommended that interested persons continue to examine the docket for new materials. To expedite submission of comments, simultaneous with the issuance of this notice NHTSA will mail copies to all Governor's Representatives for Highway Safety and to the motor vehicle administrators for each State.

Those persons desiring to be notified upon receipt of their comments in the docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Copies of all documents will be placed in Docket No. NHTSA-98–3945; in Docket Management, Room PL–401, Nassif Building, 400 Seventh Street, SW, Washington, DC 20590.

Regulatory Analyses and Notice

Executive Order 12778 (Civil Justice Reform)

This proposed rule would not have any preemptive or retroactive effect. The enabling legislation does not establish a procedure for judicial review of rules promulgated under its provisions. There is no requirement that individuals submit a petition for reconsideration or other administrative proceedings before they may file suit in court.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The agency has examined the impact of the proposed action and has determined that the proposed action is not significant under Executive Order 12866 and the Department of Transportation's Regulatory Policies and Procedures.

The action will not have an annual effect on the economy of $100 million or more or adversely affect in a material way a sector of the economy, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities. It will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, and it will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. Nor does it raise novel legal or policy issues.

To estimate the costs and benefits of the proposed action, NHTSA prepared a Preliminary Regulatory Evaluation (PRE), assessing the costs and benefits. It has been placed in the docket for this

proceeding and is available for public inspection. Based on the analysis contained in the PRE, NHTSA predicts that States will incur costs to comply with the requirements of the regulation. The costs will be associated with redesigning driver's licenses and identification documents to include social security numbers, adding security and other features to these documents, computer programming changes, verifying social security numbers, rewriting forms and training employees. Based on estimates that it received from five States (Delaware, Iowa, Montana, Utah and Wisconsin), the agency estimates the total national first year costs associated with the regulation to range from $24,846,652 to $72,568,996. The total annual estimated national costs thereafter range from $7,697,984 to $51,713,028. The primary benefit of the proposed rule is that it will help limit tampering with, counterfeiting, photocopying, or otherwise duplicating, driver's licenses or identification documents for fraudulent purposes. It will also help limit the use of driver's licenses or identification documents by imposters.

The proposed action is not significant under the Department's Regulatory Policies and Procedures because it does not involve important Departmental policies; rather it is being proposed for the purpose of implementing the provisions contained in Public Law 104–208.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the agency has evaluated the effects of this proposed action on small entities. Based on the evaluation, we certify that this action will not have a significant impact on a substantial number of small entities. Accordingly, the preparation of a Regulatory Flexibility Analysis is unnecessary.

Paperwork Reduction Act

This notice contains information collection requirements that have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act. The title, description, and respondent description of the information collection are shown below with an estimate of the annual burden.

Title: Improvements in Identification Related Documents—State-Issued Driver's Licenses and Comparable Identification Documents.

OMB Clearance number: Not assigned.

Description of the need for the information and proposed use of the information: In order to ensure that States comply with the Act and regulations, NHTSA is proposing to require each State to certify its compliance. Once the State has made the necessary modifications to its procedures and systems and has begun to carry out the requirements of the Act, it would submit to NHTSA a letter certifying that it complies with the regulations.

Description of likely respondents (including estimate of proposed frequency of response to the collection of information): The respondents are the State driver licensing agencies. All respondents would submit to NHTSA a letter certifying compliance with the regulations one time only.

Estimate of total annual reporting and record keeping burden resulting from the collection of information: NHTSA estimates that each respondent will incur 15 minutes in preparing and submitting the certification letter for a total of 13.5 hours (15 minutes × 54 respondents) x $38.00 per hour employee cost, for a total cost of $513.00.

Individuals and organizations may submit comments on the information collection requirements by August 3, 1998, and should direct them to the docket for this proceeding and the Office of Management and Budget, New Executive Office Building, Room 10202, Washington D.C. 20503, Attention: Desk Officer for DOT/OST. Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

The agency has analyzed this proposed action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that it would not have any significant impact on the quality of the human environment.

The Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Public Law 104–4) requires agencies to prepare a written assessment of the costs, benefits and other affects of proposed final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. This proposed rule does not meet the definition of a Federal mandate, because the resulting annual expenditures will not exceed the $100 million threshold.

Executive Order 12612 (Federalism Assessment)

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this proposed action would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

In consideration of the foregoing, a new Part 1331 is added to chapter III of Title 23 of the Code of Federal Regulations to read as follows:

Part 1331—State-Issued Driver's Licenses and Comparable Identification Documents

Subpart A—General

Sec.
1331.1 Scope.
1331.2 Purpose.
1331.3 Definitions.

Subpart B—Procedures

Sec.
1331.4 Application process.
1331.5 Form and security features.
1331.6 Social security number.
1331.7 Effective date.
1331.8 Certification.

Appendices to Part 1331

Appendix A—Primary documents.
Appendix B—Secondary documents.
Appendix C—Security features.
Appendix D—Proof of lawful presence documents.

Authority: Pub. L. 104–208, 110 Stat. 3009–716 (5 U.S.C. 301) delegation of authority at 49 CFR 1.50.

Subpart A—General

§ 1331.1 Scope.

This part provides procedures for States to comply with the provisions of section 656 (Improvements in Identification—Related Documents) of Title VI (Miscellaneous provisions) of the Omnibus Consolidated Appropriations Act for Fiscal Year 1997 (Public Law 104–208) relating to the acceptance by Federal agencies for identification purposes of a driver's license, or other comparable identification document, issued by a State.

§ 1331.2 Purpose.

The purpose of this part is to implement the provisions of section 656(b) of the Illegal Immigration Reform and Immigrant Responsibility Act, 5 U.S.C. 301.

§ 1331.3 Definitions.

(a) *State* means all fifty States and the District of Columbia, Puerto Rico, Guam, and the Virgin Islands

(b) *Federal agency* means any of the following:

(1) An executive agency (as defined in 5 U.S.C. 105).

(2) A military department (as defined in 5 U.S.C. 102).

(3) An agency in the legislative branch of the Government of the United States.

(4) An agency in the judicial branch of the Government of the United States.

(c) *Driver's license* means a license issued by a State to any individual that authorizes the individual to operate a motor vehicle on highways.

(d) *Other comparable identification document* means a personal identification card issued by a State to non-drivers for identification purposes.

(e) *Primary document* means a verifiable document used to provide evidence of identity which contains an applicant's full legal name (including middle name) and date of birth.

(f) *Secondary document* means a document used to provide additional evidence of identity which contains an applicant's name plus sufficient substantiating information for all or part of the information contained on the primary document.

(g) *Proof of lawful presence document* means a verifiable document used to establish the identity and lawful presence of an individual who does not have and is ineligible to obtain a social security number.

(h) *Valid social security number* means a unique identification number issued by the Social Security Administration to every individual who meets the Agency's requirements to receive a number.

(i) *Alternative numeric identifier* means a unique identification number issued by a driver licensing agency to an individual who does not have a social security number.

Subpart B—Procedures

§ 1331.4 Application process.

A Federal agency may not accept for any identification related purpose a driver's license or other comparable identification document issued by a State, unless the license or document satisfies the following requirements.

(a)(1) The application process for an original or duplicate license or document shall include presentation of one primary and one secondary document. Lists of acceptable primary and secondary documents are attached to this part as Appendix A and Appendix B, respectively.

(2) States may accept documents that are not listed in Appendix A or Appendix B of this part at their discretion in cases where an applicant cannot submit the required document(s). Such exceptions shall be made only in accordance with established procedures and on an infrequent basis and only in extreme circumstances, such as a fire or natural disaster.

(b) The application process for a renewal license or document shall include presentation of an applicant's current license or document. If the current license or document is unavailable the applicant would be required to submit instead a primary and secondary document.

§ 1331.5 Form and security features.

The license or document shall contain the following features:

(a) Jurisdiction of issuance;

(b) Indicator that the document is a driver's license or identification card, whichever is applicable;

(c) Driver license/ID card number;

(d) Full name of the applicant;

(e) Date of birth;

(f) The license classification, restriction(s), or endorsement(s) (if a driver license);

(g) Color photograph or image;

(h) Expiration date;

(i) Signature;

(j) Address (mailing or residential, as determined by the issuing agency);

(k) Issuance date;

(l) Physical description, which may include sex, height, weight, eye and hair color, and

(m) One or more security features—A list of suggested security features is included in Appendix C of this part.

§ 1331.6 Social security number.

(a) Before issuing a license or document each State shall:

(1) Require the submission of the social security number by every applicant for a license or document.

(2) Verify electronically the validity of each applicant's social security number with the Social Security Administration.

(b) States may require licenses and documents to contain social security numbers that can be read visually or by electronic means.

(c) Before issuing a license or document to an alien individual who does not possess and is ineligible to obtain a social security number, each State shall:

(1) Require the applicant to present, in addition to the documents required to be presented under § 1331.4 (a) and (b), a document demonstrating lawful presence in the United States in a status in which the applicant may be ineligible to obtain a social security number. A list of acceptable ''proof of lawful presence'' documents is attached to this part as Appendix D.

(2) Verify the validity of each applicant's ''proof of lawful presence'' document by confirming that the document reasonably appears on its face to be genuine as it relates to the applicant.

(d) States shall require each applicant who claims not to hold a social security number to sign a certifying statement to that effect.

(e) States may require licenses and documents issued to individuals who do not possess social security numbers to contain an alternative numeric identifier that can be read visually or by electronic means.

§ 1331.7 Effective date.

Sections 1331.4 through 1331.6 shall take effect beginning on October 1, 2000, but shall apply only to licenses or documents issued to an individual for the first time and to replacement or renewal licenses or documents issued according to State law.

§ 1331.8 Certification.

(a) To demonstrate compliance with this part, a State shall certify that its licenses and documents conform to the requirements contained in this regulation. The certification should be submitted by September 30, 2000, to the National Highway Traffic Safety Administration, 400 Seventh St., S.W. Washington D.C. 20590.

(b) The certification shall contain a statement by an appropriate State official, that the State's licenses and documents conform to the requirements of this part.

Appendices to Part 1331

Appendix A—Primary Documents

A primary document must contain the full name and date of birth of the individual, and must be verifiable, i.e., the State must be able to contact the issuing agency to determine the authenticity of the document. Primary documents include:

(1) State issued or Canadian photo driver's license that has not been expired for more than one year.

(2) State issued or Canadian issued photo identification card that has not been expired for more than one year.

(3) Microfilm/copy of a State issued or Canadian driver's license or identification card that has not been expired for more than one year that is certified by the issuing agency.

(4) Original or certified copy of a United States or Canadian birth certificate. The certificate must have a raised seal and be issued by an authorized government agency such as the bureau of Vital Statistics or State Board of Health. Hospital issued certificates and baptismal certificates are not acceptable.

(5) The following Immigration and Naturalization Service (INS) documents are also acceptable, as long as they are original and unexpired:

(a) Certificate of Naturalization (N–550, N–570, or N–578).
(b) Certificate of Citizenship (N–560, N–561, or N–645).
(c) Northern Marianas Card.
(d) American Indian Card.
(e) United States Citizen Identification Card (I–179 or I–197).
(f) Resident Alien Card or Permanent Resident Card (I–551).
(g) Temporary Resident Card (I–688).
(h) Arrival-Departure Record (in a valid foreign passport) (I–94).
(i) Valid foreign passport containing an I–551 stamp.
(j) U.S. Re-entry Permit (I–327).
(k) Refugee Travel Document (I–571).
(l) Employment Authorization Card or Employment Authorization Document (I–688A, I–688B, I–766).
(m) Arrival-Departure Record stamped ''refugee'(I–94) (Refugee I–94's will not likely be in a foreign passport).
(6) Canadian Immigration Record and Visa or Record of Landing (IMM 100).
(7) Report of Birth Abroad by a Citizen of the United States, issued by a United States consular officer.
(8) Court order which must contain the individual's full name, date of birth and court seal. Some examples include an adoption document, a name change document, gender change document, etc. It does not include an abstract of criminal or civil conviction.
(9) Active duty, retiree or reservist military identification card.
(10) Valid U.S. or Canadian passport.
(11) State-issued driver's learner permit with a photograph that has not been expired for more than one year.
(12) Canadian Department of Indian Affairs issued identification card. Tribal issued card is not acceptable. A U.S. issued Department of Indian Affairs card is not acceptable.

Appendix B—Secondary Documents

Secondary documents must contain the applicant's name and sufficient substantiating information for all or part of the information contained on the primary document. Foreign documents are acceptable only as specifically authorized. Secondary documents include:
(1) All primary documents.
(2) Bureau of Indian Affairs card or an Indian Treaty card. A Tribal identification card is not acceptable. (Note: Some Tribal identification cards are actually more reliable than Bureau of Indian Affairs cards. Department of Motor Vehicle Agencies should make a determination about whether to accept a card based on their own research of what is or is not acceptable.)
(3) Driver's license or an identification card that has expired for more than one year.
(4) Court order that does not contain the applicant's date of birth.
(5) Photographic employer identification card.
(6) Foreign birth certificate. It must be translated by an approved translator.
(7) Foreign passport.
(8) Health insurance card, i.e., Blue Cross/Blue Shield, Kaiser, or a health maintenance organization (HMO).
(9) Internal Revenue Service (IRS) or State tax form. A W–2 is not acceptable.
(10) Marriage certificate or license.
(11) Individual's medical records from a doctor or hospital.
(12) Military dependent identification.
(13) Military discharge or separation papers.
(14) Parent or guardian affidavit. The parent or guardian must appear in person and prove their identity and submit a certified or notarized affidavit regarding the child's identity. This policy is only applicable to minors.
(15) Gun permit.
(16) Pilot's license.
(17) Certified school record or transcript.
(18) Social security card. A metal card is not acceptable.
(19) Photographic student identification card.
(20) Vehicle title. A vehicle registration is not acceptable.
(21) Welfare card.
(22) Prison release document.

Appendix C—Security Features

States must use one or more security features on their driver's licenses and identification cards to prevent alteration and tampering of their documents. Suggested security features include, but are not limited to, the following:
(1) Ghost image.
(2) Ghost graphic.
(3) Hologram.
(4) Optical variable device.
(5) Microline printing.
(6) State seal or a signature which overlaps the individual's photograph or information.
(7) Security laminate.
(8) Background containing color, pattern, line or design.
(9) Rainbow printing.
(10) Guilloche pattern or design.
(11) Opacity mark.
(12) Out of gamut colors (i.e., pastel print).
(13) Optical variable ultra-high-resolution lines.
(14) Block graphics.
(15) Security fonts and graphics with known hidden flaws.
(16) Card stock, layer with colors.
(17) Micro-graphics.
(18) Retroflective security logos.
(19) Machine readable technologies such as magnetic strips, a ID bar code or a 2D bar code.

Appendix D—Proof of lawful presence documents

States must require individuals who do not have and are not eligible to obtain, social security numbers to submit, in addition to primary and secondary documents, a ''proof of lawful presence'' document when applying for a driver's license or comparable identification document. Acceptable ''proof of lawful presence'' documents include the following documents as long as they are original and unexpired.

The INS documents listed in Appendix A are not acceptable except for certain Forms I–94 as described below. Note that Appendix D includes documents (such as I–186 Nonresident Alien Mexican Border Crossing Card) that normally are issued to short-term nonresident visitors. States should continue to apply their existing laws and policies regarding requirements and proof of State residence.

(1) Arrival-Departure Record (I–94) (Class A–1, A–2, A–3, B–1, B–2, C–1, C–2, C–3, E–1, E–2, F–1, F–2, G–1, G–2, G–3, G–4, G–5, H–4, I, J–2, K–2, L–2, M–1, M–2, NATO 1–7, O–3, P–4, R–2, S–5, S–6, S–7, TC, TD, Cuban/Haitian Entrant, Parolee.

The form I–94 cannot state ''Employment Authorized.'' If a foreign passport and Form I–94 have been presented as primary or secondary evidence, that Form I–94 is also an acceptable Appendix D document, but only if it fits the Appendix D description.

(2) Visa Waiver Arrival-Departure Record (I–94W) (Class WB, WT).
(3) Crewman's Landing Permit (I–95A).
(4) Alien Crewman Landing Permit and Identification Card (I–184).
(5) Nonresident Alien Canadian Border Crossing Card(I–185).
(6) Nonresident Alien Mexican Border Crossing Card (I–186).
(7) Nonresident Alien Border Crossing Card (I–586).
(8) B–1/B–2 Visa/BCC (DSP–150).

Issued on: June 12, 1998.

Philip R. Recht,

Deputy Administrator, National Highway Traffic, Safety Administration.

[FR Doc. 98–16062 Filed 6–12–98; 1:09 pm]

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Federal Register

Wednesday
June 17, 1998

Part VI

The President

Proclamation 7105—Flag Day and National Flag Week, 1998

Federal Register
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Wednesday, June 17, 1998

Presidential Documents

Title 3—

The President

Proclamation 7105 of June 12, 1998

Flag Day and National Flag Week, 1998

By the President of the United States of America

A Proclamation

Our country has undergone enormous change since the Continental Congress first adopted the Stars and Stripes as the official Flag of the United States of America in 1777. The new country that struggled for 7 long years to win independence from Great Britain is today the most powerful Nation on Earth. The 13 original colonies huddled close to the Atlantic coast of North America have grown into 50 States, stretching across the continent to the Pacific coast and beyond. From a population of less than 3 million, we have grown to more than 269 million people whose differences in race, religion, cultural traditions, and ethnic background have made us one of the most diverse countries in the world.

Throughout these two centuries of remarkable growth and change, the Stars and Stripes has remained the proud symbol of our fundamental unity. Across the generations, our flag has united Americans in the quest for freedom and peace. Our soldiers first followed it into battle at Brandywine in 1777, and today our Armed Forces carry it on peacekeeping and humanitarian missions around the globe. The American flag accompanied Lewis and Clark on their historic journey of exploration in the early 19th century, and last year Pathfinder carried the image of the Stars and Stripes to the distant landscape of Mars. In schoolyards, on public buildings, and displayed on the front porches of homes across America, our flag is an enduring reminder of the hopes, dreams, and values we all share as Americans, and of the sacrifices so many have made to keep it flying above a Nation that is strong, secure, and free.

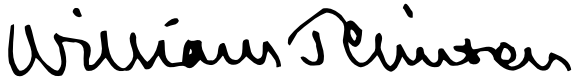
Like America, our flag was fashioned to accommodate change without altering its fundamental design. The red and white stripes have remained constant, reminding us of our roots in the 13 colonies. The white stars on a field of blue, shifting in pattern as new States have joined the Union, celebrate our capacity for change. The challenge we have faced in the past and will confront in the 21st century is the same challenge woven into the American flag—to respond creatively to new possibilities while remaining true to our basic ideals of freedom, justice, and human dignity. As we celebrate Flag Day and Flag Week, let us reaffirm our reverence for the American flag, the bright banner that has uplifted the hearts and inspired the finest efforts of Americans for more than 200 years. It has been the symbol of and companion on our American journey thus far, and it will continue to lead us as we embrace the promise of the future.

To commemorate the adoption of our flag, the Congress, by joint resolution approved August 3, 1949 (63 Stat. 492), designated June 14 of each year as ''Flag Day'' and requested the President to issue an annual proclamation calling for its observance and for the display of the Flag of the United States on all Federal Government buildings. The Congress also requested the President, by joint resolution approved June 9, 1966 (80 Stat. 194), to issue annually a proclamation designating the week in which June 14 falls as ''National Flag Week'' and calling upon all citizens of the United States to display the flag during that week.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim June 14, 1998, as Flag Day and the week beginning June 14, 1998, as National Flag Week. I direct the appropriate officials to display the flag on all Federal Government buildings during that week, and I urge all Americans to observe Flag Day and National Flag Week by flying the Stars and Stripes from their homes and other suitable places.

I also call upon the people of the United States to observe with pride and all due ceremony those days from Flag Day through Independence Day, also set aside by the Congress (89 Stat. 211), as a time to honor our Nation, to celebrate our heritage in public gatherings and activities, and to publicly recite the Pledge of Allegiance to the Flag of the United States of America.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of June, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-second.



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H.R. 2400/P.L. 105–178

Transportation Equity Act for the 21st Century (June 9, 1998; 112 Stat. 107)

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