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Wednesday
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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 ENERGY

10 CFR Part 600

RIN 1991–AB33

Assistance Regulations; Revisions to Rights in Data Regulations; Correction

AGENCY: Department of Energy.

ACTION: Correcting amendments.

SUMMARY: The Department of Energy published a final rule amending its financial assistance and acquisition regulations regarding rights in data on Wednesday, March 4, 1998 (63 FR 10499). This document corrects an error in that rule which inadvertently duplicated language instead of replacing it.

EFFECTIVE DATE: January 27, 1999.

FOR FURTHER INFORMATION CONTACT: Robert Webb on (202) 586–8264.

SUPPLEMENTARY INFORMATION:

List of Subjects in 10 CFR part 600

Administrative practice and procedure.

Accordingly, 10 CFR part 600 is corrected by making the following correcting amendment:

PART 600—[CORRECTED]

1. The authority citation for Part 600 continues to read as follows:

Authority: 42 U.S.C. 7254, 7256, 13525; 31 U.S.C. 6301–6308, unless otherwise noted.

§ 600.27 [Corrected]

2. In § 600.27, paragraph (b)(2)(i)(B) is amended by removing the phrase ''the following paragraph (c) will be used in lieu of the provisions in 48 CFR 52.227–14(c):''.

Richard H. Hopf,

Director, Office of Procurement and Assistance Management.

[FR Doc. 99–1855 Filed 1–26–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–265–AD; Amendment 39–11012; AD 99–02–18]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain EMBRAER Model EMB–120 series airplanes, that requires removing the thermal insulating blankets from the upper rear nacelle structure; re-positioning the engine exhaust duct; and replacing the engine exhaust bracket with a new engine exhaust bracket, if necessary. For certain airplanes, this amendment also requires installing new stainless steel plates onto the upper rear nacelle structure. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent fretting of the titanium thermal insulating blankets, which could result in an increased risk of fire in the engine exhaust duct of the tail pipe.

DATES: Effective March 3, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 3, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 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; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Linda M. Haynes, Aerospace Engineer, Airframe and Propulsion Branch, ACE–117A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30337–2748; telephone (770) 703–6091; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB–120 series airplanes was published in the **Federal Register** on November 16, 1998 (63 FR 63620). That action proposed to require removing the thermal insulating blankets from the upper rear nacelle structure; re-positioning the engine exhaust duct; and replacing the engine exhaust bracket with a new engine exhaust bracket, if necessary. For certain airplanes, that action also proposed to require installing new stainless steel plates onto the upper rear nacelle structure.

Conclusion

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

Cost Impact

The FAA estimates that 171 Model EMB–120 series airplanes of U.S. registry will be affected by this AD.

It will take approximately 9 work hours per airplane to accomplish the required actions on airplanes listed in ''Part I'' of EMBRAER Service Bulletin S.B. 120–54–0035, Change 02, at an average labor rate of $60 per work hour. Required parts will cost approximately $337 per airplane. Based on these figures, the cost impact of the AD on U.S. operators of airplanes listed in ''Part I'' of the service bulletin is estimated to be $877 per airplane.

It will take approximately 2 work hours per airplane to accomplish the actions on airplanes listed in ''Part II'' of EMBRAER Service Bulletin S.B. 120–

54–0035, Change 02, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the requirements of this AD on U.S. operators of airplanes listed in ''Part II'' of the service bulletin is estimated to be $120 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the 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 adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the 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 the following new airworthiness directive:

99–02–18 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–11012. Docket 98–NM–265–AD.

Applicability: Model EMB–120 series airplanes, serial numbers (S/N) 120003, 120004, and 120006 through 120336 inclusive; 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, unless accomplished previously.

To prevent fretting of the titanium thermal insulating blankets, which could result in an increased risk of fire in the engine exhaust duct of the tail pipe, accomplish the following:

(a) For airplanes identified in ''Part I'' of the effectivity listing of EMBRAER Service Bulletin S.B. 120–54–0035, Change 02, dated May 29, 1998: Within 2,400 flight hours after the effective date of this AD, accomplish paragraphs (a)(1) and (a)(2) in accordance with the service bulletin.

(1) Remove the thermal insulating blankets from the upper rear nacelle structure.

(2) Install new stainless steel plates onto the upper rear nacelle structure.

(b) For airplanes identified in ''Part II'' of the effectivity listing of EMBRAER Service Bulletin S.B. 120–54–0035, Change 02, dated May 29, 1998: Within 2,400 flight hours after the effective date of this AD, remove the thermal insulating blankets from the upper rear nacelle structure in accordance with the service bulletin.

(c) For all airplanes: Prior to further flight following accomplishment of either paragraph (a) or (b) of this AD, as applicable, re-position the engine exhaust duct with the use of shims in accordance with EMBRAER Service Bulletin S.B. 120–54–0035, Change 02, dated May 29, 1998. If it is not possible to re-position the engine exhaust duct with the use of shims as specified in the service bulletin, prior to further flight, replace the rear exhaust duct bracket with a new rear exhaust duct bracket, in accordance with the ''NOTE'' in paragraph 1.3.1.1 of the Planning section of the service bulletin.

(d) As of the effective date of this AD, no person shall install on any airplane a thermal insulating blanket having part number (P/N) 120–35411–025, –035, –036, 120035413–001, or 12035411–002.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

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

(g) The actions shall be done in accordance with EMBRAER Service Bulletin S.B. 120–54–0035, Change 02, dated May 29, 1998. 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 Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia; 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 Brazilian airworthiness directives 97–11–03, dated December 3, 1997, and 97–11–03R1, dated July 6, 1998.

(h) This amendment becomes effective on March 3, 1999.

Issued in Renton, Washington, on January 15, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–1545 Filed 1–26–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 600

[Docket No. 980519132–9004–02; I.D. 022498F]

RIN 0648–AK49

Magnuson-Stevens Act Provisions; List of Fisheries and Gear, and Notification Guidelines

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule that establishes a list of fisheries and fishing gear used in those fisheries under the authority of each regional fishery management council (Council), or under authority of the Secretary of Commerce (Secretary) with respect to Atlantic highly migratory species (HMS). Effective 180 days after the date of publication of this list, no person or vessel may employ fishing gear or participate in a fishery not included in this list without giving 90 days advance notice to the appropriate Council or the Secretary with respect to Atlantic HMS. This final rule also establishes a process for giving such notification to the appropriate Council or to the Secretary. NMFS also issues guidelines for determining when a fishing gear or a fishery is sufficiently different from those listed to require notification to the appropriate authority. The list of fisheries and gear and the guidelines apply only to fisheries and gear that occur within the U.S. exclusive economic zone (EEZ). The list, notice requirements, and guidelines contained in this final rule are required by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: This rule is effective February 26, 1999, except that § 600.725(v) is effective July 26, 1999.

ADDRESSES: Copies of the regulatory impact review for this action can be obtained from Dr. Gary C. Matlock, Director, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments regarding the collection-of-information requirement contained in this rule should be sent to the above address and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Mark Millikin, NMFS, (301) 713–2344.

SUPPLEMENTARY INFORMATION:

Background

This rulemaking is required by the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*), as amended by the Sustainable Fisheries Act, which was signed into law on October 11, 1996. Section 305(a) of the Magnuson-Stevens Act requires that the Secretary publish in the **Federal Register**, after notice and an opportunity for public comment, a list of fisheries under the authority of each Council and all fishing gear used in such fisheries. A fish whether targeted or not, may be retained only if it is taken within a listed fishery, is taken with a gear authorized for that fishery, and is taken in conformance with all other applicable regulations. This list is based on information submitted by the Councils and by the Director, Office of Sustainable Fisheries, NMFS (Director), in the case of Atlantic HMS. The Magnuson-Stevens Act requires the issuance of guidelines for determining when a fishing gear or a fishery is sufficiently different from those listed as to require fishermen or other individuals to notify a Council or the Secretary under § 305(a)(3).

A proposed rule for this action was published in the **Federal Register** on June 4, 1998 (63 FR 30455), requesting comments through July 6, 1998. The preamble of the proposed rule contained some background information for this rulemaking that has not changed so it is not repeated here. That information includes: (1) How information for the list of fisheries and gear was collected, (2) prohibitions on use of unlisted gear, and (3) procedures for notification of new gear or fisheries. Background information from the proposed rule that has been modified is included again in the preamble of this final rule. That information includes: (1) Gear names and definitions related to the issue of deployment, (2) the relationship of the rule to other Federal regulations, and (3) procedures after receiving notification for other than Atlantic HMS. The portion of the preamble containing the procedures after receiving notification for species other than Atlantic HMS is repeated for the convenience of the public. List of Fisheries and Gear

The list of gear, wherever possible, avoids gear names that also imply a method of deployment. This explains the absence of ''gear'' such as pelagic longline, pelagic trawl, bottom trawl, otter trawl, or drift gillnet in the list. For example, ''bottom trawl'' and ''pelagic trawl'' are considered deployment methods for trawl gear, rather than gear types. Terms such as ''pelagic,'' ''bottom,'' and ''drift'' are modifiers that describe where in the water column the specific gear type is used. It is noteworthy however, that in the proposed rule, ''hand harvest'' was included in the list only under fisheries where it was the only allowed method of harvest—the Caribbean Queen Conch FMP and the Coral Reef FMPs in the South Atlantic and the Gulf of Mexico. In response to public comments, in this final rule, ''hand harvest'' is added as an allowable gear type to various mollusk and crustacean fisheries that commenters felt should also have ''hand harvest'' included as an allowable gear.

Relationship of This Rule to Other Federal Fishery Regulations

Beyond this rule, fisheries and associated gear continue to be managed by implementing regulations in 50 CFR chapter VI for the various FMPs under authority of the Councils and the Secretary. FMPs often address issues about gear such as structure, size, shape, material, deployment, seasonality of allowed use, prohibitions, or other features of gear and its use. Therefore, the list of fisheries and allowable gear contained in this final rule is not intended to alter or supersede other regulations related to fisheries and gear.

It is NMFS' intent that this final rule will not affect experimental fisheries conducted for a year or less elsewhere under 50 CFR chapter VI.

NMFS is not aware of any Treaty Indian tribe or subsistence fisheries in the EEZ other than those listed in § 600.725(v). This action is not intended to supersede or otherwise affect exemptions that exist for fisheries or Native American harvest under Treaty Indian fisheries. In the proposed rule (63 FR 30455; June 4, 1998), NMFS announced that it was particularly interested in receiving public comment on this topic, but received none.

Procedures After Receiving Notification

Species Other Than Atlantic HMS

After receiving notification regarding intended participation in an unlisted fishery or use of unlisted gear, a Council will begin consideration of the notification and immediately send a copy of the notification to the appropriate NMFS Regional Administrator (RA). If, after consideration of the notification and accompanying information, a Council finds that the new gear or fishery would not compromise the effectiveness of conservation and management efforts under the Magnuson-Stevens Act, the Council will recommend to the RA that the authorized list of fisheries and gear be amended, provide rationale and supporting analysis, and provide a draft proposed rule to amend the authorized list of fisheries and gear for publication in the **Federal Register**. If the Council finds that the proposed new gear or fishery will be detrimental to conservation and management efforts, the Council will recommend to the RA that the authorized list of fisheries and gear not be amended and that a proposed rule not be published, give reasons for its recommendation, and may request NMFS to issue emergency or interim regulations and begin preparation of an FMP or amendment to an FMP, if appropriate. Some examples

of how a new gear or fishery could be judged as ''compromising the effectiveness of conservation and management efforts'' would be if: (1) Fish stock rebuilding objectives would be seriously affected, (2) essential fish habitat would be severely impacted, (3) bycatch problems in the fishery would be further exacerbated, or (4) severe conflicts would result with existing gear or fisheries. This listing of examples of factors that would compromise the effectiveness of conservation and management efforts is not intended to be all-inclusive. The Councils and NMFS will need to consider each request on a case-by-case basis. Based on the information provided in the notification and by the Council, NMFS will make the final determination whether the new gear or fishery would compromise the effectiveness of conservation and management efforts under the Magnuson-Stevens Act and whether to publish a proposed rule to amend the list of fisheries and gear.

If the initial determination is positive, NMFS will publish the proposed rule, with a 30-day comment period. Following the end of the comment period, NMFS will either approve or disapprove the change to the list, based on the potential impacts on the effectiveness of conservation and management efforts. If approved, NMFS will publish a final rule revising the list, and notify the applicant of the final approval. If the use of the gear or participation in a fishery is determined to be detrimental to conservation and management efforts under the Magnuson-Stevens Act, the proposed addition to the list will be disapproved, NMFS will notify the applicant and the appropriate Council of the negative determination and the reasons for the determination, and may publish emergency or interim regulations in the **Federal Register** to prohibit or restrict the use of the unlisted gear or fishing in the unlisted fishery. Upon notification by NMFS that the proposed revision has been disapproved, the Council should begin preparation of an FMP or amendment to an FMP in order to provide permanent regulations relative to that gear type or fishery.

If the initial determination by NMFS is negative, because use of the gear or participation in the fishery is likely to compromise conservation and management efforts under the Magnuson-Stevens Act, and it is unlikely that additional new information would be gained from a public comment period, then NMFS will notify the applicant and the Council of the negative determination and the reasons for that determination, and may publish emergency or interim regulations in the **Federal Register** to prohibit or restrict the use of the unlisted gear or fishing in the unlisted fishery. The Council should then begin preparation of an FMP or an amendment to an FMP to provide permanent regulations relative to that gear type or fishery.

Atlantic HMS

Notification of intent to use an unlisted gear or to participate in an unlisted fishery for Atlantic HMS should be addressed to the Director. After receiving such notification, NMFS would collect relevant information (including any information/data collected from the experimental fishing permit (EFP) program) and use the advisory panel process. A determination will be made whether the new gear or new fishery would compromise the effectiveness of conservation and management programs and whether to publish a proposed rule to amend the list of gear and fisheries. The EFP program allows NMFS to collect data such as catch rates of target and non-target finfish and protected species bycatch.

If the determination is positive, a proposed rule to amend the list of gear and fisheries will be published in the **Federal Register** for public comment. Following the end of the public comment period, NMFS will consider comments or new information received relative to the effect of the new gear or fishery on conservation and management programs, and will either approve or disapprove the proposed amendment. If approved, the applicant will be notified, and a final rule will be published amending the list of fisheries and gear. If, after receiving public comment, NMFS disapproves the proposed amendment, the applicant will be notified of the disapproval, including reasons for the disapproval, and NMFS may publish emergency or interim regulations and subsequently develop or amend the FMP to prohibit or restrict the use of the unlisted gear or participation in the unlisted fishery.

If the initial determination is negative, NMFS will notify the applicant, including the reasons for the disapproval, and may publish emergency or interim regulations and subsequently develop or amend an FMP to prohibit or restrict the use of the unlisted gear or participation in the unlisted fishery.

Comments and Responses

Seventeen sets of comments were received regarding the list of gear by fisheries and the notification procedures from various individuals and organizations.

Comment 1: Historically, if a fishery has not been addressed through the FMP process, the regulations of adjacent states have taken precedence. This has allowed the various states the ability to manage those fisheries under regulations that are consistent with the regulations in their own waters. Many fisheries that are prosecuted mainly in state waters which may occasionally intrude into Federal waters. An example from Louisiana is the oyster fishery, which occasionally harvests from Federal waters. Establishment of a set of Federal rules of allowable gears and fisheries would seem to have far-reaching implications in this type of situation. The fishery might be in violation in Federal waters, though completely legal in the adjacent state waters, where the majority of the resource resides. Alternatively, the fishery might be found to be under Federal management, and the brief list of gears would be the only regulations on the fishery, undermining the effectiveness of state regulations.

Response: The list of fisheries and gear contained in this final rule is required by the Magnuson-Stevens Act. NMFS has attempted to compile a list that includes all existing gear and fisheries in the EEZ (i.e., within the jurisdiction of the fishery management councils), unless otherwise prohibited. The lack of a gear or fishery in the list does not preclude the use of a gear or occurrence of a fishery in state waters. Under procedures established in this rulemaking, an individual interested in using a new gear or participating in a fishery in the EEZ not already listed may notify the appropriate fishery management council or the Director as described in § 600.747.

Comment 2: The proposed definition for ''dredge'' could either include wing nets or include oyster dredges with mesh bags, depending on how it is read. Also, it does not include suction dredges that may be used in some areas for clam harvest.

Response: The definition of ''dredge'' was structured to include all types of dredges currently used in the EEZ. The definition has been modified in this final rule to include suction dredges.

Comment 3: The proposed definition of ''hoop net'' is too vague. Too many gears could fall under that definition; instead use the following: ''A cone-shaped net of vegetable or synthetic materials having throats or flues and which are stretched over a series of rings or hoops to support the webbing.''

Response: The definition for ''hoop net'' has been changed in the final rule

to be consistent with the suggestion by the commenter.

Comment 4: The proposed definitions for ''lampara net'' and purse seine'' are functionally very similar. They should be either combined into a single definition, or more clearly distinguished.

Response: The definitions have been modified to more clearly distinguish them in this final rule.

Comment 5: For the ''Gulf of Mexico Shrimp'' and ''Recreational Shrimp Fishery,'' under the Gulf of Mexico Fishery Management Council, butterfly net, skimmer, cast net, and dip net gear should be added. These gears are typically used only in state waters, but may possibly be used in Federal waters.

Response: Except for dip nets, these gears are not normally used in the EEZ, and have not been added to the list of fisheries and gear in this final rule.

Comment 6: For the ''Recreational Fishery (non-FMP),'' cast net, hoop net, tong (for oyster), pipes, drums, cans, buckets, and tires, yo-yo or trigger devices, trotline, bow and arrow, barbless spear (for flounder) and spear (for garfish) should be added.

Response: NMFS believes that all these gears except for hoop nets are for inshore use only, and has not added them to allowable gear for this fishery in this final rule.

Comment 7: The fishery, ''Non-groundfish Finfish (non-FMP),'' should be added for species such as black drum, sheepshead, flounder, and bluefish, and minor species such as cutlassfish and anchovies, that might be taken incidentally through gears such as trawl, gillnet, longline, handline, rod and reel, bandit gear, and many others. This relates to the issue that the list of fisheries in this rule applies to fisheries presently under state jurisdiction.

Response: NMFS agrees that this fishery and associated gear occur in the EEZ, and has added them to the list of fisheries and gear in this final rule.

Comment 8: Several commenters felt that the proposed rule misinterpreted the intent and language of section 305 of the Magnuson-Stevens Act, which established requirements for notifying the Councils before a new gear or fishery is introduced. It does not establish a system to identify gear as ''allowable.'' The proposed rule refers to gears on the list as ''allowable,'' implying that gear not on the list is ''not allowed.'' This is an inaccurate interpretation.

Response: Section 305(a)(3) of the Magnuson-Stevens Act states: ''Effective 180 days after publication of such list, no person or vessel may employ fishing gear or engage in a fishery not included in such list * * *.'' NMFS believes, therefore, that its interpretation is correct in referring to gear in the list as ''allowable gear.''

Comment 9: One commenter stated that the proposed rule may misinterpret the language of the Magnuson-Stevens Act by giving the Secretary discretion to reject additions to the list recommended by the Council and to make changes not recommended by the Council. The statute does not give authority to the Secretary to make changes to the list, absent a recommendation by a Council. Section 305(a)(4) clearly states that the Secretary ''shall publish a revised list'' (emphasis added) after receiving any change the Council ''deems appropriate.'' The commenter's interpretation of this language is that the Secretary must publish a proposed rule for public comment when a Council suggests a change to the list. If the Secretary does not have to publish a proposed rule, the public will not have an opportunity to counter an adverse determination by NMFS—and may not even know such a determination is being considered. The language in the proposed rule only makes sense if the list is interpreted as a list of ''allowed'' fisheries. The commenter does not believe this is the correct interpretation.

Response: While the Secretary and NMFS value the opinions, advice, and recommendations made by the Councils, the decision on implementing a regulatory action and issuing a rulemaking under the Magnuson-Stevens Act rests with the Secretary. An interpretation that the Secretary must implement whatever a Council recommends would run afoul of the Appointments Clause of the Constitution.

Comment 10: One commenter suggested that the list for gear and fisheries be based on permit category, rather than geographic area; this may shorten the list and would clearly identify allowed gear types. The commenter also recommended that the gear designations be more specific so fishermen can clearly understand what gear is allowed.

Response: The gear by fisheries is listed by geographic area because § 305(a)(1) of the Magnuson-Stevens Act focuses on the list of all fisheries under the authority of each Council, irrespective of whether permits exist for a given fishery. More general definitions were chosen for the list of gear by fisheries, to meet the requirements of this provision while maintaining simplicity and flexibility in its implementation. More specific descriptions and regulations to prohibit or otherwise restrict the gear in question can be found elsewhere in 50 CFR part 600.

Comment 11: The regulation may leave the industry vulnerable to inaction by the Councils. While new gear may be used after the 90-day advance notice period, there is no requirement for the Councils to act within that time frame, so the fishermen may not know when the Council will reply. This will inhibit investment of time and money in technological improvements. Therefore, the commenter recommended that, after a specific time period (180 days or less), new gear and fisheries should be added to the list unless the Council has notified the fishermen that it will not recommend the addition.

Response: Unless specifically prohibited by rulemaking, the individual who has served notice may use a new gear in an existing fishery or may participate in a new fishery after the 90-day waiting period. NMFS will endeavor to process the request within the 90-day period.

Comment 12: The proposed rule should have consistently applied the policy stated in the Supplementary Information section that ''while gear types are included on the list, methods of gear deployment were not.'' The example used is that ''jig'' and ''troll'' are not listed as gear because they are just methods of using hook-and-line gear, yet definitions are added for buoy gear and longline (methods of deploying hook-and-line gear) and pair trawl (a method for deploying a trawl net).

Response: Gear types differentiated by deployment are not included unless absolutely necessary. For example, ''pair trawl'' is no longer listed separately, but is included in the definition for ''trawl.'' In a few instances, however, the method of deployment had to be included for gear that is significantly different than others in the category and for clarity in the description of the gear in question.

Comment 13: The proposed rule creates a ''Catch 22'' for the Councils and industry. Fishermen would be required to advise the Council only if a new gear or fishery is not on the list. The proposed rule uses broad definitions, to avoid the problem of trying to describe the countless gears and fisheries in use. These definitions are so broad that almost any new gear or fishery may fit under the definitions and the proposed rule will serve little useful purpose. An example is the Mid-Atlantic Fishery Management Council non-FMP ''mixed trawl fishery'—any trawl for any species not covered by an FMP would fit this listing.

Response: The general wording for definitions of gear was purposefully used to provide flexibility for fishermen

and in an attempt to make the authorized list of fisheries and gear easy to refer to and understand. NMFS believes that variations of existing gear would not generally constitute a different gear. NMFS is trying to achieve a middle ground that would implement a process that is not overly burdensome to the fishermen and the Councils. At the same time, significantly new gear or fisheries should fall under the procedures of this rule. In any event, the Councils have the authority to regulate gear (e.g., size, shape, materials, deployment, seasons, areas) and fisheries (e.g., areas, seasons) more specifically if there is an identified reason to do so.

Comment 14: The New England Fishery Management Council is not submitting a list of fisheries or gear that are not included in the proposed rule. It expressed concern that the creation of such a list could easily overlook a gear or fishery, unfairly placing a notification burden on that fishery. The inconsistent structure of the list makes such a mistake probable. Therefore, it recommended that all gear types be listed for every fishery unless specifically prohibited by existing regulations.

Response: This rule satisfies the requirements of § 305(a) of Magnuson-Stevens Act (i.e., to compile a list of fisheries and gear in use in the EEZ, categorized by Council, and of NMFS, in the case of Atlantic HMS). All allowable gear and fisheries known to NMFS have been listed.

Comment 15: There should not be any exception to the full 90-day waiting period before using a new gear or participating in a new fishery. This is the minimum period necessary for the Councils to have an opportunity to review and decide on a proposed addition to the list. Any shorter period would not provide adequate time for careful review of the conservation impacts of a new gear or fishery.

Response: The provisions of § 305(a) of the Magnuson-Stevens Act do not prohibit the Secretary from amending the list of gear and fisheries within the 90-day notification period. NMFS will try to expeditiously process the notification while meeting all the requirements of this section.

Comment 16: The rule has not been published according to the timeline set by the SFA.

Response: NMFS made every effort to comply with the statutory deadlines of the SFA. However, the complexity of the proposed rule and the importance of the contents to the public required diligence and deliberation.

Comment 17: One commenter asked for listing electric jigging machines, bandit gear, and trolling green sticks as fishing gear used in various Atlantic HMS (tunas, swordfish, and mahi mahi) fisheries. The commenter noted that these gear types are all currently being used in these fisheries, partly due to the concerns over the future of pelagic longlining.

Response: NMFS recognizes that various gear may be used to enhance productivity of these fisheries. Bandit gear is currently authorized in the Atlantic tunas fishery and as a bycatch gear type in the swordfish fishery (two fish per trip). Green sticks are allowed for Atlantic tunas, if the vessel is carrying a General category permit. Jigging machines are not authorized for Atlantic tunas nor for Atlantic swordfish, although they could be allowed a two swordfish per trip bycatch allowance if used to target other species.

Changes From the Proposed Rule

Section 600.725(v) in the proposed rule has been revised to indicate that the list of fisheries and gear in that paragraph is intended to include allowable gear for harvest and retention of a fish, whether that fish is targeted or not. If the list of gear applied only to fish that were targeted, it would be extremely difficult to determine whether a fish caught and retained was legally taken under provisions of this rule. The intent of this rule is that fish in a listed fishery should not be allowed to be retained if caught with gear other than that listed under that fishery to protect the resources from development of uncontrolled fisheries or introduction of potentially harmful gear.

Section 600.746 in the proposed rule has been changed to § 600.747 in this final rule because a new § 600.746 was added by a final rule for an unrelated action published on May 18, 1998 (63 FR 27217), effective on June 17, 1998. Similarly, § 600.725(q) in the proposed rule is changed to § 600.725(v) in this final rule because paragraphs (q), (r), (s), (t), and (u) were added to this section in the same final rule (63 FR 27217, May 18, 1998) mentioned above.

Because of comments received from various Councils and NMFS Regional Offices, this final rule contains definitions for ''Cast net,'' ''Hand harvest,'' ''Hook-and-line,'' ''Pot,'' and ''Submersible'' that were not defined in § 600.10 of the proposed rule. The definitions for ''Allowable chemical,'' ''Barrier net,'' ''Dredge,'' ''Hoop net,'' and ''Lampara net'' have been changed in the final rule.

In the table of the list of authorized fisheries and gear in § 600.725(v), the following changes have been made in accordance with comments received from various Councils, NMFS Regional Offices, state agencies, and members of the public:

1. Under the heading ''New England Fishery Management Council,'' the following changes have been made:

a. ''Hand harvest'' and ''recreational fisheries'' have been added to the Atlantic Sea Scallops Fishery FMP.

b. ''Rod and reel'' has been added to the groundfish hook and line fishery for the Northeast Multispecies Fishery FMP.

c. For the American Lobster Fishery FMP, the ''hand harvest fishery'' has been added and ''hand harvest'' has also been added to the gear for the recreational fishery.

d. The Striped Bass Fishery (non-FMP), the Surf Clam and Ocean Quahog Fishery FMP, and the Hagfish Fishery (non-FMP) have been added.

e. For the Atlantic Halibut Fishery (non-FMP), ''handline,'' ''gillnet,'' and ''trawl'' have been added as allowable gear.

f. ''Hand harvest fishery'' has been added to the Atlantic Mussel/Sea Urchin Fishery (non-FMP),

g. ''Hook and line'' has been added to the Atlantic Skate Fishery (non-FMP).

h. The ''demersal longline fishery,'' ''dredge fishery,'' and ''trap/pot fishery'' have been added to the Monkfish Fishery (non-FMP).

2. Under the heading ''Mid-Atlantic Fishery Management Council'' the following changes have been made:

a. The ''striped bass fishery (non-FMP)'' has been added.

b. The ''bandit gear fishery'' has been added to the Atlantic Mackerel, Squid, and Butterfish Fishery FMP.

c. The ''Surf Clam/Ocean Quahog Fishery (FMP)'' has been divided into a ''dredge fishery'' and a ''recreational fishery.''

d. The ''hand harvest fishery'' has been added to the ''Atlantic Sea Scallop Fishery FMP'' and the ''American Lobster Fishery FMP.''

e. The ''demersal longline fishery'' has been added to the monkfish fishery (non-FMP).

f. The tilefish fishery (non-FMP) and the dogfish fishery (non-FMP) have been added along with associated fisheries and allowable gear types.

3. Under the heading, ''South Atlantic Fishery Management Council,'' ''powerhead'' has been added as an allowable gear to the commercial fishery of the South Atlantic Snapper-Grouper Fishery FMP, and the ''sargassum fishery'' and its accompanying gear (trawl) has been added.

4. Under the heading, ''Gulf of Mexico Fishery Management Council,'' the following changes have been made:

a. A new category has been added, ''oyster fishery (non-FMP)'' with associated gear.

b. The ''Gulf of Mexico shrimp trawl fishery'' has been changed to the ''Gulf of Mexico commercial shrimp fishery'' and several gear types other than ''trawl'' have been added.

c. ''Non-groundfish finfish (non-FMP)'' and associated gear have been added to address possible harvest of species such as black drum, sheepshead, flounder, bluefish, cutlassfish, and anchovies.

5. Under the heading, ''Caribbean Fishery Management Council,'' the ''hand harvest fishery'' has been added to the ''Caribbean Spiny Lobster FMP'' and ''rod and reel'' has been added as a gear for the ''recreational fishery for Caribbean pelagics (non-FMP).''

6. Under the heading, ''Pacific Fishery Management Council,'' the following changes have been made:

a. The ''Pacific halibut fishery'' has been properly labeled as a ''non-FMP,'' and subdivided into the ''longline/setline fishery'' and ''hook-and-line fishery.''

b. The ''California halibut trawl'' and ''trammel net fishery'' have been added.

c. ''Jack mackerel'' has been added to the ''Pacific sardine, Pacific mackerel, Pacific saury, Pacific bonito, Jack mackerel purse seine fishery.''

7. Under the heading, ''North Pacific Fishery Management Council,'' the following changes have been made:

a. ''Diving gear'' has been added to the ''Alaska Scallop Fishery FMP.''

b. The ''Gulf of Alaska Groundfish Fishery FMP'' with associated fisheries and gear has been added.

8. Under the heading, ''Western Pacific Fishery Management Council,'' the following changes have been made:

a. The following new categories have been added along with associated fisheries and gear: ''western Pacific crustacean (non-FMP),'' ''western Pacific precious corals (non-FMP),'' ''western Pacific pelagics (non-FMP),'' ''western Pacific coastal pelagics (non-FMP),'' ''western Pacific squid/octopus (non-FMP),'' and ''western Pacific shallow reef (non-FMP).''

b. The ''gillnet fishery (non-FMP)'' and the ''recreational fishery (non-FMP)'' have been deleted.

c. Under the ''Western Pacific Bottomfish Fishery FMP,'' the ''bottomfish handline fishery,'' has been deleted, and the ''recreational fishery'' has been moved to a new category, ''the ''western Pacific bottomfish fishery (non-FMP).''

d. Under the ''Western Pacific Pelagics FMP,'' the dip net/hoop net fishery'' and ''pole and line fishery'' have been deleted. Also, under the same FMP, the more specifically named fisheries, ''tuna handline/hook and line,'' and ''swordfish, tuna, billfish, mahi mahi, wahoo, shark longline/setline fishery'' have been replaced by the more general headings, ''hook and line fishery'' and ''longline fishery.''

9. Under the heading, ''Secretary of Commerce,'' the following changes have been made:

a. ''Harpoon fishery'' is removed from the ''Atlantic Sharks FMP'' and from the ''Atlantic Billfish FMP.''

b. ''Bandit gear'' and ''harpoon'' have been removed from the gear listed for the ''recreational fishery'' for the ''Atlantic tunas (non-FMP).''

c. ''Bandit gear'' has been added to the gear in the ''hook and line fishery'' under the ''Atlantic Swordfish FMP.''

d. ''Bandit gear'' and ''handline'' have been removed from the ''hook and line fishery'' for the ''Atlantic Billfish FMP.''

NOAA codifies its OMB control numbers for information collection at 15 CFR part 902. Part 902 collects and displays the control numbers assigned to information collection requirements of NOAA by OMB pursuant to the Paperwork Reduction Act (PRA). This final rule codifies OMB control number 0648–0346 for 50 CFR 600.725 and 600.747.

Under NOAA Administrative Order 205–11, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere has delegated to the Assistant Administrator for Fisheries, NOAA, the authority to sign material for publication in the **Federal Register**.

Classification

This final rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration when this rule was proposed, that, if adopted, it would not have a significant impact on a substantial number of small entities. This action does not change the analyses already completed nor the conclusions made under the Regulatory Flexibility Act (RFA) for any gear that can be used in a fishery or gear that is prohibited seasonally, or year round, for any previous rulemakings for fisheries under 50 CFR parts 600, 622, 630, 640, 644, 648, 649, 654, 660, 678, and 679. NMFS' guidelines for preparation of economic analyses to comply with the RFA assume that a ''substantial number'' of small entities would generally be 20 percent of the total universe of small entities affected by the regulation. A regulation would have a ''significant impact'' on a substantial number of small entities if any of the following criteria are met: Annual gross revenues are reduced by more than 5 percent, total costs of production are increased by more than 5 percent, compliance costs for small entities are at least 10 percent higher than compliance costs as a percent of sales for large entities, or the action results in a cessation of business operations of 2 percent or more of small entities affected by the action. None of the aforementioned criteria were met by this action. The formalized list of fisheries currently in the EEZ and gear within those fisheries does not change any costs or revenues for members of the fishing industry. The new procedure that will be required before a fisherman may participate in a new fishery or employ a new gear in an existing fishery will affect only that small group of individuals (about 20 per year) having to comply with the notification procedure because of reporting requirements associated with it. As a result, a regulatory flexibility analysis was not prepared for this action. Any future rule prohibiting or restricting use of gear or prosecution of a fishery will be analyzed in accordance with the RFA.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA). This collection-of-information requirement has been approved by OMB and assigned the number 0648–0346. Public reporting burden for this collection of information has been revised from the average estimate of 1 hour per response to 1½ hours per response for Council notification of entry into a new fishery or use of a new gear in a current fishery, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of this collection of information, including suggestions for reducing this burden, to NMFS and OMB (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 600

Administrative practice and procedure, Confidential business information, Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics.

Dated: January 20, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR chapter IX and 50 CFR chapter VI are amended as follows:

15 CFR Chapter IX

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT; OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. In § 902.1, paragraph (b), in the table, under 50 CFR, the entries for §§ 600.725 and 600.747 are added to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * * * *	
50 CFR:	
* * * * *	
600.725	–0346
600.747	–0346
* * * * *	

Chapter VI

PART 600—MAGNUSON-STEVENS ACT PROVISIONS

1. The authority citation for part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

2. In § 600.10, the definition for ''Trawl'' is revised and new definitions for ''Allowable chemical'', ''Bandit gear'', ''Barrier net'', ''Bully net'', ''Buoy gear'', ''Cast net'', ''Dip net'', ''Dredge'', ''Hand harvest'', ''Handline'', ''Hook and line'', ''Hoop net'', ''Lampara net'', ''Longline'', ''Pot'', ''Powerhead'', ''Purse seine'', ''Rod and reel'', ''Seine'', ''Slurp gun'', ''Snare'', ''Spear'', ''Submersible'', ''Tangle net dredge'', ''Trammel net'', and ''Trap'', are added in alphabetical order to read as follows:

§ 600.10 Definitions.

* * * * *

Allowable chemical means a substance, generally used to immobilize marine life so it can be captured alive, that, when introduced into the water, does not take Gulf and South Atlantic prohibited coral (as defined at 50 CFR 622.2) and is allowed by Florida or Hawaii or the U.S. Pacific Insular Area for the harvest of tropical fish.

* * * * *

Bandit gear means vertical hook and line gear with rods that are attached to the vessel when in use. Lines are retrieved by manual, electric, or hydraulic reels.

Barrier net means a small-mesh net used to capture coral reef or coastal pelagic fishes.

Bully net means a circular frame attached at right angles to a pole and supporting a conical bag of webbing.

Buoy gear means fishing gear consisting of a float and one or more lines suspended therefrom. A hook or hooks are on the lines at or near the end. The float and line(s) drift freely and are retrieved periodically to remove catch and rebait hooks.

Cast net means a circular net with weights attached to the perimeter.

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Dip net means a small mesh bag, sometimes attached to a handle, shaped and framed in various ways. It is operated by hand or partially by mechanical power to capture the fish.

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Dredge means a gear consisting of a mouth frame attached to a holding bag constructed of metal rings or mesh.

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Hand harvest means harvesting by hand.

Handline means fishing gear that is set and pulled by hand and consists of one vertical line to which may be attached leader lines with hooks.

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Hook and line means one or more hooks attached to one or more lines (can include a troll).

Hoop net means a cone-shaped net having throats and flues stretched over a series of rings or hoops for support.

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Lampara net means a surround net with the sections of netting made and joined to create bagging. It is hauled with purse rings and is generally much smaller in size than a purse seine net.

Longline means a line that is deployed horizontally and to which gangions and hooks or pots are attached. Longlines can be stationary, anchored, or buoyed lines that may be hauled manually, electrically, or hydraulically.

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Pot means trap.

Powerhead means any device with an explosive charge, usually attached to a spear gun, spear, pole, or stick, that may or may not fire a projectile upon contact.

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Purse seine means a floated and weighted encircling net that is closed by means of a drawstring threaded through rings attached to the bottom of the net.

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Rod and reel means a hand-held (including rod holder) fishing rod with a manually or electrically operated reel attached.

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Seine means a net with long narrow wings, that is rigged with floats and weights.

Slurp gun means a tube-shaped suction device that operates somewhat like a syringe by sucking up the fish.

Snare means a device consisting of a pole to which is attached a line forming at its end a loop with a running knot that tightens around the fish when the line is pulled.

Spear means a sharp, pointed, or barbed instrument on a shaft. Spears can be operated manually or shot from a gun or sling.

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Submersible means a manned or unmanned device that functions or operates primarily underwater and is used to harvest fish, i.e., precious corals, with mechanical arms.

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Tangle net dredge means dredge gear consisting of weights and flimsy netting that hangs loosely in order to immediately entangle fish.

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Trammel net means a net consisting of two or more panels of netting, suspended vertically in the water column by a common float line and a common weight line. One panel of netting has a larger mesh size than the other(s) in order to entrap fish in a pocket.

* * * * *

Trap means a portable, enclosed device with one or more gates or

entrances and one or more lines attached to surface floats. Also called a pot.

Trawl means a cone or funnel-shaped net that is towed through the water, and can include a pair trawl that is towed simultaneously by two boats.

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3. In § 600.725, paragraph (v) is added to read as follows:

§ 600.725 General prohibitions.

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(v) The use of any gear or participation in a fishery not on the following list of authorized fisheries and gear is prohibited after July 26, 1999. A fish, whether targeted or not, may be retained only if it is taken within a listed fishery, is taken with a gear authorized for that fishery, and is taken in conformance with all other applicable regulations. Listed gear can only be used in a manner that is consistent with existing laws or regulations. The list of fisheries and allowable gear does not, in any way, alter or supersede any definitions or regulations contained elsewhere in this chapter. A person or vessel is prohibited from engaging in fishing or employing fishing gear when such fishing or gear is prohibited or restricted by regulation under an FMP or under other applicable law. However, after July 26, 1999, an individual fisherman may notify the appropriate Council, or the Assistant Administrator in the case of Atlantic highly migratory species, of the intent to use a gear or participate in a fishery not already on this list. Ninety days after such notification, the individual may use the gear or participate in that fishery unless regulatory action is taken to prohibit the use of the gear or participate in the fishery (e.g., through emergency or interim regulations). The list of authorized fisheries and gear is as follows:

Fishery	Allowable gear types
New England Fishery Management Council (NEFMC)	
Atlantic Sea Scallops Fishery (FMP):	
A. Dredge fishery	A. Dredge.
B. Trawl fishery	B. Trawl.
C. Hand harvest fishery	C. Hand harvest.
D. Recreational fishery	D. Hand harvest.
Atlantic Salmon Fishery (FMP)	No harvest/possession in the EEZ.
Striped Bass Fishery (Non-FMP)	No harvest/possession in the EEZ.
Northeast (NE) Multispecies Fishery (FMP):	
A. NE Multispecies Sink Gillnet	A. Gillnet.
B. North Atlantic bottom trawl	B. Trawl.
C. Groundfish hook and line	C. Longline, handline, rod and reel.
D. Mixed species trap/pot	D. Trap/pot.
E. Dredge fishery	E. Dredge.
F. Seine fishery	F. Seine.
G. Recreational fishery	G. Rod and reel, handline, spear.
American Lobster Fishery (FMP):	
A. Lobster pot/trap	A. Pot, trap.
B. North Atlantic bottom trawl	B. Trawl.
C. Dredge fishery	C. Dredge.
D. Hand harvest fishery	D. Hand harvest.
E. Recreational fishery	E. Pot, trap, hand harvest.
Atlantic Herring Fishery (Preliminary FMP):	
A. Coastal herring trawl	A. Trawl fishery.
B. Atlantic herring purse seine fishery	B. Purse seine.
C. Coastal/inshore gillnet fishery	C. Gillnet.
D. Recreational fishery	D. Hook and line, gillnet.
Dogfish Fishery (Non-FMP):	
A. Gillnet fishery	A. Gillnet.
B. Trawl fishery	B. Trawl.
C. Recreational fishery	C. Hook and line, rod and reel.
Atlantic Bluefish (FMP managed by Mid-Atlantic Fishery Management Council (MAFMC)):	
A. Pelagic longline/hook and line	A. Longline, handline.
B. Seine fishery	B. Purse seine, seine.
C. Mixed species pot/trap fishery	C. Pot, trap.
D. Bluefish, croaker, flounder trawl fishery	D. Trawl.
E. Pelagic drift gillnet fishery	E. Gillnet.
F. Dredge fishery	F. Dredge.
G. Recreational fishery	G. Rod and reel, handline, trap, pot.
Atlantic Mackerel, Squid and Butterfish Fishery (FMP managed by the MAFMC):	
A. Mackerel, squid, butterfish trawl fishery	A. Trawl.
B. Pelagic drift gillnet fishery	B. Gillnet.
C. Pelagic longline/hook and line fishery	C. Longline, handline.
D. Purse seine fishery	D. Purse seine
E. Mixed species pot/trap fishery	E. Pot, trap.
F. Dredge fishery	F. Dredge.
G. Recreational fishery	G. Rod and reel, handline, pot.
Surf Clam and Ocean Quahog Fishery (FMP managed by the MAFMC)	Dredge.
Atlantic Menhaden Purse Seine Fishery (Non-FMP)	Purse seine.
Atlantic Halibut Fishery (Non-FMP)	Longline, handline, gillnet, trawl.
Weakfish Fishery (Non-FMP):	
A. Commercial fishery	A. Trawl, gillnet, hook and line.
B. Recreational fishery	B. Hook and line.

Fishery	Allowable gear types
Atlantic Mussel/Sea Urchin Fishery (Non-FMP):	
A. Dredge fishery	A. Dredge.
B. Hand harvest fishery	B. Hand harvest.
Atlantic Skate Fishery:	
A. Trawl fishery	A. Trawl.
B. Gillnet fishery	B. Gillnet.
C. Hook-and-line fishery	C. Longline and handline.
Crab Fishery (Non-FMP)	Pot.
Northern Shrimp Fishery:	
A. Shrimp trawl fishery	A. Trawl.
B. Shrimp pot fishery	B. Pot.
Monkfish Fishery (Non-FMP):	
A. Trawl fishery	A. Trawl.
B. Gillnet fishery	B. Gillnet.
C. Demersal longline fishery	C. Longline.
D. Dredge fishery	D. Dredge.
E. Trap/pot	E. Trap/pot.
Summer Flounder, Scup, Black Sea Bass Fishery (FMP managed by MAFMC):	
A. Bluefish, croaker, flounder trawl fishery	A. Trawl.
B. Pelagic longline/hook and line fishery.	B. Longline, handline.
C. Mixed species pot/trap fishery	C. Pot, trap.
D. Pelagic drift gillnet fishery	D. Gillnet.
E. Recreational fishery	E. Rod and reel, handline, pot, trap.
Hagfish Fishery (Non-FMP)	Trap/pot.
Mid-Atlantic Fishery Management Council	
Summer Flounder, Scup, Black Sea Bass FMP:	
A. Bluefish, croaker, flounder trawl fishery	A. Trawl.
B. Pelagic longline/hook and line fishery	B. Longline, handline.
C. Mixed species pot/trap fishery.	C. Pot, trap.
D. Pelagic drift gillnet fishery.	D. Gillnet.
E. Recreational fishery	E. Rod and reel, handline, pot, trap.
Atlantic Bluefish FMP:	
A. Bluefish, Croaker, Flounder trawl fishery	A. Trawl.
B. Pelagic longline/hook and line fishery	B. Longline, handline.
C. Mixed species pot/trap fishery	C. Pot, trap.
D. Pelagic drift gillnet fishery	D. Gillnet.
E. Seine fishery	E. Purse seine, seine.
F. Dredge fishery	F. Dredge.
G. Recreational fishery	G. Rod and reel, handline, trap, pot.
Atlantic Mackerel, Squid, and Butterfish Fishery (FMP):	
A. Mackerel, Squid, Butterfish trawl fishery	A. Trawl.
B. Pelagic drift gillnet fishery	B. Gillnet.
C. Pelagic longline/hook and line fishery	C. Longline, handline.
D. Purse seine fishery	D. Purse seine.
E. Mixed species pot/trap fishery	E. Pot, trap.
F. Dredge fishery	F. Dredge.
G. Bandit gear fishery	G. Bandit gear.
H. Recreational fishery	H. Rod and reel, handline, pot.
Surf Clam/Ocean Quahog Fishery (FMP):	
A. Dredge fishery	A. Dredge.
B. Recreational fishery	B. Hand harvest.
Atlantic Sea Scallop Fishery (FMP managed by NEFMC):	
A. Dredge fishery	A. Dredge.
B. Trawl fishery	B. Trawl.
C. Hand harvest fishery	C. Hand harvest.
Atlantic Menhaden Purse Seine Fishery (Non-FMP)	Purse seine.
Striped bass Fishery (Non-FMP)	No harvest/possession in the EEZ.
Northern Shrimp Trawl Fishery (Non-FMP)	Trawl.
American Lobster Fishery (FMP managed by NEFMC):	
A. Pot/trap fishery	A. Pot/trap.
B. Hand harvest fishery	B. Hand harvest.
Weakfish Fishery (Non-FMP):	
A. Commercial fishery	A. Trawl, gillnet, hook and line.
B. Recreational fishery	B. Hook and line.
Mixed Species Trawl Fishery (Non-FMP)	Trawl.
Whelk Fishery (Non-FMP):	
A. Trawl fishery	A. Trawl.
B. Pot/trap fishery	B. Pot/trap.
Monkfish Fishery (Non-FMP):	

Fishery	Allowable gear types
A. Trawl fishery	A. Trawl.
B. Longline fishery	B. Longline.
Tilefish Fishery (Non-FMP):	
A. Groundfish hook-and-line fishery	A. Longline, handline.
B. Recreational fishery	B. Rod and reel.
Dogfish Fishery (Non-FMP):	
A. Gillnet fishery	A. Gillnet.
B. Trawl fishery	B. Trawl.
C. Recreational fishery	C. Hook and line.
Coastal Gillnet Fishery (Non-FMP)	Gillnet.
Recreational Fishery (Non-FMP)	Rod and reel, handline.
South Atlantic Fishery Management Council	
Golden Crab Fishery (FMP)	Trap.
Atlantic Red Drum Fishery (FMP)	No harvest/possession in EEZ.
Coral and Coral Reef Fishery (FMP):	
A. Octocoral commercial fishery	Hand harvest only.
B. Live rock aquaculture fishery	Hand harvest only.
C. Octocoral recreational fishery	Hand harvest only.
South Atlantic Shrimp Fishery (FMP)	Trawl.
South Atlantic Snapper-Grouper Fishery (FMP):	
A. Commercial fishery	A. Longline, rod and reel, bandit gear, handline, spear, powerhead.
B. Black sea bass trap/pot fishery	B. Pot, trap.
C. Wreckfish fishery	C. Rod and reel, bandit gear, handline.
D. Recreational fishery	D. Handline, rod and reel, bandit gear, spear, powerhead.
South Atlantic Spiny Lobster FMP:	
A. Commercial fishery	A. Trap, pot, dip net, bully net, snare.
B. Recreational fishery	B. Trap, pot, dip net, bully net, snare.
South Atlantic Coastal Migratory Pelagics FMP:	
A. Commercial Spanish mackerel fishery	A. Handline, rod and reel, bandit gear, gillnet, cast net.
B. Commercial King mackerel fishery	B. Handline, rod and reel, bandit gear.
C. Other commercial coastal migratory pelagics fishery	C. Longline, handline, rod and reel, bandit gear.
D. Recreational fishery	D. Bandit gear, rod and reel, handline.
Atlantic Mackerel, Squid, and Butterfish Trawl Fishery (Non-FMP)	Trawl.
Weakfish Fishery (Non-FMP):	
A. Commercial fishery	A. Trawl, gillnet, hook and line.
B. Recreational fishery	B. Hook and line.
Whelk Trawl Fishery (non-FMP)	Trawl.
Marine Life Aquarium Fishery (Non-FMP)	Dip net, slurp gun, barrier net, allowable chemical.
Calico Scallops Trawl Fishery (Non-FMP)	Trawl.
Bluefish, Croaker, Flounder Trawl Fishery (Non-FMP)	Trawl.
Recreational Fishery (Non-FMP)	Handline, bandit gear, rod and reel.
Sargassum Fishery (Non-FMP)	Trawl.
Gulf of Mexico Fishery Management Council	
Gulf of Mexico Red Drum FMP	No harvest/possession in EEZ.
Coral Reef FMP:	
A. Commercial fishery	A. Hand harvest only.
B. Recreational fishery	B. Hand harvest only.
Gulf of Mexico Reef Fish FMP:	
A. Snapper-Grouper reef fish longline/hook and line fishery	A. Longline, handline, bandit gear, rod and reel, buoy gear.
B. Pot/trap reef fish fishery	B. Pot, trap.
C. Other commercial fishery	C. Spear, powerhead, cast net, trawl.
D. Recreational fishery	D. Spear, powerhead, bandit gear, handline, rod reel, cast net.
Gulf of Mexico Shrimp FMP:	
A. Gulf of Mexico commercial fishery	A. Trawl butterfly net, skimmer, castnet.
B. Recreational fishery	B. Trawl.

Fishery	Allowable gear types
Gulf of Mexico Coastal Migratory Pelagics FMP:	
A. Large pelagics longline fishery	A. Longline.
B. King/Spanish mackerel gillnet fishery	B. Gillnet.
C. Pelagic hook and line fishery	C. Bandit gear, handline, rod and reel.
D. Pelagic species purse seine fishery	D. Purse seine.
E. Recreational fishery	E. Bandit gear, handline, rod and reel, spear.
Gulf of Mexico Spiny Lobster FMP:	
A. Spiny lobster pot/trap fishery	A. Trap, pot.
B. Dip net fishery	B. Dip net, bully net, hoop net.
C. Recreational fishery	C. Dip net, bully net, pot, trap, snare.
Stone Crab FMP:	
A. Trap/pot crab fishery	A. Trap, pot.
B. Recreational fishery	B. Trap, pot.
Mullet Fishery (Non-FMP):	
A. Trawl fishery	A. Trawl.
B. Gillnet fishery	B. Gillnet.
C. Recreational fishery	C. Bandit gear, handline, rod and reel.
Inshore Coastal Gillnet Fishery (Non-FMP)	Gillnet.
Golden Crab Fishery (Non-FMP)	Trap.
Octopus Fishery (Non-FMP)	Trap.
Marine Life Aquarium Fishery (Non-FMP)	Dip net, slurp gun, barrier net, allowable chemical.
Coastal Herring Trawl Fishery (Non-FMP)	Trawl.
Butterfish Trawl Fishery (Non-FMP)	Trawl.
Gulf of Mexico Groundfish (Non-FMP):	
A. Commercial fishery	A. Trawl, purse seine, gillnet.
B. Recreational fishery	B. Hook and line.
Gulf of Mexico Menhaden Purse Fishery (Non-FMP)	Purse seine.
Sardine Purse Seine Fishery (Non-FMP)	Purse seine.
Oyster Fishery (Non-FMP)	Dredge.
Non-Groundfish finfish (Non-FMP)	Trawl, gillnet, longline, handline, rod and reel, bandit gear.
Recreational fishery (Non-FMP)	Bandit gear, handline, rod and reel, spear, bully net, gillnet, dip net, longline, powerhead, seine, slurp gun, trap, trawl, harpoon, castnet, hoop net.
Caribbean Fishery Management Council	
Caribbean Spiny Lobster FMP:	
A. Trap/pot fishery	A. Trap/pot.
B. Dip net fishery	B. Dip net.
C. Entangling net fishery	C. Gillnet, trammel net.
D. Recreational fishery	D. Dip net, trap, pot, gillnet, trammel net.
E. Hand harvest fishery	E. Hand harvest.
Caribbean Shallow Water Reef Fish FMP:	
A. Longline/hook and line fishery	A. Longline, hook and line.
B. Trap/pot fishery	B. Trap, pot.
C. Entangling net fishery	C. Gillnet, trammel net.
D. Recreational fishery	D. Dip net, handline, rod and reel, slurp gun, spear.
Coral and Reef Resources FMP:	
A. Commercial fishery	A. Dip net, slurp gun.
B. Recreational fishery	B. Dip net, slurp gun.
Queen Conch FMP:	
A. Commercial fishery	A. Hand harvest only.
B. Recreational fishery	B. Hand harvest only.
Caribbean Pelagics (Non-FMP):	
A. Pelagics drift gillnet	A. Gillnet fishery.
B. Pelagics longline/hook and line fishery	B. Longline/hook and line.
C. Recreational fishery	C. Spear, handline, longline, rod and reel.
Pacific Fishery Management Council	
Washington, Oregon, and California Salmon FMP:	
A. Salmon set gillnet fishery	A. Gillnet.
B. Salmon hook and line fishery	B. Hook and line.

Fishery	Allowable gear types
C. Trawl fishery	C. Trawl.
D. Recreational fishery	D. Rod and reel.
West Coast Groundfish FMP:	
A. Pacific groundfish trawl fishery	A. Trawl.
B. Set gillnet fishery	B. Gillnet.
C. Groundfish longline/setline fishery	C. Longline.
D. Groundfish handline/hook and line fishery	D. Handline, hook and line.
E. Groundfish pot/trap fishery	E. Pot, trap.
F. Recreational fishery	F. Rod and reel, handline, spear, hook and line.
Northern Anchovy Fishery (FMP)	Purse seine, lampara net.
Angel Shark, White Croaker, California Halibut, White Sea Bass, Pacific Mackerel Large-Mesh Set Net Fishery (Non-FMP).	Gillnet.
Thresher Shark/ Swordfish Drift Gillnet Fishery (Non-FMP)	Gillnet.
Pacific Shrimp/Prawn (Non-FMP):	
A. Pot/trap fishery	A. Pot/trap.
B. Trawl fishery	B. Trawl.
Lobster, Rock Crab Pot/Trap Fishery (Non-FMP)	Pot, trap.
Pacific Halibut (Non-FMP):	
A. Longline/setline fishery	A. Longline/setline.
B. Hook-and-line fishery	B. Hook-and-line.
California Halibut Trawl and Trammel Net Fishery	Trawl and trammel net.
Shark/Bonito Longline/Setline Fishery (Non-FMP)	Longline.
Dungeness Crab Pot/Trap Fishery (Non-FMP)	Pot, trap.
Hagfish Trap/Pot Fishery (Non-FMP)	Trap, pot.
Pacific Albacore, Other Tuna Hook and Line Fishery (Non-FMP)	Hook and line.
Pacific Swordfish Harpoon Fishery (Non-FMP)	Harpoon.
Pacific Scallop Dredge Fishery (Non-FMP)	Dredge.
Pacific Yellowfin, Skipjack Tuna, Purse Seine Fishery (Non-FMP)	Purse seine.
Market Squid Fishery (Non-FMP)	Purse seine; dip net.
Pacific Sardine, Pacific	Purse seine.
Mackerel, Pacific Saury, Pacific Bonito, Jack mackerel, Purse Seine Fishery (Non-FMP):	
Finfish and Shellfish Live Trap, Hook and line/Handline Fishery (Non-FMP)	Trap, handline, hook and line.
Recreational Fishery (Non-FMP)	Spear, trap, handline, pot, hook and line, rod and reel.
North Pacific Fishery Management Council	
Alaska Scallop Fishery (FMP)	Dredge, diving gear.
Bering Sea (BS) and Aleutian Islands (AI) King and Tanner Crab Fishery FMP:	
Pot fishery fishery	Pot.
BS and AI King and Tanner Crab Fishery (Non-FMP):	
Recreational fishery	Pot.
BS and AI Groundfish Fishery FMP:	
A. Groundfish trawl fishery	A. Trawl.
B. Bottomfish hook and line, handline fishery	B. Hook and line, handline.
C. Longline fishery	C. Longline.
D. BS and AI pot/trap fishery	D. Pot, trap.
BS and AI Groundfish Fishery (Non-FMP):	
Recreational fishery	Handline, rod and reel, hook and line, pot, trap.
Gulf of Alaska (GOA) Groundfish Fishery (FMP):	
A. Groundfish trawl fishery	A. Trawl.
B. Bottomfish hook-and-line and handline	B. Hook and line, handline.
C. Longline fishery	C. Longline.
D. GOA pot/trap fishery	D. Pot/trap.
E. Recreational fishery	E. Handline, rod and reel, hook and line, pot, trap.
Pacific Halibut (Non-FMP):	
Hook and line, jig and troll fishery	Hook and line, and jig.
Alaska High Seas Salmon FMP:	
Hook and line fishery	Hook and line.
Alaska Salmon (Non-FMP).	
A. Alaska salmon hook and line fishery	A. Hook and line.
B. Alaska salmon gillnet fishery	B. Gillnet.
C. Alaska salmon purse seine fishery	C. Purse seine.
D. Recreational fishery	D. Handline, rod and reel, hook and line.
Finfish Purse Seine Fishery (Non-FMP)	Purse seine.
Octopus/Squid Longline Fishery (Non-FMP)	Longline.
Finfish Handline/Hook and Line Fishery (Non-FMP)	Handline, hook and line.
Recreational Fishery (Non-FMP)	Handline, rod and reel, hook line.

Fishery	Allowable gear types
Western Pacific Fishery Management Council	
Western Pacific Crustacean FMP Lobster Fishery	Trap.
Western Pacific Crustacean (Non-FMP):	
A. Commercial fishery	A. Gillnet, hand harvest, hoop net, spear, snare, trap, trawl.
B. Recreational fishery	B. Gillnet, hand harvest, hoop net, spear, snare, trap.
C. Charter fishery	C. Hand harvest, spear.
Western Pacific Precious Corals FMP:	
A. Tangle net dredge fishery	A. Tangle net dredge.
B. Submersible fishery	B. Submersibles.
C. Coral Dive/Hand Collection Fishery	C. Hand harvest only.
D. Recreational fishery	D. Hand harvest only.
Western Pacific Precious Corals (Non-FMP)	Hand harvest, submersible, tangle net dredge.
Western Pacific Bottomfish/Seamount Groundfish FMP:	
A. Bottomfish hook and line fishery	A. Bandit gear, buoy gear, handline, hook and line, rod and reel.
B. Seamount groundfish fishery	B. Longline, trawl.
C. Bottom longline fishery	C. Longline.
D. Trap fishery	D. Trap.
E. Spear fishery	E. Spear, powerhead.
Western Pacific Bottomfish/Seamount Groundfish (Non-FMP):	
A. Commercial fishery	A. Bandit gear, buoy gear, gillnet, handline, hook-and-line, longline, rod and reel, spear, trap.
B. Recreational fishery	B. Bandit gear, buoy gear, Gillnet, handline, hook-and-line, longline, rod and reel, spear, trap.
C. Charter fishery	C. Bandit gear, buoy gear, handline, hook-and-line, rod and reel, spear.
Western Pacific Pelagics FMP:	
A. Longline fishery	A. Longline.
B. Hook and line fishery	B. Bandit gear, buoy gear, handline, hook and line, rod and reel.
C. Purse seine fishery	C. Lampara, purse seine.
D. Spear fishery	D. Spear, powerhead.
Western Pacific Pelagics (Non-FMP):	
A. Recreational fishery	A. Bandit gear, buoy gear, dip net, handline, hook and line, hoop net, powerhead, rod and reel, spear.
B. Commercial fishery	B. Bandit gear, buoy gear, dip net, handline, hook and line, hoop net, powerhead, rod and reel, spear.
C. Charter fishery	C. Bandit gear, buoy gear, dip net, handline, hook and line, hoop net, powerhead, rod and reel, spear.
Western Pacific Coastal Pelagics (Non FMP)	Bandit gear, buoy gear, dip, net, gillnet, handline, hook and line, hoop net, lampara net, purse seine, rod and reel, spear.
Western Pacific Squid/Octopus (Non FMP)	Bandit gear, hand harvest, hook and line, rod and reel, spear, trap.
Western Pacific Shallow Reef (Non FMP)	Allowable chemical, barrier net, dip net, gillnet, hand harvest, seine, slurp gun, trap.
Secretary of Commerce	
Atlantic Swordfish FMP:	
A. Hook and line fishery	A. Rod and reel, handline, bandit gear.
B. Longline fishery	B. Longline.
C. Drift gillnet fishery	C. Gillnet.
D. Harpoon fishery	D. Harpoon.
Atlantic Sharks FMP:	

Fishery	Allowable gear types
A. Hook and line fishery	A. Rod and reel, handline, bandit gear.
B. Longline fishery	B. Longline.
C. Drift gillnet fishery	C. Gillnet.
Atlantic Billfish FMP (Recreational only):	
Hook and line fishery	Rod and reel.
Atlantic Tunas (Non-FMP):	
A. Hook and line fishery	A. Rod and reel, handline, bandit gear.
B. Purse seine fishery	B. Purse seine.
C. Longline fishery	C. Longline.
D. Harpoon fishery	D. Harpoon.
E. Recreational fishery	E. Rod and reel, handline.

4. In subpart H, § 600.747 is added to read as follows:

§ 600.747 Guidelines and procedures for determining new fisheries and gear.

(a) *General.* Section 305(a) of the Magnuson-Stevens Act requires the Secretary to prepare a list of all fisheries under the authority of each Council, or the Director in the case of Atlantic highly migratory species, and all gear used in such fisheries. This section contains guidelines in paragraph (b) for determining when fishing gear or a fishery is sufficiently different from those listed in § 600.725(v) as to require notification of a Council or the Director in order to use the gear or participate in the unlisted fishery. This section also contains procedures in paragraph (c) for notification of a Council or the Director of potentially new fisheries or gear, and for amending the list of fisheries and gear.

(b) *Guidelines.* The following guidance establishes the basis for determining when fishing gear or a fishery is sufficiently different from those listed to require notification of the appropriate Council or the Director.

(1) The initial step in the determination of whether a fishing gear or fishery is sufficiently different to require notification is to compare the gear or fishery in question to the list of authorized fisheries and gear in § 600.725(v) and to the existing gear definitions in § 600.10.

(2) If the gear in question falls within the bounds of a definition in § 600.10 for an allowable gear type within that fishery, as listed under § 600.725(v), then the gear is not considered different, is considered allowable gear, and does not require notification of the Council or Secretary 90 days before it can be used in that fishery.

(3) If, for any reason, the gear is not consistent with a gear definition for a listed fishery as described in paragraph (b)(2) of this section, the gear is considered different and requires Council or Secretarial notification as described in paragraph (c) of this section 90 days before it can be used in that fishery.

(4) If a fishery falls within the bounds of the list of authorized fisheries and gear in § 600.725(v) under the Council's or Secretary's authority, then the fishery is not considered different, is considered an allowable fishery and does not require notification of the Council or Director before that fishery can occur.

(5) If a fishery is not already listed in the list of authorized fisheries and gear in § 600.725(v), then the fishery is considered different and requires notification as described in paragraph (c) of this section 90 days before it can occur.

(c) *Procedures.* If a gear or fishery does not appear on the list in § 600.725(v), or if the gear is different from that defined in § 600.10, the process for notification, and consideration by a Council or the Director, is as follows:

(1) *Notification.* After July 26, 1999, no person or vessel may employ fishing gear or engage in a fishery not included on the list of approved gear types in § 600.725(v) without notifying the appropriate Council or the Director at least 90 days before the intended use of that gear.

(2) *Notification procedures.* (i) A signed return receipt for the notice serves as adequate evidence of the date that the notification was received by the appropriate Council or the Director, in the case of Atlantic highly migratory species, and establishes the beginning of the 90-day notification period, unless required information in the notification is incomplete.

(ii) The notification must include:

(A) Name, address, and telephone number of the person submitting the notification.

(B) Description of the gear.

(C) The fishery or fisheries in which the gear is or will be used.

(D) A diagram and/or photograph of the gear, as well as any specifications and dimensions necessary to define the gear.

(E) The season(s) in which the gear will be fished.

(F) The area(s) in which the gear will be fished.

(G) The anticipated bycatch species associated with the gear, including protected species, such as marine mammals, sea turtles, sea birds, or species listed as endangered or threatened under the ESA.

(H) How the gear will be deployed and fished, including the portions of the marine environment where the gear will be deployed (surface, midwater, and bottom).

(iii) Failure to submit complete and accurate information will result in a delay in beginning the 90-day notification period. The 90-day notification period will not begin until the information received is determined to be accurate and complete.

(3) *Action upon receipt of notification.* (i) *Species other than Atlantic Highly Migratory Species.* (A) Upon signing a return receipt of the notification by certified mail regarding an unlisted fishery or gear, a Council must immediately begin consideration of the notification and send a copy of the notification to the appropriate Regional Administrator.

(B) If the Council finds that the use of an unlisted gear or participation in a new fishery would not compromise the effectiveness of conservation and management efforts, it shall:

(*1*) Recommend to the RA that the list be amended;

(*2*) Provide rationale and supporting analysis, as necessary, for proper consideration of the proposed amendment; and

(*3*) Provide a draft proposed rule for notifying the public of the proposed addition, with a request for comment.

(C) If the Council finds that the proposed gear or fishery will be detrimental to conservation and management efforts, it will recommend to the RA that the authorized list of

fisheries and gear not be amended, that a proposed rule not be published, give reasons for its recommendation of a disapproval, and may request NMFS to publish emergency or interim regulations, and begin preparation of an FMP or amendment to an FMP, if appropriate.

(D) After considering information in the notification and Council's recommendation, NMFS will decide whether to publish a proposed rule. If information on the new gear or fishery being considered indicates it is likely that it will compromise conservation and management efforts under the Magnuson-Stevens Act, and no additional new information is likely to be gained from a public comment period, then a proposed rule will not be published and NMFS will notify the appropriate Council. In such an instance, NMFS will publish emergency or interim regulations to prohibit or restrict use of the gear or participation in the fishery. If NMFS determines that the proposed amendment is not likely to compromise conservation and management efforts under the Magnuson-Stevens Act, NMFS will publish a proposed rule in the **Federal Register** with a request for public comment.

(ii) *Atlantic Highly Migratory Species.* (A) Upon signing a return receipt of the notification by certified mail regarding an unlisted fishery or gear for Atlantic highly migratory species (HMS), NMFS will immediately begin consideration of the notification.

(B) Based on information in the notification and submitted by the Council, NMFS will make a determination whether the use of an unlisted gear or participation in an unlisted HMS fishery will compromise the effectiveness of conservation and management efforts under the Magnuson-Stevens Act. If it is determined that the proposed amendment will not compromise conservation and management efforts, NMFS will publish a proposed rule.

(C) If NMFS finds that the proposed gear or fishery will be detrimental to conservation and management efforts in this initial stage of review, it will not publish a proposed rule and notify the applicant of the negative determination with the reasons therefor.

(4) *Final determination and publication of a final rule.* Following public comment, NMFS will approve or disapprove the amendment to the list of gear and fisheries.

(i) If approved, NMFS will publish a final rule in the **Federal Register** and notify the applicant and the Council, if appropriate, of the final approval.

(ii) If disapproved, NMFS will withdraw the proposed rule, notify the applicant and the Council, if appropriate, of the disapproval; publish emergency or interim regulations, if necessary, to prohibit or restrict the use of gear or the participation in a fishery; and either notify the Council of the need to amend an FMP or prepare an amendment to an FMP in the case of Atlantic highly migratory species.

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TENNESSEE VALLEY AUTHORITY

18 CFR Part 1301

Revision of Tennessee Valley Authority Freedom of Information Act Regulations and Implementation of Electronic Freedom of Information Act Amendments of 1996

AGENCY: Tennessee Valley Authority.

ACTION: Final rule.

SUMMARY: This document amends TVA's regulations under the Freedom of Information Act (FOIA). The FOIA regulations contain new provisions implementing the Electronic Freedom of Information Act (EFOIA) of 1996. Additionally, the regulations include updated cost figures to be used in calculating and charging fees.

EFFECTIVE DATE: February 26, 1999.

FOR FURTHER INFORMATION CONTACT: Wilma H. McCauley, FOIA Officer, Tennessee Valley Authority, 1101 Market Street (WR 4Q), Chattanooga, Tennessee 37402–2801, telephone number (423) 751–2523.

SUPPLEMENTARY INFORMATION:

Background Information

On September 8, 1998, TVA published a proposed rule that revised its existing regulations under the FOIA and added new provisions implementing the Electronic FOIA Amendments. See 63 FR 47448, Sept. 8, 1998. Interested persons were afforded an opportunity to participate in the rulemaking through submission of written comments on the proposed rule. TVA received no comments to its proposed rule.

New provisions implementing the Electronic FOIA Amendments are found at Sec. 1301.2 (electronic reading room), Sec. 1301.5(b) (multitrack processing), Sec. 1301.5(c) (processing under unusual circumstances), Sec. 1301.5(d) (expedited processing), Section 1301.6(b) (deletion marking), Sec. 1301.6(c) (appeal of format determinations), Sec. 1301.6(c)(3) (volume estimation), Sec. 1301.10(b)(3) (format of disclosure), and Sec. 1301.10(b)(8) (electronic searches). Revisions to TVA's fee schedule are found at Sec. 1301.10(c) and (d).

Regulatory Flexibility Act Certification

We certify that these rules will not have a significant economic impact on a substantial number of small entities because these rules affect primarily individuals, not small entities, and for the most part simply implement the language of the EFOIA amendments. There is no reason to believe that the revised rules will impose any costs on FOIA requesters beyond those nominal costs imposed under TVA's former rules. Further, the ''small entities'' that make FOIA requests, as compared with individual requesters and other requesters, are relatively few in number.

List of Subjects in 18 CFR Part 1301

Freedom of Information, Privacy, Sunshine Act.

For the reasons stated in the preamble, TVA amends 18 CFR Part 1301 to read as follows:

PART 1301—PROCEDURES

1. The authority citation for part 1301 Subpart A continues to read as follows:

Authority: 16 U.S.C. 831–831dd, 5 U.S.C. 552.

2. Subpart A of Part 1301 is revised to read as follows:

Subpart A—Freedom of Information Act

Sec.

1301.1 General provisions.
1301.2 Public reading rooms.
1301.3 Requirements for making requests.
1301.4 Responsibility for responding to requests.
1301.5 Timing of responses to requests.
1301.6 Responses to requests.
1301.7 Exempt records.
1301.8 Business information.
1301.9 Appeals.
1301.10 Fees.

§ 1301.1 General provisions.

(a) This subpart contains the rules that TVA follows in processing requests for records under the Freedom of Information Act (FOIA), 5 U.S.C. 552. These rules should be read together with the FOIA, which provides additional information about access to records maintained by TVA. Requests made by individuals for records about themselves under the Privacy Act of 1974, 5 U.S.C. 552a, which are processed under subpart B of this part, are processed under this subpart also. Information routinely provided to the

public as part of a regular TVA activity (for example, press releases) may be provided to the public without the need for a FOIA request under this subpart. As a matter of policy, TVA makes discretionary disclosures of records or information exempt from disclosure under the FOIA whenever disclosure would not foreseeably harm an interest protected by a FOIA exemption, but this policy does not create any right enforceable in court.

(b) Nothing in this subpart shall be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under the FOIA.

§ 1301.2 Public reading rooms.

TVA maintains a public electronic reading room accessible in its Corporate Libraries at 400 Summit Hill Drive, Knoxville, TN 37902–1499 and 1101 Market Street, Chattanooga, TN 37402–2801. This electronic reading room contains the records that the FOIA requires to be made regularly available for public inspection and copying. Each TVA organization is responsible for determining which of the records it generates are required to be made available in this way and for ensuring that those records are available in TVA's reading room. TVA's FOIA Officer will maintain a current subject-matter index of TVA's reading room records. The index will be updated regularly, at least quarterly, with respect to newly included records.

§ 1301.3 Requirements for making requests.

(a) *How made and addressed.* You may make a request for records of TVA by writing to the Tennessee Valley Authority, TVA FOIA Officer, Enterprise Document Management (EDM), 1101 Market Street (WR 4Q), Chattanooga, TN 37402–2801. You may find TVA's ''Guide to Information About TVA''—which is available electronically at TVA's World Wide Web site, and is available in paper form as well—helpful in making your request. For additional information about the FOIA, you may refer directly to the statute. If you are making a request for records about yourself, see Subpart B Privacy Act for additional requirements. If you are making a request for records about another individual, either a written authorization signed by that individual permitting disclosure of those records to you or proof that that individual is deceased (for example, a copy of a death certificate or an obituary) will help the processing of your request. Your request will be considered received as of the date it is received by the FOIA Officer. For the quickest possible handling, you should mark both your request letter and the envelope ''Freedom of Information Act Request.''

(b) *Descriptions of records sought.* You must describe the records that you seek in enough detail to enable TVA personnel to locate them with a reasonable amount of effort. Whenever possible, your request should include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter of the record. If known, you should include any file designations or descriptions for the records that you want. As a general rule, the more specific you are about the records or type of records that you want, the more likely TVA will be able to locate those records in response to your request. If TVA determines that your request does not reasonably describe records, it shall tell you either what additional information is needed or why your request is otherwise insufficient. TVA shall also give you an opportunity to discuss your request so that you may modify it to meet the requirements of this section. If your request does not reasonably describe the records you seek, the agency's response to your request may be delayed.

(c) *Agreement to pay fees.* If you make a FOIA request, it shall be considered an agreement by you to pay all applicable fees charged under § 1301.11, up to $25.00, unless you seek a waiver of fees. TVA's FOIA Officer will confirm this agreement in an acknowledgement letter. When making a request, you may specify a willingness to pay a greater or lesser amount.

1301.4 Responsibility for responding to requests.

(a) TVA's FOIA Officer, or the FOIA Officer's designee, is responsible for responding to all FOIA requests. In determining which records are responsive to a request, TVA will include only records in its possession as of the date the request is received by the FOIA Officer. If any other date is used, the FOIA Officer shall inform the requester of that date.

(b) *Authority to grant or deny requests.* TVA's FOIA Officer, or the FOIA Officer's designee, is authorized to grant or deny any request for a TVA record.

(c) *Consultations and referrals.* When the FOIA Officer receives a request for a record in TVA's possession, the FOIA Officer shall determine whether another agency of the Federal Government is better able to determine whether the record is exempt from disclosure under the FOIA and, if so, whether it should be disclosed as a matter of administrative discretion. If the FOIA Officer determines that TVA is not best able to process the record, the FOIA Officer shall either:

(1) Respond to the request regarding that record, after consulting with the agency best able to determine whether to disclose it and with any other agency that has a substantial interest in it; or

(2) Refer the responsibility for responding to the request regarding that record to the agency that originated the record (but only if that agency is subject to the FOIA). Ordinarily, the agency that originated a record will be presumed to be best able to determine whether to disclose it.

(d) *Notice of referral.* Whenever TVA refers all or any part of the responsibility for responding to a request to another agency, it ordinarily shall notify the requester of the referral and inform the requester of the name of each agency to which the request has been referred and of the part of the request that has been referred.

(e) *Timing of responses to consultations and referrals.* All consultations and referrals will be handled according to the date the FOIA request initially was received by the FOIA Officer, not any later date.

(f) *Agreements regarding consultations and referrals.* TVA may make agreements with other agencies to eliminate the need for consultations or referrals for particular types of records.

§ 1301.5 Timing of responses to requests.

(a) In general, TVA ordinarily shall respond to requests according to their order of receipt and placement in an appropriate processing track, as follows:

(b) *Multi-track processing procedures.* TVA has established three tracks for handling requests and the track to which a request is assigned will depend on the nature of the request and the estimated processing time, including a consideration of the number of pages involved. If TVA places a request in a track other than Track 1, it will advise requesters of the limits of its faster track(s). TVA may provide requesters in its tracks 2 and 3 with an opportunity to limit the scope of their requests in order to qualify for faster processing within the specified limits of TVA's faster track(s). When doing so, TVA may contact the requester either by telephone or by letter, whichever is most efficient in each case.

(1) Track 1. Requests that can be answered with readily available records or information. These are the fastest to process. These requests ordinarily will be responded to within 20 working days of receipt of a request by the FOIA

Officer. The 20 working day time limit provided in this paragraph may be extended by TVA for unusual circumstances, as defined in paragraph (c) of this section, upon written notice to the person requesting the records.

(2) Track 2. Requests where we need records or information from other offices throughout TVA, where we must consult with other Governmental agencies, or when we must process a submitter notice as described in § 1301.8(d), but we do not expect that the decision on disclosure will be as time consuming as for requests in Tract 3.

(3) Tract 3. Requests which require a decision or input from another office or agency, extensive submitter notifications because of the presence of Business Information as defined in § 1301.8(b)(1), and a considerable amount of time will be needed for that, or the request is complicated or involves a large number of records. Usually, these cases will take the longest to process.

(c) *Unusual circumstances.* (1) Where the time limits for processing a request cannot be met because of unusual circumstances and TVA determines to extend the time limits on that basis, TVA shall as soon as practicable notify the requester in writing of the unusual circumstances and of the date by which processing of the request can be expected to be completed. Where the extension is for more than ten working days, TVA shall provide the requester with an opportunity either to modify the request so that it may be processed within the time limits or to arrange an alternative time period with TVA for processing the request or a modified request. As used in this paragraph, 'unusual circumstances' means, but only to the extent reasonably necessary to the proper processing of the particular requests:

(i) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) 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 the agency having substantial subject matter interest therein.

(2) When TVA reasonably believes that multiple requests submitted by a requester, or by a group of requesters acting in concert, constitute a single request that would otherwise involve unusual circumstances, and the requests involve clearly related matters, they may be aggregated, as defined in § 1301.10(h). Multiple requests by a requester involving unrelated matters will not be aggregated.

(d) *Expedited processing.* (1) Requests and appeals will be taken out of order and given expedited treatment whenever TVA determines that they involve:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) An urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information;

(iii) The loss of substantial due process rights; or

(iv) A matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence.

(2) A request for expedited processing may be made at the time of the initial request for records or at any later time. For a prompt determination, a request for expedited processing must be sent to and received by TVA's FOIA Officer.

(3) A requester who seeks expedited processing must submit a statement, certified to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing. For example, a requester within the category in paragraph (d)(1)(ii) of this section, if not a full-time member of the news media, must establish that he or she is a person whose main professional activity or occupation is information dissemination, though it need not be his or her sole occupation. A requester within the category in paragraph (d)(1)(ii) of this section also must establish a particular urgency to inform the public about the government activity involved in the request, beyond the public's right to know about government activity generally. The formality of certification may be waived as a matter of administrative discretion.

(4) Within ten calendar days of receipt of a request for expedited processing, TVA's FOIA Officer shall decide whether to grant it and shall notify the requester of the decision. If a request for expedited treatment is granted, the request shall be given priority and shall be processed as soon as practicable. If a request for expedited processing is denied, any appeal of that decision shall be acted upon expeditiously.

§ 1301.6 Responses to requests.

(a) *Acknowledgements of requests.* On receipt of a request, the FOIA Officer ordinarily shall send an acknowledgement letter to the requester which shall confirm the requester's agreement to pay fees under § 1301.10 and provide an assigned request number for further reference.

(b) *Grants of requests.* Ordinarily, TVA shall have twenty business days from when a request is received to determine whether to grant or deny the request. Once TVA makes a determination to grant a request in whole or in part, it shall notify the requester in writing. The FOIA Officer shall inform the requester in the notice of any fee charged under § 1301.10 and shall disclose records to the requester promptly on payment of any applicable fee, if the fee is equal to or more than $100. If the fee is less than $100, the FOIA officer shall disclose the records along with a statement of the fee. Records disclosed in part shall be marked or annotated to show the amount of information deleted unless doing so would harm an interest protected by an applicable exemption. The location of the information deleted also shall be indicated on the record, if technically feasible.

(c) *Adverse determinations of requests.* If TVA makes an adverse determination denying a request in any respect, they shall notify the requester of that determination in writing. Adverse determinations, or denials of requests, consist of: a determination to withhold any requested record in whole or in part; a determination that a requested record does not exist or cannot be located; a determination that a record is not readily reproducible in the form or format sought by the requester; a determination that what has been requested is not a record subject to the FOIA; a determination on any disputed fee matter, including a denial of a request for a fee waiver; and a denial of a request for expedited treatment. The denial letter shall be signed by the FOIA Officer or the FOIA Officer's designee, and shall include:

(1) The name and title or position of the person responsible for the denial;

(2) A brief statement of the reason(s) for the denial, including any FOIA exemption applied by TVA in denying the request;

(3) An estimate of the volume of records or information withheld, in number of pages or in some other reasonable form of estimation. This estimate does not need to be provided

if the volume is otherwise indicated through deletions on records disclosed in part, or if providing an estimate would harm an interest protected by an applicable exemption; and

(4) A statement that the denial may be appealed under § 1301.9 and a description of the requirements of § 1301.9.

§ 1301.7 Exempt records.

(a) *Records available.* TVA's records will be made available for inspection and copying upon request as provided in this section, except that records are exempt and are not made available if they are:

(1)(i) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and

(ii) Are in fact properly classified pursuant to such Executive order;

(2) Related solely to the internal personnel rules and practices of TVA;

(3) Specifically exempted from disclosure by statute;

(4) Trade secrets and commercial or financial information obtained from any person and privileged or confidential;

(5) Inter-agency or intra-agency memorandums or letters which would not be available by law to a private party in litigation with TVA, including without limitation records relating to control and accounting for special nuclear material and to the physical security plans for the protection of TVA's nuclear facilities;

(6) Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or 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, operation, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institution; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(b) The availability of certain classes of nonexempt records is deferred for such time as TVA may determine is reasonably necessary to avoid interference with the accomplishment of its statutory responsibilities. Such records include bids and information concerning the identity and number of bids received prior to bid opening; all nonexempt records relating to bids between the time of bid opening and award; and all nonexempt records relating to negotiations in progress involving contracts or agreements for the acquisition or disposal of real or personal property by TVA prior to the conclusion of such negotiations. Any reasonably segregable portion of an available record shall be provided to any person requesting such record after deletion of the portions which are exempt under this paragraph.

§ 1301.8 Business information.

(a) *In general.* Business information obtained by TVA from a submitter will be disclosed under the FOIA only under this section.

(b) *Definitions.* For purposes of this section:

(1) *Business information* means commercial or financial information obtained by TVA from a submitter that may be protected from disclosure under Exemption 4 of the FOIA.

(2) *Submitter* means any person or entity from whom TVA obtains business information, directly or indirectly. The term includes corporations; state and local governments; and foreign governments.

(c) *Designation of business information.* A submitter of business information will use good-faith efforts to designate, by appropriate markings, either at the time of submission or at a reasonable time thereafter, any portions of its submission that it considers to be protected from disclosure under Exemption 4. These designations will expire ten years after the date of the submission unless the submitter requests, and provides justification for, a longer designation period.

(d) *Notice to submitters.* TVA shall provide a submitter with prompt written notice of a FOIA request or administrative appeal that seeks its business information wherever required under paragraph (e) of this section, except as provided in paragraph (h) of this section, in order to give the submitter an opportunity to object to disclosure of any specified portion of that information under paragraph (f) of this section. The notice shall either describe the business information requested or include copies of the requested records or record portions containing the information. When notification of a voluminous number of submitters is required, notification may be made by posting or publishing the notice in a place reasonably likely to accomplish notification of submitters.

(e) *Where notice is required.* Notice shall be given to a submitter wherever:

(1) The information has been designated in good faith by the submitter as information considered protected from disclosure under Exemption 4; or

(2) TVA has reason to believe that the information may be protected from disclosure under Exemption 4.

(f) *Opportunity to object to disclosure.* TVA will allow a submitter a reasonable time to respond to the notice described in paragraph (d) of this section. If a submitter has any objection to disclosure, it is required to submit a detailed written statement. The statement must specify all grounds for withholding any portion of the information under any exemption of the FOIA and, in the case of Exemption 4, it must show why the information is a trade secret or commercial or financial information that is privileged or confidential. In the event that a submitter fails to respond to the notice within the time specified in it, the submitter will be considered to have no objection to disclosure of the information. Information provided by the submitter that is not received by TVA until after its disclosure decision has been made shall not be considered by TVA. Information provided by a submitter under this paragraph may itself be subject to disclosure under the FOIA.

(g) *Notice of intent to disclose.* TVA shall consider a submitter's objections and specific grounds for nondisclosure in deciding whether to disclose business information. Whenever TVA decides to disclose business information over the objection of a submitter, TVA shall give the submitter written notice, which shall include:

(1) A statement of the reason(s) why each of the submitter's disclosure objections was not sustained;

(2) A description of the business information to be disclosed, and

(3) A specified disclosure date, which shall be a reasonable time subsequent to the notice.

(h) *Exceptions to notice requirements.* The notice requirements of paragraphs (d) and (g) of this section shall not apply if:

(1) TVA determines that the information should not be disclosed;

(2) The information lawfully has been published or has been officially made available to the public;

(3) Disclosure of the information is required by statute (other than the FOIA) or by applicable regulation; or

(4) The designation made by the submitter under paragraph (c) of this section appears obviously frivolous—except that, in such a case, the component shall, within a reasonable time prior to a specified disclosure date, give the submitter written notice of any final decision to disclose the information.

(i) *Notice of FOIA lawsuit.* Whenever a requester files a lawsuit seeking to compel the disclosure of business information, TVA shall promptly notify the submitter.

(j) *Corresponding notice to requesters.* Whenever TVA provides a submitter with notice and an opportunity to object to disclosure under paragraph (d) of this section, TVA shall also notify the requester(s). Whenever TVA notifies a submitter of its intent to disclose requested information under paragraph (g) of this section, TVA shall also notify the requester(s). Whenever a submitter files a lawsuit seeking to prevent the disclosure of business information, TVA shall notify the requester(s).

§ 1301.9 Appeals.

(a) *Appeals of adverse determinations.* If you are dissatisfied with TVA's response to your request, you may appeal an adverse determination denying your request, in any respect, to TVA's FOIA Appeal Official, the Senior Manager, Administrative Services, Tennessee Valley Authority, 400 Summit Hill Drive (ET 6M), Knoxville, TN 37902–1499. You must make your appeal in writing and it must be received by the Senior Manager within 30 days of the date of the letter denying your request. Your appeal letter may include as much or as little related information as you wish, as long as it clearly identifies the TVA determination (including the assigned request number, if known) that you are appealing. An adverse determination by the TVA Appeal Official will be the final action of TVA.

(b) *Responses to appeals.* The decision on your appeal will be made in writing within 20 days (excluding Saturdays, Sundays, and legal holidays) after an appeal is received. A decision affirming an adverse determination in whole or in part shall contain a statement of the reason(s) for the affirmance, including any FOIA exemption(s) applied, and will inform you of the FOIA provisions for court review of the decision. If the adverse determination is reversed or modified on appeal, in whole or in part, you will be notified in a written decision and your request will be reprocessed in accordance with that appeal decision.

(c) *When appeal is required.* If you wish to seek review by a court of any adverse determination, you must first appeal it under this section.

§ 1301.10 Fees.

(a) In general, TVA shall charge for processing requests under the FOIA in accordance with paragraph (c) of this section, except where fees are limited under paragraph (d) of this section or where a waiver or reduction of fees is granted under paragraph (k) of this section. If the applicable fees are $100 or more, TVA ordinarily will collect all applicable fees before sending copies of requested records to a requester. If the applicable fees are less than $100, TVA ordinarily will bill the requester for the fees in the letter responding to the request and enclosing the requested records. Requesters must pay fees by check or money order made payable to the Tennessee Valley Authority.

(b) *Definitions.* For purposes of this section:

(1) *Commercial use request* means a request from or on behalf of a person who seeks information for a use or purpose that furthers his or her commercial, trade, or profit interests, which can include furthering those interests through litigation. TVA shall determine, whenever reasonably possible, the use to which a requester will put the requested records. When it appears that the requester will put the records to a commercial use, either because of the nature of the request itself or because TVA has reasonable cause to doubt a requester's stated use, TVA shall provide the requester a reasonable opportunity to submit further clarification.

(2) *Direct costs* means those expenses that TVA actually incurs in searching for and duplicating (and, in the case of commercial use requests, reviewing) records 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, unless the fee is a standard TVA fee as set forth in paragraph (c) of this section) and the cost of operating duplication machinery. Not included in direct costs are overhead expenses such as the costs of space and heating or lighting of the facility in which the records are kept.

(3) *Duplication* means the making of a copy of a record, or of the information contained in it, necessary to respond to a FOIA request. Copies can take the form of paper, microform, audiovisual materials, or electronic records (for example, magnetic tape or disk), among others. TVA shall honor a requester's specified preference of form or format of disclosure if the record is readily reproducible with reasonable efforts in the requested form or format.

(4) *Educational institution* means a preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, or an institution of professional education, or an institution of vocational education, that operates a program of scholarly research. To be in this category, a requester must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are not sought for commercial or private use, but are sought to further scholarly research.

(5) *Noncommercial scientific institution* means an institution that is not operated on a ''commercial'' basis, as that term is defined in paragraph (b)(1) of this section, and that is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry. To be in this category, a requester must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are not sought for a commercial or private use but are sought to further scientific research.

(6) *Representative of the news media*, or *news media requester*, 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 entities include television or radio stations broadcasting to the public at large and publishers of periodicals (but only in those instances where they can qualify as disseminators of ''news'') who make

their products available for purchase or subscription by the general public. For ''freelance'' journalists to be regarded as working for a news organization, they must demonstrate a solid basis for expecting publication through that organization. A publication contract would be the clearest proof, but TVA shall also look to the past publication record of a requester in making this determination. To be in this category, a requester must not be seeking the requested records for a commercial or private use. However, a request for records supporting the news-dissemination function of the requester shall not be considered to be for a commercial use.

(7) *Review* means the examination of a record located in response to a request in order to determine whether any portion of it is exempt from disclosure. It also includes processing any record for disclosure—for example, doing all that is necessary to redact it and prepare it for disclosure. Review costs are recoverable even if a record ultimately is not disclosed. Review time includes time spent considering any formal objection to disclosure made by a business submitter under § 1301.8, but does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(8) *Search* means the process of looking for and retrieving records or information responsive to a request. It includes page-by-page or line-by-line identification of information within records and also includes reasonable efforts to locate and retrieve information from records maintained in electronic form or format. TVA shall ensure that searches are done in the most efficient and least expensive manner reasonably possible. For example, TVA shall not search line-by-line where duplicating an entire document would be quicker and less expensive.

(c) *Fees.* In responding to a FOIA request, TVA shall charge the following fees unless a waiver or reduction of fees has been granted under paragraph (k) of this section:

(1) *Search time charges for other than computer searches.* For time spent by clerical employees in searching files, the charge is $14.90 per hour. For time spent by supervisory and professional employees, the charge is $34.30 per hour.

(2) *Duplication charges.* For photostatic reproduction of requested material which consists of sheets no larger than 8½ by 14 inches, the charge is 10 cents per page. For copies produced by computer, such as tapes or printouts, TVA will charge the direct costs, including operator time, of producing the copy. For other forms of duplication, TVA will charge the direct cost of that duplication.

(3) *Review charges.* Review fees will be charged to requesters who make a commercial use request. Review fees will be charged only for the initial record review—in other words, the review done when TVA determines whether an exemption applies to a particular record or record portion at the initial request level. No charge will be made for review at the administrative appeal level for an exemption already applied. However, record or record portions withheld under an exemption that is subsequently determined not to apply may be reviewed again to determine whether any other exemption not previously considered applies; the costs of that review are chargeable where it is made necessary by a change of circumstances. Review fees will be charged at the same rates as those charged for a search under paragraph (c)(1) of this section.

(d) *Limitations on charging fees.* (1) No search fee will be charged for requests by educational institutions, noncommercial scientific institutions, or representatives of the news media.

(2) No search fee or review fee will be charged for a quarter-hour period unless more than half of that period is required for search or review.

(3) Except for requesters seeking records for a commercial use, TVA will provide the following without charge:

(i) The first 100 pages of duplication (or the cost equivalent); and

(ii) The first two hours of search (or the cost equivalent).

(4) No fee is charged to any requester if the cost of collecting the fee would be equal to or greater than the fee itself.

(5) The provisions of paragraphs (d)(3) and (4) of this section work together. This means that for requesters other than those seeking records for a commercial use, no fee will be charged unless the cost of search in excess of two hours plus the cost of duplication in excess of 100 pages is equal to or greater than the fee itself.

(e) *Notice of anticipated fees in excess of $25.00.* When TVA determines or estimates that the fees to be charged under this section will amount to more than $25.00, TVA shall notify the requester of the actual or estimated amount of the fees, unless the requester has indicated a willingness to pay fees as high as those anticipated. If only a portion of the fee can be estimated readily, TVA shall advise the requester that the estimated fee may be only a portion of the total fee. In cases in which a requester has been notified that actual or estimated fees amount to more than $25.00, the request shall not be considered received and further work shall not be done on it until the requester agrees to pay the anticipated total fee. Any such agreement should be documented in writing. A notice under this paragraph will offer the requester an opportunity to discuss the matter with TVA personnel in order to reformulate the request to meet the requester's needs at a lower cost.

(f) *Charges for other services.* Apart from the other provisions of this section, when TVA chooses as a matter of administrative discretion to provide a special service—such as certifying that records are true copies or sending them by other than ordinary mail—the direct costs of providing the service ordinarily will be charged.

(g) *Charging interest.* TVA may charge interest on any unpaid bill starting on the 31st day following the date of billing the requester. Interest charges will be assessed at the rate provided in 31 U.S.C. 3717 and will accrue from the date of the billing until payment is received by TVA.

(h) *Aggregating requests.* When TVA reasonably believes that a requester or a group of requesters acting together is attempting to divide a request into a series of requests for the purpose of avoiding fees, TVA may aggregate those requests and charge accordingly. TVA may presume that multiple requests of this type made within a 30-day period have been made in order to avoid fees. Where requests are separated by a longer period, TVA will aggregate them only where there exists a solid basis for determining that aggregation is warranted under all of the circumstances involved. Multiple requests involving unrelated matters will not be aggregated.

(i) *Advance payments.* (1) For requests other than those described in paragraphs (i) (2) and (3) of this section, TVA shall not require the requester to make an advance payment-in other words, a payment made before work is begun or continued on a request. Payment owed for work already completed (i.e., a prepayment before copies are sent to a requester) is not an advance payment.

(2) Where TVA determines or estimates that a total fee to be charged under this section will be more than $250.00, it may require the requester to make an advance payment of an amount up to the amount of the entire anticipated fee before beginning to process the request, except where it receives a satisfactory assurance of full payment from a requester that has a history of prompt payment.

(3) Where a requester has previously failed to pay a properly charged FOIA fee to TVA or another agency within 30 days of the date of billing, TVA may require the requester to pay the full amount due, plus any applicable interest, and to make an advance payment of the full amount of any anticipated fee, before TVA begins to process a new request or continues to process a pending request from that requester.

(4) In cases in which TVA requires advance payment or payment due under paragraph (i) (2) or (3) of this section, the request shall not be considered received and further work will not be done on it until the required payment is received.

(j) *Other fees for TVA published materials.* The fee schedule of this section does not apply to fees charged by TVA for documents, including maps or reports and the like, which TVA sells to the public at established prices. Where records responsive to requests are maintained for distribution and sale by TVA at established prices. TVA will inform requesters of the steps for obtaining records from those sources so that they may do so most economically.

(k) *Waiver or reduction of fees.* (1) Records responsive to a request will be furnished without charge or at a charge reduced below that established under paragraph (c) of this section where TVA determines, based on all available information, that the requester has documented that:

(i) Disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and

(ii) Disclosure of the information is not primarily in the commercial interest of the requester.

(2) To determine whether the first fee waiver requirement is met, TVA will consider the following factors:

(i) The subject of the request: Whether the subject of the requested records concerns ''the operations or activities of the government.'' The subject of the requested records must concern identifiable operations or activities of the federal government, with a connection that is direct and clear, not remote or attenuated.

(ii) The informative value of the information to be disclosed: Whether the disclosure is ''likely to contribute'' to an understanding of government operations or activities. The disclosable portions of the requested records must be meaningfully informative about government operations or activities in order to be ''likely to contribute'' to an increased public understanding of those operations or activities. The disclosure of information that already is in the public domain, in either a duplicative or a substantially identical form, would not be as likely to contribute to such understanding where nothing new would be added to the public's understanding.

(iii) The contribution to an understanding of the subject by the public likely to result from disclosure: Whether disclosure of the requested information will contribute to ''public understanding.'' The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area and ability and intention to effectively convey information to the public shall be considered. It shall be presumed that a representative of the news media will satisfy this consideration.

(iv) The significance of the contribution to public understanding: Whether the disclosure is likely to contribute ''significantly'' to public understanding of government operations or activities. The public's understanding of the subject in question, as compared to the level of public understanding existing prior to the disclosure, must be enhanced by the disclosure to a significant extent. TVA shall not make value judgments about whether information that would contribute significantly to public understanding of the operations or activities of the government is ''important'' enough to be made public.

(3) To determine whether the second fee waiver requirement is met, TVA will consider the following factors:

(i) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure. TVA shall consider any commercial interest of the requester (with reference to the definition of ''commercial use'' in paragraph (b) (1) of this section), or of any person on whose behalf the requester may be acting, that would be furthered by the requested disclosure. Requesters shall be given an opportunity in the administrative process to provide explanatory information regarding this consideration.

(ii) The primary interest in disclosure. Whether any identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is ''primarily in the commercial interest of the requester.'' A fee waiver or reduction is justified where the public interest standard is satisfied and that public interest is greater in magnitude than that of any identified commercial interest in disclosure. TVA ordinarily shall presume that where a news media requester has satisfied the public interest standard, the public interest will be the interest primarily served by disclosure to that requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return shall not be presumed to primarily serve the public interest.

(4) Where only some of the requested records satisfy the requirements for a waiver of fees, a waiver shall be granted for those records.

(5) Requests for the waiver or reduction of fees should address the factors listed in paragraphs (k) (2) and (3) of this section, insofar as they apply to each request. TVA will exercise their discretion to consider the cost-effectiveness of their investment of administrative resources in this decisionmaking process, however, in deciding to grant waivers or reductions of fees.

William S. Moore,

Senior Manager, Administrative Services.

[FR Doc. 99–1870 Filed 1–26–99; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF JUSTICE

21 CFR Part 1308

[DEA–17F]

Schedules of Controlled Substances: Placement of Modafinil Into Schedule IV

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: With the issuance of this final rule, the Deputy Administrator of the Drug Enforcement Administration (DEA) places the substance, modafinil, including its salts, isomers and salts of isomers, into Schedule IV of the Controlled Substances Act (CSA). As a result of this rule, the regulatory controls and criminal sanctions of Schedule IV will be applicable to the manufacture, distribution, importation and exportation of modafinil and products containing modafinil.

EFFECTIVE DATE: January 27, 1999.

FOR FURTHER INFORMATION CONTACT: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration,

Washington, DC 20537, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: Modafinil is a central nervous system (CNS) stimulant that produces many of the same pharmacological effects and adverse reactions as classic psychomotor stimulants, but at higher doses. Modafinil will be marketed as a prescription drug product for the treatment of excessive daytime sleepiness associated with narcolepsy under the trade name Provigil®.

On December 22, 1997, the Acting Assistant Secretary for Health, Department of Health and Human Services (DHHS), sent the Acting Deputy Administrator of DEA a letter recommending that modafinil, and its salts, be placed into Schedule IV of the CSA (21 U.S.C. 801 *et seq.*). Enclosed with the December 22, 1997 letter was a document prepared by the Food and Drug Administration (FDA) entitled ''Basis for the Recommendation for Control of Modafinil in Schedule IV of the Controlled Substances Act (CSA).'' The document contained a review of the factors which the CSA requires the Secretary to consider (21 U.S.C. 811(b)).

Subsequent correspondent from the FDA's Associate Commissioner for Health Affairs dated February 24, 1998, confirmed that the FDA had determined that the New Drug Application (NDA) for modafinil was ''approvable'' and had issued an approvable letter to the NDA sponsor on December 29, 1997. According to the February 24, 1998 letter from the FDA, ''upon full approval of the NDA, modafinil will have a currently accepted medical use in treatment in the United States.''

After a review of the available data, including the DHHS recommendation, the Acting Deputy Administrator of the DEA, in an April 14, 1998 **Federal Register** notice (63 FR 18170), proposed placement of modafinil into Schedule IV of the CSA, if and when the modafinil NDA is approved by the FDA. The notice provided an opportunity for all interested persons to submit their comments, objections, or requests for hearing in writing to be received by the DEA on or before May 14, 1998.

The DEA received one comment regarding the proposal. The comment was received from Cephalon, Inc., the company sponsoring the modafinil NDA. The comment did not object to the placement of modafinil in Schedule IV, but requested clarification of some of the descriptions of the pharmacological effects of modafinil. Cephalon, Inc. commented that modafinil did not produce significant dopaminergic activity nor did it produce classic dopaminergic-like pharmacological effects. Cephalon also stated that the time to peak pharmacological activity of modafinil is one to three hours and the effects last six to eight hours after oral administration. It did not characterize such pharmacodynamic effects of modafinil as ''quick onset and short duration of action,'' as they were described in the **Federal Register** proposal.

The DEA's review of the DHHS scheduling recommendation and review document and the available scientific literature indicates that the precise biochemical mechanism of action of modafinil is not clearly defined. Data indicate that modafinil does not act directly on any single neurotransmitter system, but appears to act indirectly on dopamineric, serotonergic, and GABA systems. Although its mechanism of action may not be medicated primarily through the dopaminergic system, the behavioral and pharmacological effects and adverse reactions produced by modafinil are similar to those of other psychomotor or stimulants which produce significant dopaminergic activity. The data reviewed by the DHHS and the DEA show that modafinil is well-absorbed after oral administration. Peak plasma concentration for modafinil occurs at one to four hours. Elimination half-life was nine to fourteen hours after oral administration of 200 to 400 mg of modafinil. These pharmacodynamic actions of modafinil were characterized at ''fast onset and short duration'' by the DHHS. Thus, the modafinil data presented in the **Federal Register** proposal and the comments by Cephalon regarding these statements are not substantive scientific discrepancies, but are differences in describing the same data.

On December 30, 1998, the FDA notified the DEA that the modafinil NDA was approved by the FDA on December 24, 1998. Relying on the scientific and medical evaluation and the recommendation of the DHHS Acting Assistant Secretary for Health received in accordance with section 201(b) of the Act (21 U.S.C. 811(b)), communication with the FDA Associate Commissioner for Health and the independent review of the DEA, the Deputy Administrator of the DEA, pursuant to sections 201(a) and 201(b) of the Act (21 U.S.C. 811(a) and 811(b)), finds that:

(1) Based on information now available, modafinil has a low potential for abuse relative to the drugs or other substances in Schedule III;

(2) Modafinil has a currently accepted medical use in treatment in the United States; and

(3) Abuse of modafinil may lead to limited physical dependence and psychological dependence relative to the drugs or other substances in Schedule III.

Based on these findings, the Deputy Administrator of the DEA concludes that modafinil, including its salts, isomers and salts of isomers, warrants control in Schedule IV of the CSA. In order to make modafinil pharmaceutical products available for medical use as soon as possible, the Schedule IV controls of modafinil will be effective January 27, 1999. In the event that the regulations impose special hardships on the registrants, the DEA will entertain any justified request for an extension of time to comply with the Schedule IV regulations regarding modafinil. The applicable regulations are as follows:

1. *Registration.* Any person who manufactures, distributes, dispenses, imports or exports modafinil or who engages in research or conducts instructional activities with modafinil, or who proposes to engage in such activities, must be registered to conduct such activities in accordance with Part 1301 of Title 21 of the Code of Federal Regulations.

2. *Security.* Modafinil must be manufactured, distributed and stored in accordance with §§ 1301.71, 1301.72(b), (c), and (d), 1301.73, 1301.74, 1301.75 (b) and (c) and 1301.76 of Title 21 of the Code of Federal Regulations.

3. *Labeling and Packaging.* All labels on commercial containers of, and all labeling of, modafinil which is distributed shall comply with the requirements of §§ 1302.03–1302.07 of Title 21 of the Code of Federal Regulations.

4. *Inventory.* Registrants possessing modafinil are required to take inventories pursuant to §§ 1304.03, 1304.04 and 1304.11 of Title 21 of the Code of Federal Regulations.

5. *Records.* All registrants must keep records pursuant to §§ 1304.03, 1304.04 and 1304.21–1304.23 of Title 21 of the Code of Federal Regulations.

6. *Prescriptions.* All prescriptions for modafinil are to be issued pursuant to §§ 1306.03–1306.06 and 1306.21–1306.26 of Title 21 of the Code of Federal Regulations.

7. *Importation and Exportation.* All importation and exportation of modafinil shall be in compliance with Part 1312 of Title 21 of the Federal Code of Regulations.

8. *Criminal Liability.* Any activity with modafinil not authorized by, or in violation of, the CAS or the Controlled

Substances Import and Export Act shall be unlawful.

In accordance with the provisions of the CSA (21 U.S.C. 811(a)), this action is a formal rulemaking on the record after opportunity for a hearing. Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, are exempt from review by the Office of Management and Budget pursuant to Executive Order (E.O.) 12866, Section 3(d)(1).

The Deputy Administrator, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this final rule and, by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities. Modafinil is a new drug in the United States; recent approval of the product and its labeling by the FDA will allow it to be marketed once it is placed into Schedule IV of the CAS. This final rule will allow these entities to have access to a new pharmaceutical product.

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under provisions of the Unfunded Mandates Reform Act of 1995.

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

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

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by section 201(a) of the CSA (21 U.S.C. 811(a)), and delegated to the Administrator of the DEA by the Department of Justice regulations (28 CFR 0.100) and redelegated to the Deputy Administrator pursuant to 28 CFR 0.104, the Deputy Administrator hereby amends 21 CFR part 1308 as follows:

PART 1308—[AMENDED]

1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b) unless otherwise noted.

2. Section 1308.14 is amended by redesignating the existing paragraphs (e)(7) through (e)(11) as (e)(8) through (e)(12) and by adding a new paragraph (e)(7) to read as follows: § 1308.14 Schedule IV.

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(e) * * *

(7) Modafinil	1680

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Dated: January 20, 1999.

Donnie R. Marshall,

Deputy Administrator, Drug Enforcement Administration.

[FR Doc. 99–1791 Filed 1–26–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01 99–002]

RIN 2115–AA97

Safety Zone: Sunken Fishing Vessel Cape Fear, Buzzards Bay Entrance

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone within a five hundred (500) yard radius of the site of the sunken fishing vessel CAPE FEAR (O.N. D655734) in the entrance to Buzzards Bay at approximate position 41–23 North and 71–01 West. This safety zone is needed to protect the maritime community from possible hazards associated with the sunken vessel, ongoing oil pollution response operations and the exposed location salvage operations. Entry into this zone is prohibited unless authorized by the Captain of the Port (COTP), Providence RI.

EFFECTIVE DATES: This rule is effective from 12 o'clock, noon, on Tuesday, January 12, 1999 until 12 o'clock, midnight, on Friday, February 12, 1999.

FOR FURTHER INFORMATION CONTACT: CWO Payne, Waterways Management, Coast Guard Marine Safety Office, Providence RI, at (401) 435–2300.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective less then 30 days after **Federal Register** publication. Due to the date that conclusive information for this event was received there was insufficient time to draft and publish an NPRM. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to close a portion of the entrance to Buzzards Bay to protect the maritime public from the hazards associated with the sunken vessel, on going oil pollution response and the exposed location salvage operation.

Background and Purpose

This regulation establishes a safety zone in all the waters within a five hundred (500) yard radius of the site of the sunken fishing vessel CAPE FEAR (O.N. D655734) in the entrance to Buzzards Bay in approximate position 41–23N and 71–01W. The safety zone is needed to protect vessels from the hazards associated with the sunken vessel, on going pollution response and the exposed location salvage operation. No vessel may enter the safety zone without permission of the Captain of the Port, Providence, RI.

Regulatory Evaluation

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

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Costs to the shipping industry from these regulations if any, will be minor and have no significant adverse financial effect on vessel operators. In addition, due to the limited number of vessels affected, the Coast Guard expects the economic impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

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

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612, and has determined that these regulations do not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of these regulations and concluded that under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1C, this final rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

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

Regulation

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

PART 165—[AMENDED]

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

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

2. Add temporary section 165.T01–002 to read as follows:

§ 165.T01–002 Safety Zone: Sunken Fishing Vessel CAPE FEAR, Buzzards Bay Entrance.

(a) *Location.* The following area has been declared a safety zone: All waters within a five hundred (500) yard radius of the site of the sunken fishing vessel CAPE FEAR (O.N. D655734), in the entrance to Buzzards Bay in approximate position 41–23 North and 71–01 West.

(b) *Effective date:* This section is effective from 12 noon, on Tuesday, January 12, 1999 until 12 midnight, on Friday 12, 1999.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the COTP Providence.

(2) All persons and vessels shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast guard.

(3) The general regulations covering safety zones in section 165.23 of this part apply.

Dated: January 12. 1999.

Peter A. Popko,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 99–1881 Filed 1–26–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–98–184]

RIN 2115–AA97

Safety Zone: Swift Creek Channel, Freeport, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone that includes all waters within 200 yards of the Loop Parkway Bridge which spans Swift Creek channel, Freeport, NY. The safety zone is needed to facilitate the construction of the new loop parkway bridge. Entry into this safety zone is prohibited unless authorized by the Captain of the Port, Long Island Sound, New Haven, CT.

EFFECTIVE DATE: This regulation is effective on January 1, 1999, from 8 a.m. until March 1, 1999.

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

FOR FURTHER INFORMATION CONTACT:

Lieutenant Commander T.J. Walker, Chief of Port Operations, Captain of the Port, Long Island Sound at (203) 468–4444.

SUPPLEMENTARY INFORMATION:

Regulatory History

A notice of proposed rulemaking (NPRM) was not published for this regulation. In keeping with the requirements of 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this regulation effective less than 30 days after publication in the **Federal Register.** Due to construction requirements, this office had insufficient time to publish a proposed rule in advance of the event. Publishing a NPRM and delaying the effective date would effectively suspend work on the new bridge, which would be contrary to the public interest.

Background and Purpose

A safety zone preventing vessels from transiting the Swift Creek channel beneath the Loop Parkway bridge because of construction of a new bridge has been in effect since September 8, 1998 and will expire on December 31, 1998. The safety zone has been needed to facilitate the building of the center of the bridge and to protect construction personnel and the maritime community. Construction of the new bridge has not been completed and therefore and additional safety zone preventing vessels from transiting the Swift Creek channel is needed. Entry into or movement within this zone is prohibited unless authorized by the Captain of the Port.

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Entry into this zone will be prohibited until March 1, 1999. Although this regulation prevents traffic from transiting a portion of Swift Creek Channel, Freeport, NY, the effect of this regulation will not be significant for several reasons: there are alternative routes around the channel; the closure is during the off-season for recreational boating; and extensive, advance maritime advisories have been made of the channel closure and will continue to be made.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule will have significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses that are independently owned and operated and are not dominant in their fields, not-for profit organizations and governmental jurisdictions with populations of less than 50,000. For the reasons addressed under the Regulatory Evaluation above, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

The Coast Guard has analyzed this action under the principles and criteria contained in Executive Order 12612, and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g) of Commandant Instruction ''M16475.1.C.'', this temporary final rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

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

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

PART 165—[AMENDED]

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

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

2. A temporary section, 165.T01–184, is added to read as follows:

§ 165.T01–184 Swift Creek Channel, Freeport, NY.

(a) *Location:* The safety zone includes all waters surrounding the Loop Parkway Bridge where it spans Swift Creek channel, within a 200 yard distance on either side of the bridge.

(b) *Effective date.* This section is effective on January 1, 1999, from 8 a.m. until March 1, 1999.

(c) *Regulations.* The general regulations contained in section 165.23 apply.

P.K. Mitchell,

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

[FR Doc. 99–1882 Filed 1–26–99; 8:45 am]

BILLING CODE 4910–15–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 21 and 74

[MM Docket No. 97–217; FCC 98–231]

MDS and ITFS Two-Way Transmissions; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission published in the **Federal Register** of November 25, 1998 amendments to its rules to enable Multipoint Distribution Service (''MDS'') and Instructional Television Fixed Service (''ITFS'') licensees to engage in fixed two-way transmissions. This document corrects the section numbers of the regulations on individually licensed 125 kHz channel MDS and ITFS response stations. Furthermore, this document corrects the effective dates of the rules.

DATES: Effective January 25, 1999.

FOR FURTHER INFORMATION CONTACT: Michael J. Jacobs, (202) 418–7066 or Dave Roberts, (202) 418–1600, Video Services Division, Mass Media Bureau.

SUPPLEMENTARY INFORMATION: The Commission published a document in the **Federal Register** of June 1, 1998 (63 FR 29667), adding § 21.940. In FR Doc. 98–31334, published in the **Federal Register** of November 25, 1998 (63 FR 65087), the Commission inadvertently gave the same designation to another new rule added in the latter document. This correction correctly designates the second § 21.940 as § 21.949. In addition, for the sake of consistency, this correction redesignates the companion rule to part 74 of our Rules, § 74.940, as § 74.949, and replaces all references to § 21.940 or § 74.940 in the document with references to § 21.949 or § 74.949, as appropriate. Finally, this correction clarifies that all of the rules adopted in FR Doc. 98–31334 are subject to congressional review, and that §§ 1.1307(b)(1), Table 1; 21.27(d); 21.42(c)(8); the amendment to 21.201; 21.304; 21.900(b); 21.901(d); 21.903(d); 21.905(d)(3); 21.906(a); 21.909(c), (d), (f), (g)(6), (h), (i), (k), and (n); 21.913(a), (b), (d), and (e); 21.949(a), (b), and (f); 74.902(f); 74.911(d); 74.931(c)(1), (3), and (6)(ii) and (iii); 74.931(d)(6)(ii) and (iii); 74.936(b)(3) and (g); 74.939(c), (d), (f), (g)(6), (h), (i), (l)(1), (2) and (4), (m), and (p); 74.949(a), (b)(3) and (4), and (f); 74.951(b); 74.965; and 74.985(a), (b), and (d) through (f) of the rules adopted in FR Doc. 98–31334 are subject to approval of the information collection requirements by OMB and cannot become effective until approval is received.

FR Doc. 98–31334, published on November 25, 1998 (63 FR 65087), is corrected as follows:

1. On page 65087, in the third column, correct the ''**DATES**'' caption to read:

DATES: These final rules have been classified as a major action subject to congressional review. The effective date is February 8, 1999. If, however, at the conclusion of the congressional review process the effective date has been changed, the FCC will publish a document in the **Federal Register** to establish the actual effective date or to issue notice of termination of the final

rule action. In addition, §§ 1.1307(b)(1), Table 1; 21.27(d); 21.42(c)(8); the amendment to 21.201; 21.304; 21.900(b); 21.901(d); 21.903(d); 21.905(d)(3); 21.906(a); 21.909(c), (d), (f), (g)(6), (h), (i), (k), and (n); 21.913(a), (b), (d), and (e); 21.949(a), (b), and (f); 74.902(f); 74.911(d); 74.931(c)(1), (3), and (6)(ii) and (iii); 74.931(d)(6)(ii) and (iii); 74.936(b)(3) and (g); 74.939(c), (d), (f), (g)(6), (h), (i), (l)(1), (2) and (4), (m), and (p); 74.949(a), (b)(3) and (4), and (f); 74.951(b); 74.965; and 74.985(a), (b), and (d) through (f) contain information collection requirements that are not effective until approved by the Office of Management and Budget. The FCC will publish documents in the **Federal Register** announcing the effective dates for those sections.

2. In parts 21 and 74, §§ 21.940 and 74.940 are redesignated as §§ 21.949 and 74.949, and all references to ''§§ 21.940'' and ''74.940'' are revised to read ''21.949'' and ''74.949'', respectively.

Dated: January 22, 1999.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 99–1898 Filed 1–25–99; 2:09 pm]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 630

[Docket No. 980630163–9010–02; I.D. 011598A]

RIN 0648–AJ68

Atlantic Swordfish Fishery; Management of Driftnet Gear

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to prohibit the use of driftnet gear in the North Atlantic swordfish fishery. The purpose of this action is to improve the conservation and management of the North Atlantic swordfish resource and other marine resources; specifically, to reduce bycatch of protected resources in a manner that maximizes the benefit to the Nation.

DATES: All provisions of this final rule are effective February 25, 1999.

ADDRESSES: Copies of the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) supporting this action may be obtained from Rebecca Lent, Chief, Highly Migratory Species Management Division, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Jill Stevenson or Chris Rogers, 301–713–2347 or FAX 301–713–1917.

SUPPLEMENTARY INFORMATION: The Atlantic swordfish fishery is managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). The Atlantic Swordfish Fishery Management Plan (FMP) has been issued pursuant to requirements of the Magnuson-Stevens Act. The FMP is implemented by regulations at 50 CFR part 630. This fishery is also subject to the requirements of the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA).

Introduction

This rule prohibits the use of driftnet gear in the north Atlantic swordfish fishery. The intent of the rule is to reduce marine mammal bycatch in the swordfish driftnet fishery while increasing the net benefits to the nation. Background information about the need to address bycatch and management concerns in the Atlantic swordfish driftnet fishery was provided in the preamble to the proposed rule (63 FR 55998, October 20, 1998) and is not repeated here.

NMFS wishes to address fishery management issues in an efficient manner that increases economic benefits to the nation. Further, NMFS seeks to reduce marine mammal takes consistent with the MMPA and the ESA. To do this, NMFS considered implementing take reduction measures and evaluated the effects of those measures on finfish, protected species, and administrative costs. Prohibiting the use of driftnets in the North Atlantic swordfish fishery serves to reduce potential marine mammal takes in an efficient manner.

Measures necessary for reducing marine mammal takes and for monitoring this fishery, specifically, monitoring the limited quota and observer coverage, are costly. For some alternatives considered to reduce marine mammal takes, the costs of implementation would exceed the net revenues from the landed swordfish. The swordfish driftnets are used by a limited number of participants to harvest a very small proportion of the swordfish quota within a short season. Further, there is currently no mechanism to limit access to this gear in place.

Some of the fishermen affected by this prohibition may choose to continue fishing with driftnets for other species in the same area as long as they discard any swordfish incidentally taken. Some fishermen that have participated in the swordfish driftnet fishery have stated that they would use driftnet gear to ''target'' (to the extent possible with relatively non-selective gear) tunas or pelagic sharks. NMFS has proposed to prohibit the use of driftnets in the Atlantic tunas fishery in the draft HMS FMP. Driftnet fishermen have not used this gear to target pelagic sharks in the past, however, high expected rates of marine mammal bycatch are not consistent with the objectives of this rule or the draft HMS FMP. Therefore, NMFS seeks comments on prohibiting the use of this gear in all highly migratory species fisheries in order to reduce marine mammal takes and bycatch of other protected species.

Under the authority of the MMPA, the Atlantic Offshore Cetacean Take Reduction Team (AOCTRT) was convened in 1996 to recommend measures that would reduce takes of marine mammals in the longline and driftnet fisheries for Atlantic highly migratory species (HMS). That team submitted a draft plan to NMFS that outlined its recommended measures for both fisheries. NMFS published a draft EA in 1997 and comments were received, some indicating preferred alternatives by constituents. After consideration of those comments, the AOCTRT recommendations, and HMS Advisory Panel comments, NMFS proposed those take reduction measures applicable to the pelagic longline fishery in the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP). For driftnet gear, the AOCTRT recommended measures, which included a set allocation scheme, limited access, time/area closure, and 100 percent observer coverage, would require excessive administrative costs and were not considered effective at reducing marine mammal interactions or addressing fishery management concerns. NMFS has instead decided to prohibit the use of driftnet gear in the Atlantic swordfish fishery in order to reduce marine mammal and sea turtle takes and to resolve fishery management issues.

Comments and Responses

NMFS considered comments received on the 1997 draft EA in formulation of the proposed rule. In addition, over 300 written comments (mostly postcards) were submitted to NMFS and two public hearings were held during the 60-day comment period on the proposed

rule to prohibit driftnets. Three members of the AOCTRT and five driftnet fishermen submitted comments to NMFS concerning this issue during the public comment period. NMFS considered all comments received when drafting the draft EA/RIR/IRFA and the proposed rule.

Management Alternatives

Comment 1: Driftnet fishermen and an AOCTRT member continue to support the recommended measures of the AOCTRT, as submitted to NMFS in November 1996. One commenter indicated support for implementation of these measures on a trial basis of 1 year as suggested in the AOCTRP.

Response: For the driftnets, NMFS has determined that a set allocation scheme, time/area closure, limited entry, and other measures would be cumbersome and costly to implement and would not guarantee reductions in marine mammal or sea turtle interactions. Conversely, NMFS has determined that the AOCTRT longline measures could be effective and NMFS has proposed many of the those recommended measures in the draft HMS FMP. One measure (reduction in the length of longline) has been proposed to be implemented for a 1-year trial period.

Comment 2: Two members of the AOCTRT believe that the set allocation scheme proposed by that team would not achieve the necessary take reductions. One commenter indicated that alternative would be too costly and cumbersome to implement, would cause the swordfish quota to be exceeded, and would not achieve the goals of the MMPA.

Response: NMFS agrees. While the set allocation scheme might reduce the derby nature of this fishery, fishermen may not be able to avoid marine mammals, and this strategy would leave NMFS with no mechanism to close the fishery mid-season if authorized take levels are exceeded. Further, it is possible that the swordfish driftnet quota could be exceeded under this alternative. It is likely that administrative costs of implementing the recommended driftnet measures in the AOCTRP would exceed the estimated value of the swordfish driftnet fishery. However, it is unlikely that the overall swordfish quota would be exceeded as this commenter suggested, given the magnitude of the longline/harpoon quota relative to the driftnet quota.

Comment 3: Over 300 commenters (postcard campaign and others) expressed their support for the prohibition of driftnets in U.S. waters.

Response: This final rule prohibits driftnets only in the Atlantic swordfish fishery. In the draft HMS FMP, NMFS is proposing to prohibit the use of driftnet gear in the Atlantic tunas fishery. Driftnets are authorized in the Southeast Atlantic shark fishery but are subject to the implementing regulations of the Atlantic Large Whale Take Reduction Plan (ALWTRP). The ALWTRP regulations would not apply to a shark driftnet fishery in the Mid-Atlantic Bight or Southern New England areas, should fishermen choose to re-direct their fishing effort to sharks. This shift in effort is unlikely given the limited large coastal shark quota and season and the low ex-vessel prices for pelagic and small coastal sharks relative to large coastal sharks.

Comment 4: Some commenters supported the marine mammal bycatch limit. One commenter felt that it should be a comprehensive mammal limit, not an individual species limit. This alternative would allow the fishery to operate and would keep takes below the Potential Biological Removal (PBR) level for each species.

Response: NMFS concluded that the marine mammal bycatch limit alternative would be costly and burdensome to implement, regardless if it was by species or for all species combined. This alternative would not guarantee that marine mammal takes would be below the PBR level for each strategic stock or that the fishery would be able to take the swordfish driftnet quota prior to closure based on marine mammal take. Further, the marine mammal bycatch limit on a by-vessel limit would not reduce the derby nature of the fishery that results from a limited swordfish quota.

Comment 5: Commenters indicated that NMFS had implemented the Pacific Offshore Cetacean Take Reduction Plan (PCTRP) for the west coast driftnet fishery and that it was inconsistent not to implement the AOCTRP.

Response: In 1997, NMFS published regulations that implemented the majority of the recommendations of the PCTRP. Current data indicate that the bycatch reduction measures required by the new regulations appear to be successful in reducing incidental takes of cetaceans to biologically sustainable levels in the California/Oregon drift gillnet fishery for thresher shark and swordfish. However, the Atlantic and Pacific driftnet fisheries present very different challenges, both in bycatch reduction and fishery management. Atlantic driftnet fishermen indicated that the derby nature of the fishery results in high marine mammal takes in the Atlantic Ocean, whereas there is no quota system for Pacific swordfish that might create a similar accelerated derby fishery.

Further, many of the measures considered by NMFS and the AOCTRT were rejected by the Pacific Offshore Cetacean Take Reduction Team (PCTRT) as too restrictive, too costly, or too difficult to enforce (e.g., marine mammal bycatch limit, 100 percent observer coverage, time/area closures, set allocation scheme.) That team concluded, and NMFS agrees, that set allocations would be complicated to calculate and difficult to enforce. In addition, the PCTRT concluded that placing a quota on the number of sets does not reward fishermen that have low marine mammal entanglement rates.

The PCTRT also rejected the alternative of time/area closures. They felt that this strategy might encourage fishermen to fish during poor weather and place fishermen at a greater safety risk. In addition, time/area closures might increase takes of other species of marine mammals due to seasonal concentrations of those animals in the fishing grounds. Analysis of observer data did not indicate significant relationships between areas fished and cetacean entanglement. Time/area closures were also rejected by the PCTRT, because they would be difficult and costly to enforce.

Comment 6: Some commenters opposed the transfer of driftnet quota to the longline category and supported ''retiring'' that quota. One commenter indicated that marine mammal mortalities or injuries would not be reduced to levels below PBR (except for harbor porpoise) if the quota was transferred to the longline fishery. Concern was expressed that mortality reductions were overstated given that NMFS has not estimated the level of serious injuries to marine mammals as a result of longline interactions.

Response: NMFS is required by the Magnuson-Stevens Act to provide U.S. fishermen with a ''reasonable opportunity'' to catch the entire U.S. swordfish quota that is adopted by ICCAT. Similarly, ATCA provides that no regulation may have the effect of increasing or decreasing an ICCAT quota. Thus, NMFS cannot simply ''retire'' the driftnet quota.

Mortalities in the pelagic longline fishery have exceeded PBR for the short-finned pilot whale. The annual marine mammal bycatch rate in this fishery is based only on incidental mortalities and does not include those animals that are incidentally injured. NMFS is currently developing biological criteria for determining what constitutes a serious

injury to a marine mammal that is injured incidental to commercial fishing operations. NMFS' consideration of marine mammal injuries that occur incidental to the pelagic longline fishery will likely result in a combined mortality and serious injury rate which is higher than the current level. The proposed take reduction measures in the HMS FMP should offset this increase.

Comment 7: One commenter stated that NMFS needs to take similar restrictive measures to reduce protected species takes in the longline fishery.

Response: NMFS agrees that protected species bycatch in the longline fishery needs to be reduced and has proposed take reduction measures for the longline fishery in the draft HMS FMP. These measures include gear restrictions, educational workshops, and time/area closures.

Comment 8: One commenter supported the alternative that includes closure of right whale critical habitat to pelagic driftnet fishing, 100–percent observer coverage, limited entry for the driftnet fishery under the authority of the MMPA, and mandatory educational workshops.

Response: NMFS agrees that closing the winter driftnet fishery in the Mid-Atlantic Bight would be beneficial and would likely reduce bycatch of common dolphins. However, the August 1998 driftnet fishery exceeded the PBR level for common dolphins by capturing 254 common dolphins in the Northeast Coastal fishing grounds. Further, NMFS realizes that 100–percent observer coverage would be necessary for swordfish driftnets where potential take rates are quite high and extremely variable. It is difficult to project catch rates of target or non-target species in this fishery. NMFS agrees that educational workshops could be very useful in reducing bycatch or bycatch mortality of protected species and has proposed mandatory educational workshops for pelagic longline fishermen in the draft HMS FMP. However, given other considerations such as the derby nature of the fishery and the nature of the driftnet gear, workshops alone would not sufficiently reduce marine mammal takes. Further, the combination of some of these measures would costs more to administer than the net revenue of swordfish caught in driftnets.

Comment 9: One commenter did not support the alternative that the fishery bear part of the administrative costs by purchasing a vessel monitoring system unit and paying for observer coverage.

Response: The costs to implement a set allocation scheme are so large and the implementation strategy so cumbersome, that NMFS sought to develop additional alternatives that might facilitate implementation of the AOCTRP, given limited NMFS funding. If industry participants did not pay for these programs, costs of implementation would have been even higher.

Comment 10: One commenter stated that NMFS' proposed plan does not eliminate risk to marine mammals due to transfer of the quota and that mortality in vulnerable fish species may be increased.

Response: Large coastal sharks are caught at higher rates by driftnets; however, other finfish species are caught more frequently by pelagic longlines. NMFS has proposed bycatch reduction measures for pelagic longlines in the draft HMS FMP that may counteract some of the increased mortality as a result of increased longline fishing pressure. However, the amount of transferred driftnet swordfish quota is so small, relative to the existing longline swordfish quota, that impacts to finfish, turtles, and marine mammals from increased longline fishing effort would be minimal. Further, NMFS has proposed marine mammal take reduction measures in the HMP FMP to reduce takes of strategic stocks of marine mammals by pelagic longlines.

Procedural Issues

Comment 11: NMFS was encouraged to transfer driftnet observer funding to the longline observer program.

Response: NMFS will consider this when making programmatic decisions. Observer coverage is assessed on an annual basis considering both finfish and protected species bycatch issues.

Comment 12: A commenter questioned the validity of closing a fishery based on administrative costs exceeding fishery revenues. NMFS was questioned as to how decisions would be made in other fisheries where this might be the case.

Response: NMFS has based this decision not only on the administrative costs of the alternatives but also on the effectiveness of the measures in reducing bycatch and fishery management objectives. Fisheries are managed on a case-by-case basis depending on the circumstances of the fishery and the objectives of the relevant laws and fishery management plans.

Comment 13: Commenters expressed frustration with the preferred alternative of banning driftnets, given the participation of team members in the take reduction plan process. Commenters indicated that the take reduction plan process should allow fisheries to continue while take reduction measures are implemented. A commenter also indicated that at no time during the course of the negotiations, did NMFS indicate that closing the fishery was an option.

Response: NMFS participated in the take reduction process in good faith. However, upon consideration of the AOCTRP, and the subsequent amendment to the Biological Opinion that considered new data, NMFS responded with an additional alternative of the marine mammal bycatch limit. NMFS considered broader fishery management issues in conjunction with the take reduction alternatives, and analyzed the alternatives, including prohibiting the use of driftnets in the swordfish fishery, and illustrated reasons for doing so, in the draft EA published in 1997.

Comment 14: Commenters indicated a preference that take reduction plans be implemented under the authority of the MMPA, not the Magnuson-Stevens Act or ATCA.

Response: NMFS disagrees and supports implementing this rule under the authority of the Magnuson-Stevens Act. Implementing rules under multiple authorities results in a more comprehensive analysis of all impacts and highlights the consistent objectives found in all applicable laws. NMFS examined fishery management issues regarding take reduction alternatives in the swordfish fishery in part, because the AOCTRT felt that the derby fishing conditions contributed to escalating marine mammal bycatch. In this fishery, measures to address international and domestic management objectives can affect marine mammal takes and, therefore, NMFS is implementing this rule under the authority of the Magnuson-Stevens Act.

Comment 15: One commenter believed that allowing the continuation of either the longline fishery or the driftnet fishery without a take reduction plan in place is a clear violation of the mandates of the MMPA.

Response: NMFS has proposed take reduction measures for pelagic longlines in the draft HMS FMP. It is the intention of NMFS that take reduction measures for pelagic longlines be finalized in 1999. This rule prohibits the use of driftnets in the Atlantic swordfish fishery. Additionally, the draft HMS FMP has a proposal to prohibit driftnets in the Atlantic tunas fishery.

Environmental Assessment

Comment 16: One commenter believed that NMFS overestimated the costs to implement the options.

Response: NMFS analyzed the costs to the Government associated with managing driftnets in the swordfish

fishery in recent years. These costs are estimates based on existing programs throughout NMFS and serve as an indicator of the relative costs associated with each alternative.

Comment 17: One commenter believed that increased takes of protected species, especially sea turtles, in the 1998 driftnet season may be a result of increased stock sizes of protected species.

Response: NMFS acknowledges that future stock assessments of protected species could reflect increased stock size, and hence, may result in increased PBR levels. However, at this time, NMFS must protect marine mammals and sea turtles under the MMPA and ESA and must adhere to current PBR estimates. In the future, take reduction measures and PBR estimates may be adjusted if warranted.

Comment 18: One commenter indicated that NMFS' conclusory statements about finfish impacts resulting from transferral of quota into the pelagic longline category were understated.

Response: NMFS analyzed existing data and concluded that increasing longline quota may incrementally increase catch rates of undersized swordfish, bluefin tuna, marlins, and pelagic sharks. Catches of large coastal sharks are likely to decrease as a result of the quota transfer. NMFS has proposed bycatch reduction measures for pelagic longlines in the HMS FMP, including a time/area closure to protect juvenile swordfish.

Comment 19: One commenter thought that it was acceptable to place an observer in an enforcement role under the marine mammal bycatch limit. This person stated that the Inter-American Tropical Tuna Commission has not encountered such problems.

Response: NMFS places observers on Atlantic fishing vessels to collect data, not to track interactions of protected species in real time. Observers are currently overwhelmed with a heavy workload, and are expected to work in difficult conditions. Further, NMFS does not desire to place an observer in an enforcement role because the driftnet observers are not NMFS employees; they are contract employees. U.S. Coast Guard funding is limited and is not controlled by NMFS. Therefore, it can not ignore the comments concerning at-sea enforcement costs submitted by the U.S. Coast Guard during development of this rule and the HMS FMP.

Comment 20: A commenter disagreed with NMFS' concern that under an overall marine mammal bycatch limit, the PBR level could be exceeded for some species if a large number of vessels captured that species exclusively. The commenter stated that such a phenomenon is unlikely.

Response: NMFS disagrees. In August 1998, one driftnet set captured 42 common dolphins. Admittedly, this appears to be an anomaly, but such a set could be repeated, considering the concentration of marine life and food sources on the fishing grounds during that time of the year.

Changes From the Proposed Rule

NMFS changes the proposed semi-annual directed fishery quota to remove the driftnet allocation in § 630.24(b)(2). The proposed rule inadvertently omitted this change. Further, § 630.24(b)(1) should have been left unchanged from the existing regulations because swordfish driftnets were legally used in the North Atlantic during the 1998 fishing year. Editorial changes have been made and typographical errors have been corrected in the final rule.

Classification

This final rule is published under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq*., and ATCA, 16 U.S.C. 971 *et seq*.

NMFS prepared a FRFA. NMFS has concluded that this action to prohibit the use of driftnet gear in the Atlantic swordfish fishery will have a significant economic impact on a substantial number of small entities. As a result of temporary closures of the driftnet fishery, fishermen who have used this gear have: (1) transferred fishing effort into the longline/harpoon category in order to take advantage of the transferred swordfish quota from the driftnet category, (2) fished for other species with other fishing gears, (3) used driftnets for other highly migratory species, including Pacific species or (4) exited commercial fishing. Therefore, the FRFA assumes that fishermen, during the time they would normally fish for swordfish with a driftnet, would fall into one of these four categories. Seventeen driftnet vessels were considered to be the universe of affected small entities in this analysis. Under the preferred alternative, each of these scenarios results in greater than a 5–percent decrease in gross revenues for more than 20 percent of the affected entities, or would cause greater than 2 percent of the affected entities to be forced to cease operations. Therefore, regardless of which activity any individual driftnet fisherman pursues should the proposed action be implemented, the RFA thresholds for significant impact are expected to be exceeded.

The other alternatives considered include the status quo, a set allocation scheme to reduce the derby nature of the fishery (with associated measures), and a marine mammal bycatch limit (with associated measures). These alternatives may have lesser economic impacts on the driftnet participants; however, none of those alternatives guarantee reduced takes of marine mammals and, further, do not eliminate such fishery management concerns as the increasing costs to manage this limited fishery. Further, the management costs of the preferred alternative relating to the value of the swordfish gear quota compares favorably with the costs of managing the pelagic longline fishery. The RIR provides further discussion of the economic effects of all the alternatives considered. Given that the alternative selected by NMFS is to permanently close the driftnet fishery for swordfish, there are no measures which would minimize the economic impact on small entities. A copy of this analysis is available from NMFS (see **ADDRESSES**).

This rule has been determined to be not significant for purposes of E.O. 12866.

This action will not impose any additional reporting or recordkeeping requirements subject to OMB review under the Paperwork Reduction Act.

NMFS reinitiated formal consultation for all HMS commercial fisheries on September 25, 1996, and again on August 12, 1997, under section 7 of the ESA. In Biological Opinions issued on May 29, 1997, and August 29, 1997, NMFS concluded that operation of the harpoon fishery is not likely to adversely affect the continued existence of any endangered or threatened species under NMFS' jurisdiction and that operation of the longline fishery may adversely affect, but may not jeopardize, the continued existence of any endangered or threatened species under NMFS jurisdiction. Conversely, it was concluded that driftnet fishing for swordfish in the Northeast and the Mid-Atlantic and for sharks in the Southeast will jeopardize the continued existence of the northern right whale. A temporary rule under the authority of the ESA implemented time/area closures for driftnet gear in the northeast as an interim measure. Another rulemaking implemented a take reduction plan for Atlantic large whales in the southeast United States under the MMPA. This final rule will further reduce the likelihood of interactions between driftnet gear and northern right whales.

List of Subjects in 50 CFR Part 630

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Dated: January 21, 1999.

Rolland A. Schmitten,

Assitant Adminsitrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 630, is amended as follows:

PART 630—ATLANTIC SWORDFISH FISHERY

1. The authority citation for part 630 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.* and 16 U.S.C. 971 *et seq.*

2. In § 630.3, paragraph (b) is amended by removing the words ''or gillnet''.

3. In § 630.7, paragraphs (p), (s), and (t) are revised, and paragraphs (bb) and (cc) are redesignated as paragraphs (aa) and (bb) respectively, to read as follows:

§ 630.7 Prohibitions.

* * * * *

(p) Fish for Atlantic swordfish with a driftnet or possess an Atlantic swordfish on board a vessel with a driftnet on board, as specified in § 630.22.

* * * * *

(s) During a closure of the directed fishery under § 630.25(a)(1) or (b), on board a vessel using or having on board the specified gear, fish for swordfish, or possess or land swordfish in excess of the bycatch limits, as specified in § 630.25(c).

(t) On board a vessel using or having on board gear other than longline or harpoon, fish for swordfish, or possessing or landing swordfish in excess of the bycatch limit, as specified in § 630.25(d).

* * * * *

4. Section 630.22 is revised to read as follows:

§ 630.22 Gear restrictions.

No driftnet may be used to fish for swordfish from the North or South Atlantic swordfish stocks. An Atlantic swordfish may not be possessed on board or harvested by a vessel using or having on board a driftnet.

5. In § 630.24, paragraphs (a)(1), (b)(2), and (e)(1) are revised, paragraph (a)(3) is removed and (f) is removed and reserved to read as follows:

§ 630.24 Quotas.

(a) *Applicability*. (1) A swordfish harvested from the North Atlantic swordfish stock by a vessel of the United States other than one participating in the recreational fishery is counted against the directed-fishery quota or the bycatch quota. A swordfish harvested by longline or harpoon and landed before the effective date of a closure for that gear, pursuant to § 630.25(a)(1), is counted against the directed-fishery quota. After a closure, a swordfish landed by a vessel using or possessing gear for which bycatch is allowed under § 630.25(c) is counted against the bycatch allocation specified in paragraph (c) of this section. Notwithstanding these provisions, a swordfish harvested by a vessel using or possessing gear other than longline, harpoon, or rod and reel is counted against the bycatch quota specified in paragraph (c) of this section at all times.

* * * * *

(b) *Directed-fishery quotas.* * * *

(2) The annual directed fishery quota for the North Atlantic swordfish stock for the period June 1, 1999, through May 31, 2000, is 2,033.2 mt dw. The quota is divided into two equal semiannual quotas of 1016.6 mt dw, one for the period June 1 through November 30, 1999, and the other for the period December 1, 1999, through May 31, 2000.

* * * * *

(e) *Inseason adjustments.* (1) NMFS may adjust the December 1 through May 31 semiannual directed fishery quota to reflect actual catches during the June 1 through November 30 semiannual period, provided that the 12-month directed-fishery quota is not exceeded.

* * * * *

6. In § 630.25, the section heading and paragraphs (a)(1) and (c), and the introductory text to paragraph (d) are revised to read as follows:

§ 630.25 Closures and incidental catch limits.

(a) *Notification of a closure.* (1) When the directed-fishery annual or semiannual quota specified in § 630.24 is reached, or is projected to be reached, NMFS will publish notification in the **Federal Register** closing the directed-fishery for fish from the North Atlantic swordfish stock or from the South Atlantic swordfish stock, as appropriate. The effective date of such notification will be at least 14 days after the date such notification is filed at the Office of the Federal Register. The closure will remain in effect until additional directed-fishery quota becomes available.

* * * * *

(c) *Bycatch limits during a directed-fishery closure.* (1) During a closure of the directed fishery, aboard a vessel using or having aboard a longline and not having aboard harpoon gear—

(i) A person may not fish for swordfish from the North Atlantic swordfish stock; and

(ii) No more than 15 swordfish per trip may be possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5 degrees N. lat., or landed in an Atlantic, Gulf of Mexico, or Caribbean coastal state. The Assistant Administrator may modify or change the bycatch limits upon publication of notice in the **Federal Register** pursuant to the notification requirements and procedures in paragraph (a)(1) of this section. Changes in the bycatch limits will be based upon the length of the directed fishery closure as well as the estimated catch per vessel in the non-directed fishery.

(2) During a closure of the directed fishery, aboard a vessel using or having aboard harpoon gear—

(i) A person may not fish for swordfish from the North Atlantic swordfish stock; and

(ii) No swordfish may be possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5° N. latitude, or landed in an Atlantic, Gulf of Mexico, or Caribbean coastal state.

(d) Bycatch limits in the non-directed fishery. On board a vessel using or having on board gear other than harpoon or longline, other than a vessel in the recreational fishery–-

* * * * *

[FR Doc. 99–1872 Filed 1–26–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No 981231335–8335–01; I.D. 122498B]

RIN 0648–AM14

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 26; Correction

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

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to an instruction in the regulatory text for the final rule to implement Framework Adjustment 26, which was published on Friday, January 15, 1999.

DATES: Effective January 19, 1999.

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

SUPPLEMENTARY INFORMATION:

Need for Correction

Framework Adjustment 26, which was published in the **Federal Register** of January 15, 1999 (64 FR 2601), revised a portion of the regulatory text for the GOM Inshore Closure Areas (§ 648.81(g)(1)). In FR Doc. 99–1000, amendatory instruction 4. revised paragraph (g)(1) to § 648.81 and is corrected to revise the ''introductory text'' to paragraph (g)(1) to § 648.81. This correction sets out the amendatory instruction 4. to include the omitted language.

Correction of Publication

On page 2603, in the second column, amendatory instruction 4. is corrected to read as follows:

''4. In § 648.81, paragraphs (d) and (g)(1) introductory text are revised and paragraph (o) is added to read as follows:''

Dated: January 22, 1999.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–1877 Filed 1–26–99; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 17
Wednesday, January 27, 1999

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89–ANE–44]

RIN 2120–AA64

Airworthiness Directives; Hartzell Propeller Inc. ( )HC-( )2Y( )-( ) Propellers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede priority letter airworthiness directive (AD) 90–02–23 by adopting a new AD applicable to Hartzell Propeller Inc. ( )HC-( )2Y( )-( ) propellers. Priority letter AD 90–02–23 currently requires repetitive visual inspections of propeller hubs for cracks using a 10X glass, and, if necessary, removal and replacement of cracked hubs with serviceable parts. This proposal would change the frequency and method of inspection by requiring initial and repetitive eddy current inspections (ECI) of the propeller hub fillet radius for cracks. In addition, this proposed AD would allow installation of an improved design propeller hub as terminating action to the repetitive ECI. This proposal is prompted by reports of cracked propeller hubs found in service after they had been inspected in accordance with the visual inspections required by the priority letter AD. The actions specified by the proposed AD are intended to improve the method for detecting propeller hub cracks, which can result in an inflight separation of propeller blades and damage to the aircraft.

DATES: Comments must be received by March 29, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 89–ANE–44, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ad-engineprop@faa.gov''. Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Hartzell Propeller Inc., Technical Publications Department, One Propeller Place, Piqua, OH 45356; telephone (937) 778–4299, fax (937) 778–4365. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Tomaso DiPaolo, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone (847) 294–7031, fax (847) 294–7834.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 89–ANE–44.'' 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, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 89–ANE–44, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

On January 22, 1990, the Federal Aviation Administration (FAA) issued priority letter airworthiness directive (AD) 90–02–03, applicable to Hartzell Propeller Inc. ( )HC-( )2Y( )-( ) propellers specified by serial number, which requires repetitive (50 hour intervals) visual inspections of propeller hubs for cracks using a 10X glass, and, if necessary, removal and replacement of cracked hubs with serviceable parts. That action was prompted by reports of cracked propeller hubs.

Since the issuance of that priority letter AD, the FAA has received fifteen reports of cracked propeller hubs that warrant that the visual inspection requirement be removed and replaced with an eddy current inspection requirement. Also, since five of the fifteen reports were of cracked hubs whose serial number or model number were outside the serial number and model number limitation denoted in the priority letter AD, there is a need to expand the list of affected propeller models and not limit it by serial number. In addition, the priority letter AD required that propellers be inspected if they were installed on any aircraft with Lycoming TIO–540 series engines and IO–540 series engines rated at 260 horsepower or higher certificated in any category. None of the reports received since the issuance of the priority letter AD support this general applicability requirement and it has been revised to address propellers installed on Piper PA–32( ) aircraft with Textron Lycoming 540 series engines rated at 300 HP or higher, and Britten Norman BN–2( ) aircraft with Textron Lycoming 540 series engines. Note that five of the fifteen reports do document the continued need to inspect propellers installed on any agricultural or acrobatic aircraft.

The FAA has reviewed and approved the technical contents of Hartzell Propeller Inc. Service Bulletin (SB) No. HC–SB–61–227, dated January 16, 1998, that describes procedures for eddy current inspections (ECI) of propeller hub fillet radius for cracks, and also describes procedures for installation of an improved design propeller hub.

Since an unsafe condition has been identified that is likely to exist or develop on other propellers of this same type design, the proposed AD would supersede priority letter AD 90–02–03 to expand the models of propellers affected and to require initial and repetitive (150 hour intervals) ECI of propeller hub fillet radius for cracks, and, if necessary, removal from service of cracked hubs and replacement with serviceable parts. In addition, this AD allows installation of an improved design propeller hub as terminating action to the repetitive ECI. The actions are required to be accomplished in accordance with the SB described previously.

There are approximately 7,745 propellers of the affected design in the worldwide fleet. The FAA estimates that 4,576 propellers installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per propeller to accomplish the proposed actions, and that the average eddy current inspection rate is $150 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators per ECI is estimated to be $686,400.

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:

Hartzell Propeller Inc.: Docket No. 89–ANE–44. Supersedes priority letter AD 90–02–03.

Applicability: Hartzell Propeller Inc ( )HC-( )2Y( )-( ) propeller models installed on Piper PA–32() aircraft with Textron Lycoming 540 series engines rated at 300 HP or higher and Britten Norman BN–2() aircraft with Textron Lycoming 540 series engines, both aircraft certificated in any category, and on acrobatic category and agricultural category aircraft.

Please note that the following list is for reference purposes only and that this airworthiness action is not limited to the following aircraft:

Aermacchi S.p.A. (formerly SIAI-Marchetti) S.205 series aircraft, S.208 series aircraft, F.260 series a/c
American Champion (formerly Bellanca, Champion) 8KCAB, 8GCBC
Aviat (licensed by Sky International [formerly White International]) (Pitts) S–1T, S–2, S–2A, S–2S, S–2B
Britten Norman Islander BN–2 series aircraft
Cessna A188A, A188B, T188C
Flugzeugwerke Altenrheim AG (FFA) AS202/18A ''BRAVO'', AS202/18A4'' BRAVO''
Great Lakes Aircraft Co. 2T–1 series aircraft
Moravan National Corporation Zlin 526L
Piper PA–25–260, PA–32 series aircraft, PA–36–600
SOCATA—Groupe Aerospatiale (Morane Saulnier) MS893A, MS893E

This AD is only applicable to Hartzell propellers manufactured before December 1991, which do not have a suffix letter ''A'' or ''B'' at the end of the hub serial number. Propellers with the suffix letter ''A'' or ''B'' are exempt from this AD, except for the following hubs which were reworked at the Hartzell factory in 1990: DN3607A, DN3609A, DN3613A, DN3615A, DN3628A, DN3630A, DN3641A, DN3940A, DN3944A, DN3949A, DN3962A.

Note 1: This airworthiness directive (AD) applies to each propeller 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 propellers 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, unless accomplished previously.

To detect propeller hub cracks, which can result in an inflight separation of propeller blades and damage to the aircraft, accomplish the following:

(a) Perform initial and repetitive eddy current inspections (ECI) of the propeller hub fillet radius for cracks in accordance with Hartzell Propeller Inc. Service Bulletin (SB) No. HC–SB–61–227, dated January 16, 1998, as follows:

(1) For propellers affected by the applicability requirements of AD 90–02–23, perform the initial ECI within 50 hours time in service (TIS) since last visual inspection conducted in accordance with AD 90–02–23. For all other applicable propellers, perform the initial ECI within 50 hours TIS after the effective date of this AD.

(i) Prior to further flight, remove from service cracked propeller hubs and replace with a serviceable part.

(ii) If no cracks are found, then permanently mark the hub in accordance with Hartzell Propeller Inc. SB No. HC–SB–61–227, dated January 16, 1998.

(2) Thereafter, perform ECI at intervals not to exceed 150 hours TIS since last ECI. Prior to further flight, remove from service cracked propeller hubs and replace with a serviceable part.

(b) A propeller hub from an aircraft that is identified in the applicability section of this AD may not be removed and reused on an aircraft for which this AD is not applicable.

(c) Terminating action to the repetitive inspection requirements of this AD is the replacement of affected hubs with a Hartzell propeller hub model with the serial number suffix letter ''A'' or ''B'', except for the following hubs which were reworked at the Hartzell factory in 1990: DN3607A, DN3609A, DN3613A, DN3615A, DN3628A, DN3630A, DN3641A, DN3940A, DN3944A, DN3949A, DN3962A. The hub replacement must be performed in accordance with Hartzell Propeller Inc. SB No. HC–SB–61–227, dated January 16, 1998.

(d) 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, Chicago Aircraft Certification Office. Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Chicago Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of

compliance with this airworthiness directive, if any, may be obtained from the Chicago Aircraft Certification Office.

(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 aircraft to a location where the inspection requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on January 20, 1999.

Ronald L. Vavruska,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 99–1828 Filed 1–26–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

United States Mint

31 CFR Part 100.11, 100.12

RIN 1525–ZA00

Exchange of Coin

AGENCY: Department of the Treasury, United States Mint.

ACTION: Proposed Rule; Request for Comments.

SUMMARY: In furtherance of the U.S. Mint's efforts to improve the environment, reduce energy consumption and enhance workplace safety and efficiency, the Mint wishes to discontinue melting and instead employ mechanical means as a means of destroying mutilated coins. These mechanical means cannot be used to process fused or mixed coins, which represent a very small percentage of the coins redeemed annually by the Mint. Accordingly, the proposed amendment would also allow the Mint to discontinue accepting fused or mixed coins for redemption, and require that all bent or partial coins submitted for redemption be separated by denomination in order to be acceptable.

DATES: Submit comments on or before March 29, 1999.

ADDRESSES: Address all comments concerning this proposed rule to Gwen H. Mattleman, United States Mint, 633 Third Street NW , Washington DC 20220. See Supplementary Information for electronic access and filing information.

FOR FURTHER INFORMATION CONTACT: (Legal) Kenneth Gubin, Chief Counsel (202) 874–5953; (Technical) Andrew Cosgarea, Associate Director, Head, Circulating Coinage Business Unit (202) 874–6100

SUPPLEMENTARY INFORMATION:

Background

Part 100, Subpart C of Treasury Regulations 31 CFR, promulgated under 31 U.S.C. 5120, provides among other things for the exchange of bent, partial, fused and mixed coins. Bent, partial and mixed coins (i.e., coins of several alloy categories presented together) which are submitted and accepted for redemption are currently separated by alloy, melted and cast into ingots or bars by the United States Mint. These bars are furnished to the Mint's suppliers and used to fabricate coinage strip in lieu of virgin copper and nickel. Fused coins are also melted and cast into bars, but since this material has been contaminated with base elements such as lead and arsenic it is unsuitable for using in fabricating coinage strip and is instead sold as scrap through the General Services Administration. The Mint has identified and is actively pursuing initiatives to improve the environment, reduce energy consumption and enhance efficiency and workplace safety. Melting coins submitted for redemption by the Mint's current heat induction procedures is not energy efficient and adds to the Mint's annual electrical expenses. It is also a physically challenging process for the Mint's employees. As metal is heated and poured in its molten state into ingots, it can reach 1500 degrees Celsius. Ingots weighing 60 lbs. must be lifted and moved manually. Therefore, the Mint wishes to discontinue melting and use mechanical means (such as a hammer mill or rolling mill) to destroy mutilated coins. However, as the proposed mechanical destruction process requires that coins be separated by alloy, these mechanical methods cannot be used to process fused coins or unsorted (mixed) coin lots. Because mutilated coins delivered in lots of mixed alloy categories often are in a condition which precludes machine sorting, redemption of mixed coins can be labor-intensive and inefficient. As shown by the charts below, fused and mixed coins represent a very small component of the United States Mint's annual coin redemptions.

BILLING CODE 4810–37–P

YR	Total Coins Redeemed by U. S. Mint (Kg.)	Total Mixed or Fused Coins Redeemed (U.S.Mint records do not distinguish mixed and fused redemptions) (Kg.)	% of Mixed or Fused Coins Redeemed Over Total Redeemed	Total U.S. Mint Payout for All Coins Redeemed (includes sorted bent and partial coins redeemed at weight equivalent of face value, plus fused/ mixed at lower, metal rates (fixed or inventory)
1996	310,000	2849	.91	$6,400,000
1997	342,000	2750	.80	$7,200,000
1998 (ends 7/31)	327,000	2107	.64	$5,500,000

YR	Total Lots of Coins Redeemed	Mixed or Fused Lots Redeemed	% of Mixed or Fused Lots Redeemed over Total Lots Redeemed
1996	1820	23	1.26
1997	2200	19	.86
1998 (ends 7/31)	1720	13	.75

BILLING CODE 4810–37–C

For the foregoing reasons, the Mint wishes to amend Part 100 of 31 CFR to discontinue acceptance of fused and mixed coins for redemption, and require that all bent or partial coins be separated by denomination when submitted for redemption.

Certifications

This proposed regulation is not a significant regulatory action for purposes of Executive Order 12866. The Mint has paid out less than $8 million in total annual mutilated coin redemptions for each of 1996, 1997 and the seven-month period ending July 31, 1998. For each such period, fused and mixed coins as a group constitute less than 1% of total coins redeemed, and approximately 1% or less of the total lots redeemed. Fused and mixed coins are currently redeemed at metal rates lower than the rates paid for sorted coins. For these reasons, the United States Mint does not believe that the proposed regulation will have an annual effect on the economy of $100 million or more or materially adversely affect any sector of the economy, productivity, competition, jobs, the environment, public health, or State, local, or tribal governments or communities. The Mint does not anticipate that the rule will result in inconsistency, interfere with another agency's actions, materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof, or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. It is hereby certified that this proposed regulation will not have a significant economic impact on a significant number of small entities. Accordingly, a regulatory flexibility analysis is not required. Lots of fused and mixed coins recorded together as a group constituted approximately 1% or less of the total coin lots redeemed for each of calendar 1996, 1997 and the period ending July 31, 1998, amounting to 23, 19 and 13 lots, respectively, of fused and mixed coins. Although the Mint does not maintain records which consistently indicate the business or personal nature of the transactions conducted by individuals or entities tendering coins for redemption, the majority of these lots were submitted by individuals transacting with the Mint in their own name. Even if each such individual were a ''small entity'' within the meaning of 5 USC 604(a), the Mint does not believe that this quantity of lots indicates that a significant number of small entities will be significantly impacted if the Mint were to require sorting of coins previously accepted as mixed and discontinue accepting fused coins.

Comments

In lieu of hand-delivery, comments on the proposed rules may be faxed to the attention of Gwen H. Mattleman at (202) 874-6479 or sent by electronic mail to: legal@usmint.treas.gov. Hand delivery, U.S. mail or fax are preferred.

List of Subjects in 31 CFR Part 100 Subpart C

Currency.

For the reasons set forth in the preamble, the United States Mint proposes to amend 31 CFR Part 100 substantially as follows:

PART 100—EXCHANGE OF PAPER CURRENCY AND COIN

Subpart C—Exchange of Coin

1. The authority citation for Part 100 Subpart C is revised to read as follows:

Authority: 31 U.S.C. 321.

2. Revise 100.11(b) to read as follows:

§ 100.11 Exchange of bent and partial coins.

* * * * *

(b) Redemption basis. Bent and partial coins shall be presented separately by denomination category in lots of at least one pound for each category. Bent and partial coins shall be redeemed on the

basis of their weight and denomination category rates (which is the weight equivalent of face value). If not presented separately by denomination category, bent and partial coins will not be accepted for redemption. Denomination categories and rates are: Cents, @ $1.4585 per pound; Nickels, @ $4.5359 per pound; Dimes, Quarters, Halves, and Eisenhower Dollars @$20.00 per pound; and Anthony Dollars @ $56.00 per pound. Copper plated zinc cents shall be redeemed at the face value equivalent of copper one cent coins.

* * * * *

3. Revise 100.12(b) to read as follows:

§ 100.12 Exchange of fused and mixed coins.

* * * * *

(b) The United States Mint will not accept fused or mixed coins for redemption.

Philip N. Diehl,

Director.

[FR Doc. 99–1683 Filed 1–26–99; 8:45 am]

BILLING CODE 4810–37–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 011499B]

RIN 0648–AL73

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Atlantic Mackerel, Squids, and Butterfish Fisheries; and Atlantic Surfclam and Ocean Quahog Fisheries

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

ACTION: Notice of availability of amendments to three fishery management plans; request for comments.

SUMMARY: NMFS announces that the Mid-Atlantic Fishery Management Council (Council) has submitted Amendment 12 to the Fishery Management Plan (FMP) for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Amendment 8 to the FMP for the Atlantic Mackerel, Squids, and Butterfish Fisheries; and Amendment 12 to the FMP for the Atlantic Surfclam and Ocean Quahog Fisheries, for review by the Secretary of Commerce (Secretary) and is requesting comments from the public. These amendments are intended to meet the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended by the Sustainable Fisheries Act of October 1996 (SFA).

DATES: Comments on the amendments must be received on or before March 29, 1999.

ADDRESSES: Send comments to Jon C. Rittgers, Acting Regional Administrator, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930-3799. Mark the outside of the envelope ''Comments on the Mid-Atlantic SFA Amendments.''

Copies of the proposed amendments, the Environmental Assessments (EA), the regulatory impact reviews (RIR), and other supporting documents are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 S. New Street, Dover, DE 19904-6790.

FOR FURTHER INFORMATION CONTACT: Regina L. Spallone, Fishery Policy Analyst, 978–281–9221.

SUPPLEMENTARY INFORMATION:

The Council has submitted three amendments that are intended to bring the aforementioned FMPs into compliance with the SFA requirements. The SFA revised significantly several of the national standards and added three new standards regarding impacts on fishing communities (national standard 8), minimizing bycatch (national standard 9), and promoting safety at sea (national standard 10). In addition, the SFA requires the Councils to identify and to describe essential fish habitat (EFH) for the species managed.

The Magnuson-Stevens Act requires that each regional fishery management council submit any fishery management plan or amendment it prepares to the Secretary for review. The Magnuson-Stevens Act also requires that the Secretary, upon receiving the plan or amendment for review, immediately make a preliminary evaluation of whether the amendment is sufficient to warrant continued review and publish notification that the plan or amendment is available for public review and comment. The Secretary will consider the public comments in determining whether to approve the plan or amendment.

The amendments to the FMPs, if approved, would revise overfishing definitions, describe and identify EFH, implement a framework adjustment process for amending management measures for these fisheries in the future, limit the size of domestic harvesting vessels permitted in the Atlantic mackerel fishery, and implement an operator permit requirement for the surfclam and ocean quahog fishery.

A proposed rule that would implement the amendments has been submitted for Secretarial review and approval. NMFS expects to publish and request public comment on proposed regulations to implement the amendments in the near future. Public comments on the proposed rule must be received by the end of the comment period on the amendments in order to be considered in the approval/disapproval decision on the amendments to the FMPs. All comments received by March 29, 1999, whether specifically directed to the amendments or the proposed rule, will be considered in the approval/disapproval decision. Comments received after that date will not be considered in the approval/disapproval decision on the amendments.

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

Dated: January 21, 1999.

Bruce Morehead,

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

[FR Doc. 99–1876 Filed 1–26–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 011999B]

RIN: 0648–AK83

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Amendment 13

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

ACTION: Notice of availability of amendment to fishery management plan; request for comments.

SUMMARY: NMFS announces that the Pacific Fishery Management Council (Council) has submitted Amendment 13 to The West Coast Salmon Plan (Salmon FMP) for Secretarial review. Amendment 13 changes the management goals for the Oregon coastal natural (OCN) coho salmon (coho). The FMP amendment implements the fisheries management provisions of the Oregon Coastal Salmon Restoration Initiative (OCSRI).

DATES: Comments on Amendment 13 must be received on or before March 29, 1999.

ADDRESSES: Comments on Amendment 13, or supporting documents should be sent to William W. Stelle, Jr., Administrator, Northwest Region, NMFS, Sand Point Way NE, BIN C15700, Seattle, WA 98115–0070; or to William T. Hogarth, Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213.

Copies of Amendment 13, the Environmental Assessment (EA)/ Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), the Amendment 13 Issues Attachment, and the ODFW/NMFS risk assessment are available from Lawrence D. Six, Executive Director, Pacific Fishery Management Council, 2130 SW Fifth Ave., Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140, Svein Fougner at 562–980–4040, or the Pacific Fishery Management Council at 503–326–6352.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each Regional Fishery Management Council submit any fishery management plan (FMP) or FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, immediately publish a notice that the FMP or amendment is available for public review and comment. NMFS will consider the public comments received during the comment period in determining whether to approve the FMP or FMP amendment.

Amendment 13 would change the management goals for the OCN coho. The major provisions of this amendment are not codified because, in order to streamline the regulations the salmon escapement goals were previously removed from the codified regulations and remain only in the FMP. Therefore, the modification of the OCN escapement goals requires only a minor modification of the regulations to change the language that explains that the coho allocation provisions south of Cape Falcon apply only when coho abundance allows a directed harvest of coho. The existing language is tied to the existing level of harvest allowed on OCN coho. NMFS will publish a proposed rule that would change the language to be more generic and accurate under Amendment 13.

The FMP amendment implements the fisheries management provisions of the OCSRI. In a Memorandum of Agreement with the Governor of Oregon, NMFS pledged to work with the State of Oregon to encourage the Council to adopt the OCSRI. The OCSRI fisheries management provisions are just one part of a broad-based coastal recovery plan. Amendment 13 is a major step toward full implementation. The amendment would provide a more conservative management of OCN coho, *Oncorhynchus kisutch*, by disaggregating the OCN stock into four components, restricting total harvest exploitation rates on each component to a maximum of 35 percent, and linking increases in harvest rates for each component from the current low rates (10–13 percent) to increases in marine survival and to proven reproductive success of the present brood year.

NMFS welcomes comments on the proposed FMP amendment through the end of the comment period. NMFS will consider the public comments received during the comment period in determining whether to approve the proposed amendment. A proposed rule to implement Amendment 13 to the Salmon FMP has been submitted for Secretarial review and approval. NMFS expects to publish and request public review and comment on this rule in the near future. Public comments on the proposed rule must be received by the end of the comment period on the amendment to be considered in the approval/disapproval decision on the amendment. All comments received by the end of the comment period for the amendments, whether specifically directed to the amendment or to the proposed rule, will be considered in the approval/disapproval decision on the amendment.

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

Dated: January 22, 1999.

Richard W. Surdi,

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

[FR Doc. 99–1878 Filed 1–26–99; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 64, No. 17

Wednesday, January 27, 1999

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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Draft Agreement Between the Advisory Council on Historic Preservation and the Narragansett Indian Tribe for the Assumption by the Narragansett Tribe of Certain Responsibilities Pursuant to the National Historic Preservation Act

Authority: 16 U.S.C. 470a(d)(5)

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of intent to execute Agreement with the Narragansett Indian Tribe.

SUMMARY: The Advisory Council on Historic Preservation intends to execute an agreement with the Narragansett Indian Tribe through which the Tribe will assume certain responsibilities pursuant to the National Historic Preservation Act, including the review of federal undertakings under their own, tribal historic preservation regulations instead of under the regulations promulgated by the Advisory Council. Through this notice, the Advisory Council invites comments from the public regarding the draft of said agreement and the Tribe's historic preservation regulations, before execution of the agreement.

DATES: Comments must be received on or before February 26, 1999.

ADDRESSES: Comments should be addressed to the Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, Suite 809, Washington, D.C. 20004. Fax (202) 606–8672. Comments may be submitted via e-mail to achp@achp.gov.

FOR FURTHER INFORMATION CONTACT: Javier Marqués, Assistant General Counsel, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, Suite 809, Washington, D.C. 20004. (202) 606–8503.

SUPPLEMENTARY INFORMATION: Section 101 of the National Historic Preservation Act of 1966, as amended, provides that the Advisory Council

> may enter into an agreement with an Indian tribe to permit undertakings on tribal land to be reviewed under tribal historic preservation regulations in place of review under regulations promulgated by the Council to govern compliance with section 106, if the Council, after consultation with the tribe and appropriate State Historic Preservation Officers, determines that the tribal preservation regulations will afford historic properties consideration equivalent to those afforded by the Council's regulations.

16 U.S.C. 470a(d)(5). Section 106 requires Federal agencies to take into account the effect of their undertakings on properties included in or eligible for inclusion in the National Register of Historic Places and to afford the Council a reasonable opportunity to comment on such undertakings.

In accordance with the provisions of Section 101, the Advisory Council and the Narragansett Indian Tribe drafted the Agreement titled ''Agreement between the Advisory Council on Historic Preservation and the Narragansett Indian Tribe for the Assumption by the Narragansett Tribe of Certain Responsibilities Pursuant to the National Historic Preservation Act,'' and related tribal historic preservation regulations titled ''Procedures and Rules for the Registration and Protection of Tribal Properties.'' Through this agreement, it is the intent of the Narragansett Indian Tribe to take charge of the Section 106 historic preservation review of federal undertakings that affect historic resources located in their tribal land, and subject such review to the provisions of the Narragansett tribal historic preservation regulations.

You may obtain a copy of the draft agreement and the regulations by contacting Javier Marqués, Assistant General Counsel, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, Suite 809, Washington, DC 20004; (202) 606–8503.

Dated: January 21, 1999.

John M. Fowler,

Executive Director.

[FR Doc. 99–1831 Filed 1–26–99; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Sunshine Act Meeting

AGENCY: Rural Telephone Bank, USDA.

ACTION: Staff Briefing for the Board of Directors.

TIME AND DATE: 3:00 p.m., Tuesday, February 9, 1999.

PLACE: Conference Room 11, Marriott Rivercenter, 101 Bowie Street, San Antonio, TX.

STATUS: Open.

MATTERS TO BE DISCUSSED:

1. Current telecommunications industry issues.
2. Status of PBO planning.
3. Status of procurement request for legal advisor to privatization committee.
4. Upcoming stockholders meeting.
5. Administrative issues.

ACTION: Board of Directors Meeting.

TIME AND DATE: 10:00 a.m., Wednesday, February 10, 1999.

PLACE: Conference Room 13–14, Marriott Rivercenter, 101 Bowie Street, San Antonio, TX.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the Board of Directors meeting:

1. Call to order.
2. Action on the November 19, 1998, Minutes.
3. Report on loans approved in the first quarter of FY 1999.
4. Summary of financial activity for the first quarter of FY 1999.
5, Privatization committee report.
6. Consideration of contract for outside legal advisor to the privatization committee.
7. Consideration of resolution to establish a date and location for the biennial meeting of stockholders and the ''as of date'' for determining voting rights.
8. Consideration of resolution to approve Jonathan P. Claffey to serve as the Deputy Assistant Governor and the Assistant Secretary of the Bank.
9. Consideration of resolution to commemorate the 50th anniversary of the RUS Telecommunications Program.
10. Establish date and location of next two regular board meetings.
11. Adjournment.

CONTACT PERSON FOR MORE INFORMATION: Roberta D. Purcell, Assistant Governor, Rural Telephone Bank, (202) 720–9554.

Dated: January 21, 1999.

Wally Beyer,

Governor, Rural Telephone Bank.

[FR Doc. 99–1971 Filed 1–25–99; 8:45 am]

BILLING CODE 3410–15–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New Hampshire Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New Hampshire Advisory Committee to the Commission will convene at 9:30 a.m. and adjourn at 1:30 p.m. on February 18, 1999, at the Rivier Collage, Dion Center Board Room, 420 Main Street, Nashua, New Hampshire 03060. The purpose of the meeting is to discuss plans for holding a full-day briefing on the status of civil rights in New Hampshire as part of its project, A Biennial Report on the Status of Civil Rights in New Hampshire. The Committee will also be briefed by invited community advocates on pertinent civil rights issues.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Nury Marquez, 603–627–5127, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, January 20, 1999.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 99–1854 Filed 1–26–99; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

End-User Certificates for High Performance Computers Exports to the Peoples's Republic of China

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before March 29, 1999.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Ms. Dawnielle Battle, Department of Commerce, 14th and Constitution Ave., NW, Room 6881, Washington, DC, 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Bureau of Export Administration is required to perform post-shipment verifications on high performance computers exported to the PRC under License Exception CTP in addition to those exported under a license. U.S. exporters of high performance computers to PRC will obtain the End-User Certficate in each transaction.

II. Method of Collection

Submitted in written form.

III. Data

OMB Number: 0694–0112.

Form Number: N/A.

Type of Review: Regular submission for extension of a currently approved collection.

Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Estimated Number of Respondents: 300.

Estimated Time Per Response: 15 minutes per response.

Estimated Total Annual Burden Hours: 75 hours.

Estimated Total Annual Cost: $0 (no capital expenditures).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: January 21, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–1857 Filed 1–26–99; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 2–99]

Foreign-Trade Zone 202—Los Angeles, California, Expansion of Manufacturing Authority—Subzone 202A, Minnesota Mining and Manufacturing Company Facility (Pharmaceuticals), Los Angeles, CA

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Board of Harbor Commissioners of the City of Los Angeles, grantee of FTZ 202, requesting authority on behalf of the Minnesota Mining and Manufacturing Company (3M), to expand the scope of manufacturing authority under zone procedures at the 3M facility in Los Angeles, California. It was formally filed on January 11, 1999.

Subzone 202A was approved by the Board in 1997 at the 3M facility located at 19901 Nordhoff Street, Los Angeles, California. Authority was granted for the manufacture of solid-dose pharmaceutical products and controlled-dose inhalers using the following imported materials: aluminum bottles, valve stems for aerosol, valve retaining cups, plastic actuator assemblies for aerosol, orphenadrine citrate, flacanide acetate, methenamine hippurate, pirbuterol acetate, and ethyl oleate (Board Order 916, 62 FR 45394, 8/27/97).

3M is now proposing to expand the scope of authority for manufacturing activity conducted under FTZ procedures at Subzone 202A to include propellant for the controlled dosage pharmaceutical aerosol inhalers used for the treatment of bronchial asthma, bronchospasm, and vascular headaches.

The propellants are trichlorofluoromethane/CFC–11 (HTSUS 2903.41.0000) and dichlorodifluoromethane/CFC–12 (HTSUS 2903.42.0000), both having a 3.7% duty rate.

Zone procedures would exempt the facility from Customs duty payments on the foreign components used in export activity. On its domestic sales, the company would be able to elect the duty rate that applies to finished products (duty-free) for the foreign components noted above. The application indicates that the savings from FTZ procedures will help improve 3M's international competitiveness.

The production, importation, exportation and sale of these propellants for exempted uses is regulated by the U.S. Environmental Protection Agency (EPA) (60 FR 24970, 5/10/95). 3M has been granted annual essential use allowances for these propellants by the EPA. Zone procedures would not exempt 3M from any EPA requirements and they would not affect EPA's ability to regulate and monitor importation, exportation and sale of these substances.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is March 29, 1999. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to April 12, 1999.

A copy of the request will be available for public inspection at the following locations:

U.S. Department of Commerce, Export Assistance Center, 350 South Figueroa Street, Suite 172, Los Angeles, California 90071

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th Street & Pennsylvania Avenue, NW, Washington, DC 20230

Dated: January 13, 1999.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–1893 Filed 1–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–810]

Oil Country Tubular Goods From Argentina; Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Rescission of Antidumping Duty Administrative Review.

SUMMARY: On September 28, 1998, the Department of Commerce (the Department) published in the **Federal Register** a notice announcing the initiation of an administrative review of the antidumping duty order on oil country tubular goods (OCTG) from Argentina (*See* Notice of Initiation, 63 FR 51893). This review covers the period August 1, 1997 through July 31, 1998. The only companies subject to review in this segment of the proceeding are Siderca S.A.I.C. and its U.S. affiliate, Siderca Corporation (collectively, Siderca). We determine that there were no consumption entries during the period of review (POR) of OCTG from Argentina produced or exported by Siderca.

We have reviewed petitioner's claim that subject merchandise was entered for consumption into the United States during the POR. We received confirmation from the U.S. Customs Service (Customs) that the merchandise entered for consumption during the POR was not manufactured by Siderca, and therefore not subject to this review. This review has therefore been rescinded as a result of our determination that there were no consumption entries during the POR of OCTG from Argentina produced or exported by Siderca.

EFFECTIVE DATE: (Insert date of publication in the **Federal Register**.)

FOR FURTHER INFORMATION CONTACT: Heather Osborne or John Kugelman, AD/CVD Enforcement Group III—Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–3019 or (202) 482–0649, respectively, or fax (202) 482–1388.

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. In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR part 351 (62 FR 27296, May 19, 1997).

Scope of the Review

Oil country tubular goods are hollow steel products of circular cross-section, including oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished (including green tubes and limited-service OCTG products). This scope does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium. The OCTG subject to this review are currently classified in the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 7304.20.20, 7304.20.40, 7304.20.50, 7304.20.60, 7304.20.80, 7304.39.00, 7304.51.50, 7304.20.70, 7304.59.60, 7304.59,80, 7304.90.70, 7305.20.40, 7305.20.60, 7305.20.80, 7305.31.40, 7305.31.60, 7305.39.10, 7305.39.50, 7305.90.10, 7305.90.50, 7306.20.20, 7306.20.30, 7306.20.40, 7306.20.60, 7306.20.80, 7306.30.50, 7306.50.50, 7306.60.70, and 7606.90.10. The HTSUS subheadings are provided for convenience and Customs purposes. The written description remains dispositive.

Background

We received a request on August 31, 1998, for an administrative review of Siderca S.A.I.C., an Argentine producer and exporter of OCTG, and Siderca Corporation, an affiliated U.S. importer and reseller of such merchandise (collectively, Siderca), from the petitioner, North Star Steel Ohio (North Star). The antidumping duty order was published in the **Federal Register** on August 11, 1995 (60 FR 41055).

SUPPLEMENTARY INFORMATION: In its original submission, dated October 14, 1998, Siderca claimed that ''it did not, directly or indirectly, enter for consumption, or sell, export, or ship for entry for consumption in the United States subject merchandise during the period of review.'' Siderca also claimed that Siderca Corporation did not import for consumption any subject merchandise during the POR.

The petitioner subsequently claimed that publicly available import data from the Department's IM–145 database contradicted Siderca's claims that no subject merchandise was entered for consumption during the POR. The

petitioner claimed that U.S. import statistics reveal that 2,658 tons of subject merchandise were imported into the U.S. during the POR and that 154 tons of Argentine OCTG were entered for consumption during the POR. The petitioner asked the Department to investigate these entries, and to require Siderca to provide detailed freight, customs, and value information for these shipments.

In its November 20, 1998 response to petitioner's allegation of consumption entries, Siderca indicated that it made no U.S. sales or consumption entries during the POR. Siderca claimed that all of its shipments to the United States were general, non-consumption entries (*e.g.*, FTZ entries), and were destined for re-export. Siderca noted that the 154 ton consumption entry cited by the petitioner is an entry of nonseamless (welded) oil well tubing classified under HTSUS item 7306.20.60.50. Because Siderca does not produce nonseamless material, the consumption entry could not possibly be a Siderca product.

On November 13, 1998, the Department requested additional information from Customs regarding the consumption entry cited by the petitioner. Customs subsequently confirmed that the entry was in fact a consumption entry, but was not merchandise produced or exported by Siderca. Customs confirmed that there were no consumption entries of Argentine OCTG produced or exported by Siderca, and that all of Siderca's shipments of OCTG to the United States during the POR were either under a temporary import bond for re-export to third countries, or through a foreign trade zone to be further processed and then re-exported, and therefore not subject to antidumping duties. (*See* Memo to the File, January 6, 1999). Based on the foregoing, there is no evidence that Siderca made any U.S. consumption entries of Argentine OCTG during the POR. The Department therefore determines that no subject merchandise produced or exported by Siderca was entered into the United States for consumption during the POR and, thus, there are no entries subject to the review.

Because Siderca was the only firm for which a review was requested and it had no U.S. entries for consumption of covered merchandise during the POR, there is no basis for continuing this administrative review. We therefore are rescinding this review in accordance with section 351.213(d)(3) of the Department's regulations. The cash deposit rate for all firms will continue to be the rate established in the most recently completed segment of this proceeding (*i.e.*, 1.36 percent).

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 351.221.

Dated: January 21, 1999.

Joseph A. Spetrini,

Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 99–1894 Filed 1–26–99; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–830]

Notice of Amended Preliminary Determination of Sales at Not Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Amended preliminary determination of antidumping duty investigation.

SUMMARY: On January 4, 1999, the Department of Commerce (''the Department'') published the preliminary determination of its antidumping duty investigation of stainless steel sheet and strip in coils (''SSSS'') from Taiwan. This investigation covers four respondents, Yieh United Steel Corporation (''YUSCO''), Tung Mung Development Co., Ltd. (''Tung Mung''), Chang Mien Industries, Co., Ltd. (''Chang Mien''), and Ta Chen Stainless Steel Pipe, Ltd. and Ta Chen International (collectively ''Ta Chen'').

YUSCO submitted a ministerial error allegation on January 5, 1999 with respect to the preliminary determination. Based on the correction of these ministerial errors made in the preliminary determination, we are amending our preliminary determination. *See* 19 CFR 351.224(e). As a result of the correction, the Department preliminarily determines that sales have not been made at less than fair value with respect to stainless steel sheet and strip in coils from Taiwan.

EFFECTIVE DATE: January 27, 1999.

FOR FURTHER INFORMATION CONTACT: Gideon Katz or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–5255 and (202) 482–3818, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all references to the Department's regulations are to the regulations set forth at 19 CFR part 351.

Significant Ministerial Errors

We are amending the preliminary determination of sales at less than fair value for SSSS from Taiwan to reflect the correction of significant ministerial errors made in the margin calculations regarding YUSCO in that determination, pursuant to 19 CFR 224(g)(1) and (2). A significant ministerial error is defined as a correction which, singly or in combination with other errors, (1) would result in a change of at least 5 absolute percentage points in, but not less than 25 percent of, the weighted average dumping margin calculated in the original (erroneous) preliminary determination; or (2) would result in a difference between a weighted-average dumping margin of zero or de minimis and a weighted-average dumping margin of greater than de minimis or vice versa. We are publishing this amendment to the preliminary determination pursuant to 19 CFR 351.224(e).

Scope of the Investigation

For purposes of this investigation, the products covered are certain 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 is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold-rolled, polished, aluminized, coated, *etc.*) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this investigation is classified in the *Harmonized Tariff Schedule of the United States* (''HTSUS'') at subheadings: 7219.13.00.30, 7219.13.00.50, 7219.13.00.70, 7219.13.00.80, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35,

7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under investigation is dispositive.

Excluded from the scope of this investigation are the following: (1) Sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled; (2) sheet and strip that is cut to length; (3) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more); (4) flat wire (*i.e.*, cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm); and (5) razor blade steel. Razor blade steel is a flat rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. *See* Chapter 72 of the HTSUS, ''Additional U.S. Note'' 1(d).

In response to comments by interested parties the Department has determined that certain specialty stainless steel products are also excluded from the scope of this investigation. These excluded products are described below:

Flapper valve steel is excluded. It is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters also is excluded from the scope of this investigation. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of between 0.002 and 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless strip also is excluded from the scope of this investigation. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as ''Arnokrome III.'' [1]

Certain electrical resistance alloy steel also is excluded from the scope of this investigation. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as ''Gilphy 36.'' [2]

Certain martensitic precipitation-hardenable stainless steel also is excluded from the scope of this investigation. This high-strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500-grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as ''Durphynox 17.'' [3]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments also are excluded from the scope of this investigation. These include stainless steel strip in coils used in the production of textile cutting tools (*e.g.*, carpet knives).[4] This steel is similar to ASTM grade 440F, but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is

[1] ''Arnokrome III'' is a trademark of the Arnold Engineering Company.

[2] ''Gilphy 36'' is a trademark of Imphy, S.A.

[3] ''Durphynox 17'' is a trademark of Imphy, S.A.

[4] This list of uses is illustrative and provided for descriptive purposes only.

sold under proprietary names such as ''GIN4 Mo.'' The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per square micron. An example of this product is ''GIN5'' steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, ''GIN6''.[5]

Period of Investigation

The period of investigation (''POI'') is April 1, 1997 through March 31, 1998.

Background

On January 4, 1999, the Department published in the **Federal Register** its notice of preliminary determination of the antidumping duty investigation of SSSS from Taiwan (*Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from Taiwan* (64 FR 101 (January 4, 1999)). We preliminarily calculated a dumping margin of 2.93 percent based on YUSCO's sales.

YUSCO

On January 5, 1999, YUSCO submitted a timely written allegation that the Department made two ministerial errors which resulted in a *de minimis* weighted average dumping margin. YUSCO alleged that the Department erred by failing to convert U.S. billing adjustments and warranty expenses reported in New Taiwan Dollars (NTD) into U.S. dollars.

We agree with YUSCO that we inadvertently failed to convert these expenses into U.S. dollars. *See Clerical Error Memorandum*, January 16, 1999. Because these ministerial errors are significant, as defined in 19 CFR 351.224(g), we are amending our preliminary determination. YUSCO's amended weighted-average margin is *de minimis*. We will instruct the U.S. Customs Service accordingly. *See* ''Suspension of Liquidation'' section, below.

Amended Preliminary Determination

As a result of our corrections of ministerial errors, we have determined that the following amended weighted-average dumping margins apply.

Manufacturer/exporter	Margin percentage
Chang Mien	.57
Tung Mung	.07
YUSCO	1.00
All Others	1.00

Suspension of Liquidation

Because the margins are *de minimis* (see 351.106), we are not directing the U.S. Customs Service to suspend liquidation of entries of stainless steel sheet and strip in coils from Taiwan.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our amended determination. If our final determinations are affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry before the later of 120 days after the date of the preliminary determination or 45 days after our final determination.

Public Comment

As stated in the Department's preliminary determination in this investigation (64 FR 101, 108), case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than February 23, 1999, and rebuttal briefs, limited to issues raised in case briefs, no later than March 1, 1999. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Tariff Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, any hearing will be held March 3, 1999 at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled time. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, no later than February 3, 1999. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief, and may make rebuttal presentations only on arguments included in that party's rebuttal brief. *See* 19 CFR 351.310(c). We intend to issue our final determination in this investigation no later than May 19, 1999.

This amended preliminary determination is issued and published in accordance with section 703(d)(2) of the Act (19 CFR 351.224).

Dated: January 19, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–1895 Filed 1–26–99; 8:45 am]

BILLING CODE 3510–DS–P

[5] ''GIN4 Mo'', ''GIN5'' and ''GIN6'' are the proprietary grades of Hitachi Metals America, Ltd.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–803]

Titanium Sponge From the Russian Federation; Rescission of Antidumping Duty Administrative Review: Correction

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Rescission of Antidumping Duty Administrative Review: Correction.

EFFECTIVE DATE: January 27, 1999.

FOR FURTHER INFORMATION CONTACT: Mark Manning or Wendy Frankel, AD/CVD Enforcement, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–3936 and 482–5849, respectively.

CORRECTION: The Department of Commerce (the Department) inadvertently referenced an incorrect period of review (POR) in *Titanium Sponge From the Russian Federation: Rescission of Antidumping Duty Administrative Review*, 63 FR 67857 (December 9, 1998). The POR for this administrative review is August 1, 1997 through July 31, 1998. However, the Department incorrectly referenced a

POR of April 1, 1997 through March 31, 1998 in the above-referenced **Federal Register** notice. Specifically, the notice reads, ''This review was requested by TMC and covers the period April 1, 1997 through March 31, 1998'' and ''On August 28, 1998, TMC requested that the Department conduct an administrative review of titanium sponge from Russia for the period April 1, 1997 through March 31, 1998.'' *See* 63 FR 67857.

Pursuant to the Department's regulations at 19 CFR 351.224(e), we correct this statement in the above-referenced notice to read as follows: ''This review was requested by TMC and covers the period August 1, 1997 through July 31, 1998'' and ''On August 28, 1998, TMC requested that the Department conduct an administrative review of titanium sponge from Russia for the period August 1, 1997 through July 31, 1998.''

Dated: January 11, 1999.

Robert S. LaRussa,

Assistant Secretary, Import Administration.

[FR Doc. 99–1897 Filed 1–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–122–834]

Postponement of Preliminary Countervailing Duty Determination: Live Cattle From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of postponement of preliminary countervailing duty determination.

SUMMARY: The Department of Commerce is extending the time limit for the preliminary determination of the countervailing duty investigation of live cattle from Canada. This extension is made pursuant to section 703(c)(1)(B) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act.

EFFECTIVE DATE: January 27, 1999.

FOR FURTHER INFORMATION CONTACT: Zak Smith, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–0189.

SUPPLEMENTAL INFORMATION: Because this case is extraordinarily complicated and additional time is necessary to make the preliminary determination, the Department of Commerce (''the Department'') is extending the time limit for completion of the preliminary determination in accordance with section 703(c) of the Tariff Act of 1930, as amended (''the Act''), to not later than May 3, 1999. *See* January 20, 1999 Memorandum from Acting Deputy Assistant Secretary for AD/CVD Enforcement Laurie Parkhill to Assistant Secretary for Import Administration Robert LaRussa on file in the public file of the Central Records Unit, B–099 of the Department.

This notice is in accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(2).

Dated: January 21, 1999.

Gary Taverman,

Acting Deputy Assistant Secretary for AD/CVD Enforcement.

[FR Doc. 99–1896 Filed 1–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 012199A]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a number of public meetings of its oversight committees and advisory panels in February, 1999 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held between February 11 and February 12, 1999. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held in Warwick, RI. See **SUPPLEMENTARY INFORMATION** for specific locations.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (781) 231–0422.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Thursday, February 11, 1999, 9:30 a.m.—Groundfish Committee Meeting

Location: Holiday Inn at the Crossings, 801 Greenwich Avenue, Warwick, RI 02886; telephone: (401) 732–6000.

Agenda: Consider and take public comment on the scope of issues that should be addressed in Amendment 13 to rebuild overfished stocks and to supplement or change elements of the fishery management plan (FMP) as may be necessary, and will identify management alternatives to be considered in the Draft Supplemental Environmental Impact Statement (DSEIS). Measures under consideration for this amendment include, but are not limited to: action to rebuild overfished stocks under new overfishing definitions; implementation of a two-tier permit system to address latent fishing effort; proposals for industry support systems involving scientific research and conservation engineering programs, including exemptions or other incentive programs for participation in scientific or gear research; modification of the annual adjustment schedule and possible change to the fishing year; and including quotas as a management tool within the FMP.

Friday, February 12, 1999, 10:00 a.m.—Gear Conflict Committee Meeting

Location: Holiday Inn at the Crossings, 801 Greenwich Avenue, Warwick, RI 02886; telephone: (401) 732–6000.

Agenda: Development of alternatives to address gear conflicts between lobster and trawl gear fishermen in the offshore canyon areas south of New England; identification of gear conflict issues to be considered during future discussions to allow scallop vessel access to the groundfish closed areas.

Although other issues not contained in this agenda may come before these groups for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice.

Special Accommodations

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

Dated: January 21, 1999.

Richard W. Surdi,

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

[FR Doc. 99–1874 Filed 1–26–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011999C]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Groundfish Stock Assessment Review (STAR) Panel for Pacific whiting will hold a work session which is open to the public.

DATES: The Pacific whiting Stock Assessment Review Panel will meet beginning at 10:00 a.m., February 17, 1999 and continue until 5:00 p.m. on February 18, 1999 or as necessary to complete business.

ADDRESSES: The Pacific whiting Stock Assessment Review Panel meeting will be held at the Best Western Pacific Inn Resort and Conference Center, Costa Rica Room, 1160 King Georges Highway, White Rock, British Columbia, Canada, V4A 4C2; telephone: (604) 535–1432.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Julie Walker, Fishery Management Analyst; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review draft stock assessment documents and any other pertinent information, work with the Stock Assessment Team to make necessary revisions, and produce a STAR Panel report for use by the Council family and other interested persons.

Although other issues not contained in this agenda may come before the Panel for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during the meeting. Action will be restricted to those issues specifically identified in this notice.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John Rhoton at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: January 21, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–1873 Filed 1–26–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 012199B]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Groundfish Management Team (GMT) will hold a public meeting in conjunction with a workshop to review new information on groundfish harvest rates.

DATES: The GMT meeting will be held on Monday, February 22, 1999 beginning at 1:00 p.m. and may go into the evening until business for the day is completed. The meeting will reconvene from 8:00 a.m. to 5:00 p.m. on Tuesday, February 23, and from 8:00 a.m. to noon on Wednesday, February 24. At 1:00 p.m. on Wednesday, February 24, the workshop on groundfish harvest policies will convene. The workshop will continue on Thursday, February 25 from 8:00 a.m. to 5:00 p.m. and on Friday, February 26, from 8:00 a.m. to noon or as necessary.

ADDRESSES: The meeting will be held at the Hatfield Marine Science Center, Meeting Room #9, 2030 S. Marine Science Drive, Newport, OR; telephone: (541) 867–0249.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Jim Glock, Groundfish Fishery Management Coordinator; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The purpose of the GMT meeting is to develop a work plan for 1999 and to prepare technical advice and reports to support Council decisions throughout the year. Specific agenda items will include: (1) appoint representatives to track assessments in the stock assessment review process; (2) prepare a work plan for 1999 GMT activities; (3) review methodology for developing inseason catch projections and potential open access trip limit adjustments; (4) evaluate data and analysis requirements related to lingcod and rockfish allocation and management; (5) review program cost estimates for an observer program; (6) review new information related to the status of the Pacific whiting stock and develop an acceptable biological catch/optimum yield recommendation; and (7) discuss the review of harvest policies.

Starting on Wednesday, February 24, 1999, the GMT and other participants at the harvest policy workshop will hear recent information regarding appropriate harvest rates for various groundfish species. Some investigations indicate current harvest policies (F_{35}% and F_{40}%) may not adequately protect stocks and may not produce the maximum sustainable yield. This workshop will primarily be a presentation of new information and analysis. A follow-up workshop will be held in March 1999, after which the GMT will prepare specific recommendations and a final report to the Council on appropriate harvest rates.

Although other issues not contained in this agenda may come before this Team for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John Rhoton at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: January 21, 1999.

Richard W. Surdi,

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

[FR Doc. 99–1875 Filed 1–26–99; 8:45 am]

BILLING CODE 3510–22–F

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission.

TIME AND DATE: 10:00 a.m., Wednesday, February 3, 1999.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

Bunk Beds

The Commission will consider options to address the hazard of children's entrapment in bunk beds.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway., Bethesda, MD 20207 (301) 504–0800.

Dated: January 25, 1999.

Sadye E. Dunn,

Secretary.

[FR Doc. 99–2065 Filed 1–25–99; 3:33 pm]

BILLING CODE 6355–01–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: Motor Vehicle Traffic Accident Report; AF Form 1315; OMB Number 0701–0133.

Type of Request: Reinstatement.

Number of Respondents: 20,000.

Responses Per Respondent: 1.

Annual Response: 20,000.

Average Burden Per Response: 15 minutes.

Annual Burden Hours: 5,000.

Needs and Uses: The information collection requirement is necessary to record information and details of traffic accidents involving damage to government vehicles or fixed government property and fatal or nonfatal personal injury. The completed form is used as a source document to record information and details of traffic accidents which may: (1) Require investigative action by commanders, security police, and other law enforcement/investigative authorities; and/or, (2) require possible criminal prosecution and civil court actions. The form also provides information to appropriate individuals and organizations within DoD and appropriate law enforcement authorities who ensure proper legal and administrative actions are taken. Failure to collect data from witnesses and complainants will: (1) Prevent the identification of offenders; (2) prevent the determination of accident cause/liability; and, (3) prevent the resolution of the accident through subsequent legal and administrative actions.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

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: January 20, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–1790 Filed 1–26–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Executive Committee Meeting of the Defense Advisory Committee on Women in the Services (DACOWITS)

AGENCY: Department of Defense, Advisory Committee on Women in the Services.

ACTION: Notice.

SUMMARY: Pursuant to Section 10(a), Public Law 92–463, as amended, notice is hereby given of a forthcoming Quarterly Executive Committee Meeting of the Defense Advisory Committee on Women in the Services (DACOWITS). The purpose of the Executive Committee Meeting is to review the responses to the recommendations and request for information adopted by the committee at the DACOWITS 1998 Fall Conference.

DATES: February 8, 1999, 9:15 a.m.–4:00 p.m.

ADDRESSES: SECDEF Conference Room 3E869, The Pentagon, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Sandy Lewis, ARNGUS, DACOWITS and Military Women Matters, OASD (Force Management Policy), 4000 Defense Pentagon, Room 3D769, Washington, DC 20301–4000; telephone (703) 697–2122.

SUPPLEMENTARY INFORMATION: Meeting agenda:

Monday, February 8, 1999

Time	*Event*
9:15–9:29 a.m	Introductions (3E869—SecDef Conf Rm, (Open to Public).
9:30–10:59 a.m	Naval Ship Berthing Briefing (Open to Public).
11:00 a.m.–14:14 p.m	Break for lunch and member Training (DACOWITS Members Only).
2:15–3:44 p.m	Subcommittee Chairs Review Conference Materials for the 1999 Spring Conference to be held 28 April–2 May at the Washington Dulles Airport Hilton Hotel, Herndon, VA (Open to Public).
3:45–4:00 p.m	Wrap Up, Review 1999 Mission, Vision & Goals and Discuss Spring Conference & Summer Overseas Trip (Open to Public).
4:15 p.m	DACOWITS members depart.

Dated: January 21, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–1789 Filed 1–26–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Amend System of Records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on February 26, 1999 unless comments are received which result in a contrary determination.

ADDRESSES: Privacy Act Officer, Records Management Program Division, Army Records Management and Declassification Agency, ATTN: TAPC-PDD-RP, Stop C55, Ft. Belvoir, VA 22060–5576.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: January 21, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0600–85 DAPE

SYSTEM NAME:

Alcohol and Drug Abuse Rehabilitation Files *(February 22, 1993, 58 FR 10002).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Primary location: Army Substance Abuse Program (ASAP) rehabilitation/ counseling facilities (e.g., Community Counseling Center/ASAP Counseling Facilities) at Army installations and activities. Official mailing addresses are published as an appendix to the Army's compilation of record system notices.

Secondary location: Army Center for Substance Abuse Program, ATTN: PEDA, Suite 320, 4501 Ford Avenue, Alexandra, VA 22302 1460.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Eligible military members, civilians employees, family members of military members and retirees who are screened and/or enrolled in the ASAP, and those federal civilians in testing designated positions.'

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Primary location: Copies of patient intake records, progress reports, psychosocial histories, counselor observations and impressions of patient's behavior and rehabilitation progress, copies of medical consultation and laboratory procedures performed, results of biochemical urinalysis for alcohol/drug abuse, Patient Intake/ Screening record-PIR (DA Form 4465-R); Patient Progress Report-PPR (DA Form 4466-R); Resource and Performance Report (DA Form 3711-R); and Specimen Custody Document-Drug Testing (DD Form 2624), and similar or related documents.

Secondary location: Copies of Patient Intake/Screening record-PIR (DA Form 4465-R); Patient Progress Report-PPR (DA Form 4466-R); Resource and Performance Report (DA Form 3711-R); and Specimen Custody Document-Drug Testing (DD Form 2624), and demographic composites thereof.'

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '10 U.S.C. 3013, Secretary of the Army; 42 U.S.C. 290dd-2; Federal Drug Free Workplace Act of 1988; Army Regulation 600-85, Army Substance Abuse Program; and E.O. 9397 (SSN).'

PURPOSE(S):

Delete entry and replace with 'To identify alcohol and drug abusers within the Army; to treat, counsel, and rehabilitate individuals who participate in the Army Substance Abuse Program; to judge the magnitude of drug and alcohol abuse in the Army.'

* * * * *

A0600–85 DAPE

SYSTEM NAME:

Alcohol and Drug Abuse Rehabilitation Files.

SYSTEM LOCATION:

Primary location: Army Substance Abuse Program (ASAP) rehabilitation/ counseling facilities (e.g., Community Counseling Center/ASAP Counseling Facilities) at Army installations and activities. Official mailing addresses are published as an appendix to the Army's compilation of record system notices.

Secondary location: Army Center for Substance Abuse Program, ATTN: PEDA, Suite 320, 4501 Ford Avenue, Alexandra, VA 22302–1460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Eligible military members, civilians employees, family members of military members and retirees who are screened and/or enrolled in the Army Substance Abuse Program (ASAP), federal civilians in testing designated positions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Primary location: Copies of patient intake records, progress reports, psychosocial histories, counselor observations and impressions of patient's behavior and rehabilitation progress, copies of medical consultation and laboratory procedures performed, results of biochemical urinalysis for alcohol/drug abuse, Patient Intake/ Screening record-PIR (DA Form 4465-R); Patient Progress Report-PPR (DA Form 4466-R); Resource and Performance Report (DA Form 3711-R); and Specimen Custody Document-Drug Testing (DD Form 2624), and similar or related documents.

Secondary location: Copies of Patient Intake/Screening record-PIR (DA Form 4465-R); Patient Progress Report-PPR (DA Form 4466-R); Resource and Performance Report (DA Form 3711-R); and Specimen Custody Document-Drug Testing (DD Form 2624), and demographic composites thereof.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; 42 U.S.C. 290dd-2; Federal Drug Free Workplace Act of 1988; Army Regulation 600-85, Army Substance Abuse Program; and E.O. 9397 (SSN).

PURPOSE(S):

To identify alcohol and drug abusers within the Army; to treat, counsel, and rehabilitate individuals who participate in the Army Substance Abuse Program; to judge the magnitude of drug and alcohol abuse in the Army.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices do not apply to this system.

The Patient Administration Division at the medical treatment facility with jurisdiction is responsible for the release of medical information to malpractice insurers in the event of malpractice litigation or prospect thereof.

Information is disclosed only to the following persons/agencies:

To health care components of the Department of Veterans Affairs furnishing health care to veterans.

To medical personnel to the extent necessary to meet a bona fide medical emergency.

To qualified personnel conducting scientific research, audits, or program evaluations, provided that a patient may not be identified in such reports, or his or her identity further disclosed by such personnel.

In response to a court order based on the showing of good cause in which the need for disclosure and the public's interest is shown to exceed the potential harm that would be incurred by the patient, the physician-patient relationship, and the Army's treatment program. Except as authorized by a court order, no record may be used to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient.

NOTE: Records of identity, diagnosis, prognosis, or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, requested, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided therein, be confidential and be disclosed only for the purposes and under circumstances expressly authorized in 42 U.S.C. 290dd–2. This statute takes precedence over the Privacy Act of 1974 to the extent that disclosure is more limited. However, access to the record by the individual to whom the record pertains is governed by the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in locked metal containers; computer database; computer magnetic discs/tapes.

RETRIEVABILITY:

By patient's surname; Social Security Number or other individually identifying characteristics.

SAFEGUARDS:

Records are maintained in storage areas in locked file cabinets where access is restricted to authorized persons having an official need-to-know.

RETENTION AND DISPOSAL:

Primary location: Records are destroyed 5 years after termination of the patient's treatment, unless the Army Medical Department Activity/Facility commander authorizes retention for an additional 6 months.

Secondary location: Manual records are retained up to 18 months or until information taken therefrom and entered into computer records is transferred to the 'history' file, whichever is sooner. Disposal of manual records is by burning or shredding. Computer records are retained permanently for historical and/or research purposes.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff for Personnel, Headquarters, Department of the Army (DAPE-HR-PR), 300 Army Pentagon, Washington, DC 20320–3000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to either the commander of the medical center/medical department activity where treatment was obtained or the Army Center for Substance Abuse Programs, 4501 Ford Avenue, Suite 320, Alexandria, VA 22302–1460. Official mailing addresses are published as an appendix to the Army's compilation of record system notices.

Individual should provide the full name, Social Security Number, date of birth, current address and telephone number, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to either the commander of the medical center/medical department activity where treatment was obtained or the Army Center for Substance Abuse Programs, 4501 Ford Avenue, Suite 320, Alexandria, VA 22302–1460. Official mailing addresses are published as an appendix to the Army's compilation of record system notices.

Individual should provide the full name, Social Security Number, date of birth, current address and telephone number, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

Denial to amend records in this system can be made only by the Deputy Chief of Staff for Personnel in coordination with The Surgeon General.

RECORD SOURCE CATEGORIES:

From the individual by interviews and history statement; abstracts or copies of pertinent medical records; abstracts from personnel records; results of tests; physicians' notes, observations of client's behavior; related notes, papers, and forms from counselor, clinical director, and/or commander.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–1788 Filed 1–26–99; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Financial and Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before February 26, 1999.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address Pat Sherrill@ed.gov, or should be faxed to 202–708–9346.

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 Leader, Information Management Group, Office of the Chief Financial and Chief Information Officer, publishes that 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.

Dated: January 21, 1999.

Kent H. Hannaman,

Leader,

Information Management Group,

Office of the Chief Financial and Chief Information Officer.

Office of Bilingual Education and Minority Languages Affairs

Type of Review: New.

Title: Application for Grants under Bilingual Education: Training for all Teachers.

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Burden:

Responses: 50.

Burden Hours: 7,080.

Abstract: The Department needs and uses this information to make grants. The respondents are local educational agencies, State educational agencies and institutions of higher education and are required to provide this information in applying for grants.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, this 30-day public comment period notice will be the only public comment notice published for this information collection.

[FR Doc. 99–1833 Filed 1–26–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA Nos.: 84.320A, 84.321A, and 84.322A]

Office of Elementary and Secondary Education; Notice Inviting Application for New Awards for Fiscal Year 1999

SUMMARY: The Secretary invites applications for new awards for fiscal year (FY) 1999 under three direct grant programs for Alaska Natives and announces deadline dates for the transmittal of application under these programs.

Date Applications Available: January 27, 1999.

Deadline for Transmittal of Applications: March 26, 1999.

Estimated Available Funds: Up to $2 million.

Note: The Secretary will hold a single competition for projects under all three programs described in this notice. These funds will be allocated among the highest-quality applications received. Applicants must submit a separate application for each program for which they apply.

Estimated Range of Awards: $50,000 to $2,000,000.

Project Period for all Programs: 36 months.

Note: The Department is not bound by any estimates in this notice. Funding estimates are for the first year of the project period only. Funding for the second and third years is subject to the availability of funds and the approval of continuation awards (*see* 34 CFR 75.253).

84.320A—Alaska Native Educational Planning, Curriculum Development, Teacher Training and Recruitment Program

Purpose of Program: To support projects that recognize and address the unique educational needs of Alaska Native students through consolidation, development, and implementation of educational plans and strategies to improve schooling for Alaska, Natives, development of curricula, and the training and recruitment of teachers. This program is authorized by section 9304 of the Elementary and Secondary Education Act.

Eligible Applicants: Alaska Native organizations or educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages, or partnerships involving Alaska Native organizations.

Program Authority: 20 U.S.C. 7934.

84.321A—Alaska Native Home-Based Education for Preschool Children.

Purpose of Program: To support home instruction programs for preschool Alaska Native children that develop parents as educators for their children and ensure the active involvement of parents in the education of their children from the earliest ages. This program is authorized by section 9305 of the Elementary and Secondary Education Act.

Eligible Applicants: Alaska Native organizations or educational entities with experience in developing or operating Alaska Native programs, or partnerships involving Alaska Native organizations.

Program Authority: 20 U.S.C. 7935.

84.322A—Alaska Native Student Enrichment Programs.

Purpose of Program: To support projects that provide enrichment programs and family support services for Alaska Native students from rural areas who are preparing to enter village high schools so that they may excel in sciences and mathematics. This program is authorized by section 9306 of the Elementary and Secondary Education Act.

Eligible Applicants: Alaska Native educational organizations or educational entities with experience in developing or operating Alaska Native programs, or partnerships including Alaska Native organizations.

Program Authority: 20 U.S.C. 7936.

Selection Criteria: The Secretary uses the selection criteria published in 34 CFR 75.209 and 75.210 to evaluate applications for the Alaska Native Educational Planning, Curriculum Development, Teacher Training and Recruitment Program: the Alaska Native Home-Based Education for Preschool Children Program; and the Alaska Native Student Enrichment Programs. The application package includes the selection criteria and the points assigned to each criterion.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 80, 81, 82, 85, and 86.

For Applications or Information Contact: Mrs. Lynn Thomas, U.S. Department of Education, 400 Maryland Avenue, SW, FOB6, Room 3C124, Mail Stop 6140, Washington, D.C. 20202. Telephone (202) 260–1541, or FAX: (202) 250–5630. Internet: Lynn__Thomas@ed.gov. 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.

Individuals with disabilities may obtain this document in an alternate

format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Individuals with disabilities may obtain a copy of the application package in an alternate format, also, by contacting that person. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the Internet at either of the following sites:

http;//ocfo.ed.gov/fedreg.hmt
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have any questions about using the pdf, call the U.S. Government Printing Office at (202) 512–1530, or, toll free at 1–888–293–6498.

Dated: January 22, 1999.

Gerald N. Tirozzi,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 99–1866 Filed 1–26–99; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Notice of Intent To Prepare an Environmental Impact Statement for a Transuranic Waste Treatment Facility at Oak Ridge, TN

AGENCY: Department of Energy.

ACTION: Notice of Intent.

SUMMARY: The U. S. Department of Energy (DOE) intends to prepare an Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA) and its implementing regulations on the proposed construction, operation, and decontamination/decommissioning of a Transuranic (TRU) Waste Treatment Facility at Oak Ridge, Tennessee. The four types of TRU waste that would be treated at the facility are remote-handled (RH)–TRU waste sludge, low-level radioactive waste supernatant associated with the sludge, contact-handled (CH)–TRU/alpha low-level radioactive waste solids, and RH–TRU/alpha low-level radioactive waste solids. Because much of the waste displays Resource Conservation and Recovery Act (RCRA) characteristics, the proposed facility would be permitted under RCRA. All the waste DOE proposes to treat currently is stored at Oak Ridge National Laboratory (ORNL) in Oak Ridge, Tennessee. The proposed site for the treatment facility is adjacent to the Melton Valley Storage Tanks, where the waste sludge and supernatant are being stored.

DOE invites the public, organizations, and agencies to present oral or written comments concerning the scope of the EIS, including the issues the EIS should address and the alternatives it would analyze.

DATES: The public scoping period begins on the date of this publication and continues until February 26, 1999. Written comments submitted by mail should be postmarked by the closing date to ensure consideration. Comments mailed after that date will be considered to the extent practicable.

DOE will conduct public scoping meetings to assist in defining the appropriate scope of the EIS and to identify significant environmental issues to be addressed. These meetings will be held at the following time(s) and location:

February 11, 1999, American Museum of Science and Energy, 300 South Tulane Avenue, Oak Ridge, Tennessee 37830; Time: 6:30–9:30 p.m.

February 16, 1999, American Museum of Science and Energy, 300 South Tulane Avenue, Oak Ridge, Tennessee 37830; Time: 6:30–9:30 p.m.

ADDRESSES: Please direct comments or suggestions on the scope of the EIS, requests to speak at the public scoping meetings, requests for special accommodations to enable participation at scoping meetings (e.g., interpreter for the hearing-impaired), and questions concerning the project to: Gary L. Riner, U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, Tennessee 37831, telephone: (423) 241–3498, facsimile: (423) 576–5333, or e-mail rinerg@oro.doe.gov.

For general information on the DOE NEPA process, please contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585–0119, telephone: (202) 586–4600 or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Background

Research and development activities supporting national defense and energy initiatives have been performed at ORNL since its construction in eastern Tennessee in 1943, generating radioactive and hazardous waste legacies that now pose environmental concerns. Meeting the cleanup challenges associated with legacy TRU waste is a high priority for the DOE, Tennessee Department of Environment and Conservation (TDEC), and stakeholders. The TRU waste treatment project at the ORNL will be an important component of DOE cleanup efforts at the site.

TRU waste is radioactive waste that is not classified as high-level radioactive waste and that contains more than 100 nanocuries per gram of alpha-emitting transuranic (atomic numbers greater than 92) isotopes with half-lives greater than 20 years. Alpha low-level radioactive waste contains alpha-emitting transuranic isotopes with half-lives greater than 20 years at concentrations less than 100 nanocuries per gram.

The TRU waste to be treated also contains beta- and gamma-emitting isotopes in addition to alpha-emitting isotopes, which result in its classification as either CH (surface dose rate of 200 mrem/hr or less) or RH (surface dose rate of greater than 200 mrem/hr).

Solid waste at ORNL is a heterogeneous mixture consisting of paper, glass, rubber, cloth, plastic, and metal from glove boxes, fuel processing, hot cells, and reactors. Solid waste is currently packaged in metal boxes, drums and concrete overpacks, and stored in RCRA permitted facilities. Most of the solid waste containers do not meet current Department of Transportation regulations and would require repackaging prior to shipment.

Based on generator records, the solid waste has been classified as either TRU or alpha low-level radioactive waste. However, because the nature of the solid waste can only be confirmed after retrieval and characterization, solid wastes addressed in this Notice of Intent are characterized as ''TRU/alpha low-level radioactive waste'' to note the current uncertainty. The solid waste may contain RCRA characteristic metals, but generator records do not indicate the presence of any RCRA listed constituents. The supernatant, the liquid layer covering the sludge in the tanks, is considered a low-level waste but is not considered hazardous under the RCRA definitions.

Approximately 62 percent of the legacy TRU wastes are currently stored in 50 year-old tanks. The remaining 38 percent of the legacy TRU wastes are currently stored in subsurface trenches, vaults, and metal buildings.

Approximate quantities of the four primary waste streams needing

treatment are: 900 m^3 of RH–TRU sludge, located in the tanks; 1600 m^3 of low-level supernatant, located in tanks; 550 m^3 of RH–TRU waste/alpha low-level radioactive waste solids in vaults and trenches; and 1,000 m^3 of CH–TRU waste/alpha low-level radioactive waste solids in metal buildings.

Purpose and Need for Agency Action

The DOE needs to ensure the safe and efficient retrieval, processing, certification, and disposition of legacy TRU waste at ORNL. There are legal mandates for DOE to address TRU waste management needs. DOE has been directed by the TDEC and the U. S. Environmental Protection Agency (EPA) to address environmental issues including disposal of its legacy TRU waste. DOE is under a Commissioner's Order issued by the State of Tennessee (September 1995) to implement the Site Treatment Plan, under the Federal Facility Compliance Act, that mandates specific requirements for the processing and disposal of ORNL's TRU waste. The primary milestone in the Commissioner's Order is that DOE begin processing TRU sludge in order to make the first shipment to the Waste Isolation Pilot Plant (WIPP) (a DOE transuranic waste disposal facility) in New Mexico by January 2003. In addition, two Records of Decision issued in connection with the Federal Facility Agreement among EPA, TDEC, and DOE, under the Comprehensive Environmental Response, Compensation, and Liability Act, mandate that the waste from the Gunite and Associated Tanks Project (in Bethel Valley) and the Old Hydrofracture Facility Tanks Project (in Melton Valley) be processed and disposed of along with the TRU waste from the Melton Valley Storage Tanks.

Waste retrieval operations are currently underway to prepare ORNL TRU waste storage tanks for closure, and the waste removed from the Bethel Valley tanks will be consolidated in the Melton Valley Storage Tanks before processing. After processing, TRU waste must be certified for shipment to and disposal at WIPP, and any low-level radioactive waste resulting from TRU waste processing must be certified for shipment to and disposal at the DOE site(s) to be selected in a Record of Decision for the Waste Management Programmatic Environmental Impact Statement for Managing Treatment, Storage, and Disposal of Radioactive and Hazardous Waste (WM PEIS) (DOE/EIS–0200–F, May 1997). No facilities for processing TRU/alpha low level radioactive waste exist at the Oak Ridge Reservation.

Proposed Action and Alternatives

Proposed Action

Under the proposed action, a waste treatment facility for the ORNL legacy TRU waste would be constructed, operated, and decontaminated/decommissioned under a contract awarded to the Foster Wheeler Environmental Corporation. Under the contract, the action would be carried out in four phases: Phase I, Licensing and Permitting (currently in process, includes DOE's NEPA analysis and contractor design activities); Phase II, Construction and Pre-Operational Testing; Phase III, Treatment and Packaging; Phase IV, Decontamination and Decommissioning. If the current NEPA review results in the selection of an alternative other than the proposed action, Phase II (Construction and Pre-Operational Testing) of the contract would not be executed. Waste volume reduction would be a major component of the processing in order to minimize waste generation and costs and to conserve resources. After processing, the waste would be certified for disposal as either low-level radioactive, alpha low-level radioactive, or TRU waste, as discussed above.

All activities associated with the proposed action must be performed safely and in compliance with applicable Federal and state regulatory requirements. Foster Wheeler Environmental Corporation would be responsible for achieving compliance with all applicable environmental, safety and health laws and regulations, and regulatory agencies would be responsible for monitoring the Corporation's compliance. The State of Tennessee and EPA would regulate the Corporation according to permits under their purview. DOE would regulate occupational safety and health and nuclear safety according to specific environment, safety and health requirements.

DOE would lease the Melton Valley Storage Tanks, subject to notification of EPA and the State of Tennessee, and an adjacent land area totaling approximately 10 acres to Foster Wheeler Environmental Corporation for construction of the facility. The Melton Valley Storage Tanks are separate from ORNL's main plant area. The proposed treatment facility would be fenced, with controlled access to Tennessee State Highway 95.

Foster Wheeler Environmental Corporation has proposed a process of evaporating and drying the sludges and supernatant that is flexible enough to address a wide range of waste properties. The low temperature treatment would reduce waste volume, generate additional waste as a result of treatment, and meet specified waste acceptance criteria. To ensure that the waste would meet RCRA Land Disposal Restrictions (LDR) standards, additives that reduce the solubility of the RCRA metals in the waste would be added to form stable compounds. The dried stabilized sludge would pass the Toxic Characteristic Leaching Procedures and no longer exhibit a RCRA characteristic. The relatively inexpensive stabilization process could be easily performed during the overall treatment process and would result in waste that meets the LDR treatments standards and could be stored on site, if necessary, pending disposal. The supernatant would be dried for final disposal at an approved DOE low-level radioactive waste disposal site consistent with a WM PEIS Record of Decision yet to be issued for low-level radioactive waste. Segregation of the supernatant from the sludge would result in significant life-cycle cost avoidance when compared to disposal at WIPP.

The proposed action includes no treatment for the bulk of the solid waste that is not regulated under RCRA other than repackaging with some compaction to meet the 50% volume reduction required by the contract. The solid waste would be better characterized during the repackaging effort to achieve final waste form certification before disposal. RCRA characteristic items would be isolated for macroencapsulation or other processing techniques to comply with applicable RCRA LDRs. This would ensure that alpha low-level radioactive waste would meet non-RCRA low-level waste disposal requirements and comply with RCRA LDRs if interim storage is required on site.

Alternatives

DOE will consider alternatives to the proposed action, such as shipment of TRU wastes to other DOE sites for processing, alternative technologies for sludge waste, and no action. Under a shipment alternative, DOE would ship CH-TRU/alpha low-level and RH–TRU/alpha low-level radioactive waste solids to other DOE site(s) for processing. Most of the solid waste containers do not meet current Department of Transportation regulations and would require repackaging prior to shipment. After processing, the waste would be certified for disposal as either low-level radioactive, alpha low-level radioactive, or TRU waste and transported to appropriate disposal facilities. Under a treatment alternative, DOE would process RH–TRU sludge waste and the

low-level radioactive waste supernatant associated with the sludge by using vitrification or grouting technology. This alternative would include no treatment for the bulk of the solid waste that is not regulated under RCRA other than repackaging with some compaction. The solid waste would be better characterized during the repackaging effort to achieve final waste form certification before disposal. RCRA characteristic items would be isolated for macroencapsulation or other processing techniques to comply with applicable RCRA LDRs. This would ensure that alpha low-level radioactive waste would meet non-RCRA low-level waste disposal requirements and comply with RCRA LDRs if interim storage is required on site.

As required by the Council on Environmental Quality's (CEQ's) Regulations for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1508), a no action alternative will be evaluated. Under this alternative, DOE would continue to store the TRU waste in tanks, subsurface trenches, vaults, and metal buildings, as discussed in the Background section, above.

Preliminary Environmental Analysis

DOE incorporated environmental information very early in the project planning. Prior to selection of the contractor, DOE held two public meetings with stakeholders, had ongoing discussions with regulators, prepared a characterization report for the site of the proposed action, and sponsored an independent study of treatment technologies and contracting alternatives known as the Parallax study (ORNL/M–4693, Feasibility Study for Processing ORNL TRU Waste in Existing and Modified Facilities, September 15, 1995) (available in the public reading rooms listed below). Bidders were required to submit environmental data, and DOE prepared an environmental critique (under 10 CFR 1021.216) for consideration in the procurement process. A synopsis of this critique has been filed with the EPA and made available to the public.

NEPA Process

The EIS for the proposed project will be prepared according to the National Environmental Policy Act of 1969, the CEQ NEPA regulations, and DOE's NEPA Implementing Procedures (10 CFR Part 1021).

Through the NEPA process begun with this Notice of Intent, DOE will continue to analyze environmental impacts and evaluate alternative actions while Phase I of the awarded contract is underway. The EIS for the proposed TRU waste treatment will incorporate pertinent analyses performed as part of the DOE's WIPP Disposal Phase Supplemental Environmental Impact Statement (DOE/EIS–0026–S–2, September, 1997) and the WM PEIS. Processing the ORNL TRU waste in Oak Ridge is consistent with the Records of Decision issued for management of the transuranic waste for the aforementioned Environmental Impact Statements (63 FR 3624 and 3629, respectively, January 23, 1998). The disposal of low-level radioactive waste included in this contract will be consistent with the WM PEIS ROD for low-level waste that is yet to be issued.

The contract allows DOE and Foster Wheeler Environmental Corporation to identify during Phase I other potential waste streams for processing at this facility. Any such waste streams would be considered in this EIS and subject to further NEPA review, as appropriate.

Preliminary Identification of EIS Issues

DOE intends to address the following issues when assessing the potential environmental impacts of the alternatives in this EIS. DOE invites comment on these and any other issues that should be addressed in the EIS.

—Potential effects on air, soil, and water quality from normal operations and reasonably foreseeable accidents.

—Potential effects on the public, including minority and low-income populations, and workers from exposure to radiological and hazardous materials from normal operations and reasonably foreseeable accidents.

—Compliance with applicable Federal, state, and local requirements and agreements.

—Pollution prevention, waste minimization, and energy and water use reduction technologies to eliminate or reduce use of energy, water, and hazardous substances and to minimize environmental impacts.

—Potential socioeconomic impacts, including potential impacts associated with the workforce needed for operations.

—Potential cumulative environmental impacts of past, present, and reasonably foreseeable future operations, including impacts from using the proposed facility for potential waste streams other than those currently being proposed.

—Potential irreversible and irretrievable commitment or resources.

Related NEPA Reviews

Final Waste Management Programmatic Environmental Impact Statement for Managing Treatment, Storage, and Disposal of Radioactive and Hazardous Waste (DOE/EIS–0200–F, May 1997); Waste Isolation Pilot Plant Disposal Phase Supplemental Environmental Impact Statement (DOE/EIS–0026–S–2, September 1997); and Advanced Mixed Waste Treatment Project at the Idaho National Engineering and Environmental Laboratory Environmental Impact Statement (DOE/EIS–0290–F, to be issued January 1999).

Scoping Meetings

The purpose of this NOI is to encourage early public involvement in the EIS process and to solicit public comments on the proposed scope of the EIS, including the issues and alternatives it would analyze. DOE plans to hold public scoping meetings in Oak Ridge to solicit both oral and written comments from interested parties. See **DATES** and **ADDRESSES**, above, for the times and locations of these meetings.

DOE will designate a presiding officer for the scoping meetings. The scoping meetings will not be conducted as evidentiary hearings, and there will be no questioning of the commentors.

However, DOE personnel may ask for clarification of statements to ensure that they fully understand the comments and suggestions. The presiding officer will establish the order of speakers. At the opening of each meeting, the presiding officer will announce any additional procedures necessary for the conduct of the meetings. If necessary to ensure that all persons wishing to make a presentation are given the opportunity, a five-minute limit may be applied for each speaker, except for public officials and representatives of groups who would be allotted ten minutes each. Comment cards will also be available for those who would prefer to submit written comments.

DOE will make transcripts of the scoping meetings and other environmental and project-related materials available for public review in the following reading rooms:

U.S. Department of Energy, Freedom of Information Public Reading Room, Forrestal Building, Room 1 E–190, 1000 Independence Avenue, SW, Washington, DC 20585, Telephone: (202) 586–3142

U.S. Department of Energy, Oak Ridge Operations Office, 200 Administration Road, Room G–217, Oak Ridge, Tennessee 37831, Telephone: (423) 241–4780.

EIS Schedule

The draft EIS is scheduled to be published by August 1999. A 45-day comment period on the draft EIS is planned, and public hearings to receive comments will be held approximately one month after issuance. Availability of the draft EIS, the dates of the public comment period, and information about the public hearings will be announced in the **Federal Register** and in the local news media.

The final EIS, which will incorporate public comments received on the draft EIS, is scheduled for January 2000. A Record of Decision would be issued no sooner than 30 days after a notice of availability of the final EIS is published in the **Federal Register**.

Signed in Washington, DC, this 21st day of January 1999.

Peter N. Brush,

Principal Deputy Assistant Secretary Environment, Safety and Health.

[FR Doc. 99–1856 Filed 1–26–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–156–000]

Columbia Gas Transmission Corporation; Notice of Request Under Blanket Authorization

January 21, 1999.

Take notice that on January 14, 1999, Columbia Gas Transmission Corporation (Columbia), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030–1046, filed in Docket No. CP99–156–000 a request pursuant to Sections 157.205 and 157.216, of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon approximately 0.05 miles of 4- and 8-inch pipeline and a point of delivery under Columbia's blanket certificate issued in Docket No. CP83–76–000 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.

Columbia requests authorization to abandon approximately 0.05 miles of 4- and 8-inch pipeline and a point of delivery to Columbia Gas of Pennsylvania, Inc. (CPA), all located in Elk County, Pennsylvania. Columbia states that the pipeline will be abandoned in place and all above ground facilities will be removed. CPA states that it no longer requires service from this point of delivery.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 99–1819 Filed 1–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–155–00]

Columbia Gas Transmission Corporation; Notice of Application

January 21, 1999.

Take notice that on January 13, 1999, Columbia Gas Transmission Corporation (Columbia), filed in Docket No. CP99–155–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon natural gas service currently provided by Columbia to Orange and Rockland Utilities, Inc. (O&R) and UGI Corporation (UGI) under its Rate Schedule X–124, and to abandon the operation of two segments of pipeline owned by O&R and UGI, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, Columbia proposes to abandon: (i) the transportation service currently provided under its Rate Schedule X–124 and, (ii) the certificate authority to operate the facilities located in Steuben and Allegany Counties, New York, that were constructed to provide the service proposed to be abandoned. Columbia states that its Rate Schedule X–124 provided for firm transportation service by Columbia to O&R for 4,600 Dth/d and to UGI Utilities, Inc., the successor in interest to UGI, for 22,400 Dth/d. Columbia states that the service, facilities and Columbia's authorization to lease and operate the facilities were approved by the Commission on June 28, 1984 in Docket No. CP83–478. Columbia also states that as it does not own the subject facilities, no facilities will be physically abandoned or removed by Columbia as a result of the proposed abandonment.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 11, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Columbia to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 99–1820 Filed 1–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IS87–36–002]

Endicott Pipeline Company; Notice Approving First Amendment Settlement

January 21, 1999.

Take notice that on January 12, 1999, pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207, the State of Alaska (State) and Endicott Pipeline Company (EPC) filed a petition, asking the Commission to approve the ''First Amendment to Settlement Agreement Between State of Alaska and Endicott Pipeline Company'' (First Amendment). The petitioners state that the First Amendment amends the ''Endicott Settlement Agreement,'' which established the method for calculating rates for the Endicott Pipeline, and was approved in *Endicott Pipeline Co.,* 63 FERC ¶61,076 (1993).

The petitioners further state that the changes the First Amendment makes to the Endicott Settlement Agreement are required because of the recent connection to the Endicott Pipeline by the Badami Oil Pipeline. The Endicott Settlement Agreement did not provide a method for allocating costs among deliveries originating at different receipt points in case of such a connection. The First Amendment adopts a barrel-mile allocation methodology, which the petitioners state is consistent with the cost allocation method the Commission has approved for use by the Trans Alaska Pipeline System.

The State and EPC indicate that they have served the foregoing Petition to amend the Endicott Settlement Agreement upon all subscribers to Endicott Pipeline Company's tariffs.

Initial comments on the filing are due on or before February 1, 1999, and any reply comments are due on or before February 11, 1999.

David P. Boergers,

Secretary.

[FR Doc. 99–1821 Filed 1–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–148–001]

Garden Banks Gas Pipeline, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

January 21, 1999.

Take notice that on January 15, 1999, Garden Banks Gas Pipeline, LLC (GBGP) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, tariff sheets listed in Appendix A to the filing, proposed to become effective December 10, 1998.

GBGP states that the purpose of this filing is to correctly reflect the authorized changes on GBGP's Original Volume No. 1, FERC Gas Tariff that were approved in Docket Nos. RP99–148–000 and RP99–5–001 dated December 7, 1998 and December 10, 1998 respectively.

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 Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 99–1816 Filed 1–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–143–001]

Nautilus Pipeline Co., L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

January 21, 1999.

Take notice that on January 15, 1999, Nautilus Pipeline Company, L.L.C. (Nautilus) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, tariff sheets listed in Appendix A to the filing, proposed to become effective December 12, 1998.

Nautilus states that the purpose of this filing is to correctly reflect the authorized changes on Nautilus' Original Volume No. 1, FERC Gas Tariff that were approved in Docket Nos. RP99–143–000 and RP99–4–001 dated December 7, 1998 and December 10, 1998 respectively.

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 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.

David P. Boergers,

Secretary.

[FR Doc. 99–1815 Filed 1–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–148–000]

Northern Border Pipeline Company; Notice of Request Under Blanket Authorization

January 21, 1999.

Take notice that on January 12, 1999, Northern Border Pipeline Company (Northern Border), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP99–148–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to construct and operate certain interconnect facilities as a new delivery point to The Peoples Gas Light and Coke Company (Peoples). Northern Border makes such request under its blanket certificate issued in Docket No. CP84–420–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission.

Specifically, Northern Border requests authorization to construct and operate a 16-inch tee and valve to serve as a delivery point to Peoples in Will County, Illinois. It is indicated that the facility will be known as the Elwood delivery point. The estimated cost of Northern Border's proposed facilities is $95,000—and it is stated that Northern Border will be reimbursed for all costs

incurred for constructing the proposed delivery point.

It is stated that the natural gas volumes to be delivered at the proposed delivery point are volumes which will be transported by Northern Border. Northern Border states its intent to deliver up to 240,000 Mcf on a peak day and an estimated 11 Bcf annually to Peoples. It is averred that the natural gas volumes received from Northern Border will be used for electrical generation, by an electric generation facility presently being built by Elwood Energy, LLC (Elwood Energy)—and that Elwood Energy will need natural gas volumes at the plant by approximately April 1, 1999.

Northern Border further states that the proposal is not prohibited by its existing tariff, and Northern Border asserts that it has sufficient capacity in its system to accomplish delivery of gas to the proposed delivery point without detriment or disadvantage to any of its other customers.

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 therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 99–1817 Filed 1–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–154–000]

Southern Natural Gas Company; Notice of Request Under Blanket Authorization

January 21, 1999.

Take notice that on January 13, 1999, Southern Natural Gas Company (Southern), AmSouth-Sonat Tower, 1900 Fifth Avenue, North, Birmingham, Alabama 35203, filed in Docket No. CP99–154–000, a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to install and operate a delivery tap, offshore Louisiana, under Southern's blanket certificate issued in Docket No. CP82–406–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Southern proposes to install and operate a delivery tap in order to deliver gas to Chevron USA Inc. (Chevron) for use as gas lift gas on its offshore production platform in Main Pass Block 133A, offshore Louisiana. Chevron plans to construct and install a 2-inch meter station on Chevron's existing Main Pass Block 133A Platform at or near Lambert Grid Coordinates X=2,861,490.381 and Y=276,276.751, Main Pass Block 133A, offshore Louisiana. Southern estimates that the cost of installing the meter station is approximately $40,000 for which Chevron will pay the actual cost of installing.

Southern states that it will transport gas to Chevron pursuant to a service agreement between Southern and Chevron, or its designated agent, under Southern's Rate Schedule IT. Southern further states that Chevron anticipates receiving on average 1,200 Mcf of natural gas per day at the proposed facilities. Southern states that the operation of the proposed facilities will have no significant effect on its peak day or annual requirements. Southern states that this proposal will be without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426, 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 therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 99–1818 Filed 1–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. EG99–60–000, et al.]

AES Jennison, L.L.C., et al. Electric Rate and Corporate Regulation Filings

January 19, 1999.

Take notice that the following filings have been made with the Commission:

1. AES Jennison, L.L.C.

[Docket No. EG99–60–000]

Take notice that on January 14, 1999, AES Jennison, L.L.C. (AES Jennison), c/o Henry Aszklar, 1001 North 19th Street, Arlington, Virginia 22209, filed with the Federal Energy Regulatory Commission, an Application for Determination of Exempt Wholesale Generator Status pursuant to Part 365 of the Commission's regulations.

AES Jennison is a Delaware limited liability company. AES Jennison intends to operate and maintain, under an operation and maintenance agreement, the generating station currently known as the Jennison Station, Route 7, Bainbridge, New York 13733, which is comprised of two steam turbine units (Units 1 and 2) with a maximum aggregate generating capacity of approximately 71 MW. Electricity generated by the facility will be sold at wholesale by the owner of the facility to one or more power marketers, utilities, cooperatives, or other wholesalers.

Comment date: February 5, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Duke Power Co. and PanEnergy Corp.

[Docket No. EC97–13–000]

Take notice that on January 12 1999, Duke Energy Corporation (Duke Energy) tendered for filing a letter notifying the Commission of the means by which control over the jurisdictional assets of Duke/Louis Dreyfus, L.L.C. (D/LD) will be transferred to Duke Energy Trading and Marketing L.L.C. (DETM). The Commission approved the transfer of such control in its May 28, 1997 Order Approving Merger in this proceeding.

Duke Power Co., 79 FERC ¶ 61,236. Duke Energy states that control will be transferred by an assignment of D/LD's jurisdictional assets to DETM.

Comment date: February 11, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. AES Hickling, L.L.C.

[Docket No. EG99–61–000]

Take notice that on January 14, 1999, AES Hickling, L.L.C. (AES Hickling), c/o Henry Aszklar, 1001 North 19th Street, Arlington, Virginia 22209, filed with the Federal Energy Regulatory Commission, an Application for Determination of Exempt Wholesale Generator Status pursuant to Part 365 of the Commission's regulations.

AES Hickling is a Delaware limited liability company. AES Hickling intends to operate and maintain, under an operation and maintenance agreement, the generating station currently known as the Hickling Station, 11884 Hickling Station, Corning, New York 14830, which is comprised of two steam turbine units (Units 1 and 2) with a maximum aggregate generating capacity of 85 MW. Electricity generated by the facility will be sold at wholesale by the owner of the facility to one or more power marketers, utilities, cooperatives, or other wholesalers.

Comment date: February 5, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Central Maine Power Company v. FPL Energy Maine, Inc.

[Docket No. EL99–28–000]

Take notice that on January 13, 1999, Central Maine Power Company filed pursuant to Section 207(a)(2) of the Federal Power Act a petition for declaratory order and request for expedited order on scope of prior commission orders issued October 29, 1998.

Comment date: February 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Duquesne Light Company

[Docket No. ER98–4159–001]

Take notice that on January 14, 1999, Duquesne Light Company tendered for filing a revised Code of Conduct as an amended compliance filing to the Code of Conduct filed in compliance with the Commission's October 2, 1998, Order in Docket No. ER98–4159–000.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Wisconsin Public Service Corporation

[Docket No. ER99–1257–000]

Take notice that on January 13, 1999, the Wisconsin Public Service Corporation (WPSC), tendered for filing Supplement No. 2, to its partial requirements service agreement with Washington Island Electric Cooperative (WIEC), Door County, Wisconsin. Supplement No. 2, provides WIEC's contract demand nominations for January 1999—December 2002, under WPSC's W–2A partial requirements tariff and WIEC's applicable service agreement.

The company states that copies of this filing have been served upon WIEC and to the State Commissions where WPSC serves at retail.

Comment date: February 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Arizona Public Service Company

[Docket No. ER99–1258–000]

Take notice that on January 13, 1999, Arizona Public Service Company (APS), tendered for filing a Service Agreement under APS' FERC Electric Tariff, Original Volume No. 3, for service to the Northern Wasco County Pud (Wasco).

A copy of this filing has been served on the Arizona Corporation Commission and Wasco.

Comment date: February 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Ameren Services Company

[Docket No. ER99–1259–000]

Take notice that on January 13, 1999, Ameren Services Company (Ameren), tendered for filing Service Agreements for Market Based Rate Power Sales between Ameren and Allegheny Power and Soyland Power Cooperative, Inc. Ameren asserts that the purpose of the Agreements is to permit Ameren to make sales of capacity and energy at market based rates to the parties pursuant to Ameren's Market Based Rate Power Sales Tariff filed in Docket No. ER98–3285–000.

Comment date: February 3, 1999, in accordance with StandardParagraph E at the end of this notice.

9. Northern States Power Company (Minnesota Company)

[Docket No. ER99–1260–000]

Take notice that on January 13, 1999, Northern States Power Company (Minnesota) (NSP), tendered for filing an Interconnection Study Agreement dated October 21, 1998, between NSP and Lakefield Junction LLC (Lakefield).

NSP requests the Agreement be accepted for filing effective January 8, 1999 and requests waiver of the Commission's notice requirements in order for the termination notice to be accepted for filing on the date requested.

Comment date: February 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Energy East South Glens Falls, LLC

[Docket No. ER99–1261–000]

Take notice that on January 13, 1999, Energy East South Glen Falls, LLC (Glens Falls), tendered for filing with the Federal Energy Regulatory Commission and Glen Falls' Electric Power Sales Tariff, FERC Electric Rate Schedule No. 1, which permits Glen Falls to make wholesale power sales at market-based rates.

Glens Falls requests an effective date of January 14, 1999.

Notice of said filing has been served upon the New York State Public Service Commission.

Comment date: February 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. California Power Exchange Corporation

[Docket No. ER99–1262–000]

Take notice that on January 13, 1999, the California Power Exchange Corporation (PX), provided notice of a temporary, experimental deviation from the Hour-Ahead timeline contained in the PX's FERC-authorized tariff in order to test the efficiency benefits of a ''Day-Of Market'' timeline for a three-month period commencing January 17, 1999.

The PX states that it has served copies of its filing on the PX Participants and on the California Public Utilities Commission. The filing also has been posted on the PX website at http://www.calpx.com.

Comment date: February 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Portland General Electric Company

[Docket No. ER99–1263–000]

Take notice that on January 13, 1999, Portland General Electric Company (PGE), tendered for filing PGE FERC Electric Tariff, First Revised Volume No. 11 (Tariff), to revise its Market-Based Rates Tariff, Portland General Electric Company, FERC Electric Tariff, Original Volume No. 11.

PGE requests that the revised Tariff become effective on February 12, 1999.

A copy of this filing was served upon the Oregon Public Utility Commission.

Comment date: February 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Wisconsin Electric Power Company

[Docket No. ER99–1264–000]

Take notice that on January 13, 1999, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a revised interconnection agreement between itself and the City of Marquette, Michigan Board of Light and Power (Board) under Wisconsin Electric's FERC Rate Schedule No. 63. The submittal is filed to recognize the revised point of interconnection occasioned by the Board's purchase of 69 kV and related facilities from Upper Peninsula Power Company.

Wisconsin Electric respectfully requests an effective date of January 1, 1999, in order to allow economic coordination transactions to continue between the parties. Consequently, Wisconsin Electric requests waiver of the notice provisions of the Commission Regulations. Wisconsin Electric is authorized to state that the Board joins in the requested effective date.

Copies of the filing have been served on the Board, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: February 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Ameren Services Company

[Docket No. ER99–1266–000]

Take notice that on January 14, 1999, Ameren Services Company (Ameren Services), tendered for filing a Network Operating Agreement and a Service Agreement for Network Integration Transmission Service between Ameren Services and the City of Perry, Missouri (the City). Ameren Services asserts that the purpose of the Agreement is to permit Ameren Services to provide transmission service to the City pursuant to Ameren's Open Access Tariff.

Ameren Services requests that the Network Service Agreement and Network Operating Agreement filed herewith be allowed to become effective as of January 1, 1999.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Ameren Services Company

[Docket No. ER99–1267–000]

Take notice that on January 14, 1999, Ameren Services Company (ASC) as Agent for Union Electric Company (UE), tendered for filing a Service Agreement for Market Based Rate Power Sales between UE and the City of Perry (the City), Missouri. ASC asserts that the purpose of the Agreement is to permit ASC to make sales of capacity and energy at market based rates to the City pursuant to ASC's Market Based Rate Power Sales Tariff filed in Docket No. ER98–3285–000.

ASC requests that as directed in the Commission's Order No. 888, the Service Agreement be allowed to become effective as of January 1, 1999.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Central Illinois Light Company

[Docket No. ER99–1268–000]

Take notice that on January 14, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission an amendment of its Open Access Transmission Tariff to explicitly incorporate the transmission loading relief (TLR) procedures developed by the Northern American Electric Reliability Council (NERC) approved by the Commission in Docket No. EL98–52–000.

CILCO requested an effective date one day after its filing, and therefore respectfully requested waiver of the Commission's notice requirements.

Copies of the filing were served on the affected customers and the Illinois Commerce Commission.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Wisconsin Public Service Corporation

[Docket No. ER99–1269–000]

Take notice that on January 14, 1999, Wisconsin Public Service Corporation (WPSC), tendered for filing revisions to WPSC's W–2A and W–3, Partial Requirements Tariffs limiting future service under these tariffs to service agreements in effect as of January 14, 1999. WPSC also requests authorization to limit increases in firm service pursuant to these existing service agreements.

WPSC requests that the Commission make these revisions effective on January 14, 1999.

WPSC states that copies of this submittal have been served on the date of filing on all customers served under the W–2A and W–3, Tariffs and on the Michigan Public Service Commission and the Public Service Commission of Wisconsin.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. MidAmerican Energy Company

[Docket No. ER99–1270–000]

Take notice that on January 14, 1999, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50309, tendered for filing a Firm Transmission Service Agreement with Alliant Services Company/ Wisconsin Power and Light (Alliant), dated December 21, 1998, and entered into pursuant to MidAmerican's Open Access Transmission Tariff.

MidAmerican requests an effective date of January 1, 1999, for the Agreement and, accordingly seeks a waiver of the Commission's notice requirement.

MidAmerican has served a copy of the filing on Alliant, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. The United Illuminating Company

[Docket No. ER99–1271–000]

Take notice that on January 14, 1999, The United Illuminating Company (UI), tendered for filing changes to the rate set forth in UI's Open Access Transmission Tariff, FERC Electric Tariff, Original Volume No. 4, as amended. The changes reflect a decrease in UI's rate of return and corresponding decrease in UI's rate for transmission service.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Tampa Electric Company

[Docket No. ER99–1272–000]

Take notice that on January 14, 1999, Tampa Electric Company (Tampa Electric), tendered for filing an amendment to its contract with The Energy Authority, Inc. (TEA), for the purchase and sale of power and energy.

Tampa Electric proposes an effective date of March 15, 1999, for the contract amendment, and therefore requests waiver of the Commission's notice requirement.

Copies of the filing have been served on TEA and the Florida Public Service Commission.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. Tampa Electric Company

[Docket No. ER99–1273–000]

Take notice that on January 14, 1999, Tampa Electric Company (Tampa Electric), tendered for filing an amendment to its contract with Sonat

Power Marketing L.P. (Sonat), for the purchase and sale of power and energy.

Tampa Electric proposes an effective date of March 15, 1999, for the contract amendment, and therefore requests waiver of the Commission's notice requirement.

Copies of the filing have been served on Sonat and the Florida Public Service Commission.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Tampa Electric Company

[Docket No. ER99–1274–000]

Take notice that on January 14, 1999, Tampa Electric Company (Tampa Electric), tendered for filing an amendment to its contract with LG&E Energy Marketing Inc. (LG&E Energy), for the purchase and sale of power and energy.

Tampa Electric proposes an effective date of March 15, 1999, for the contract amendment, and therefore requests waiver of the Commission's notice requirement.

Copies of the filing have been served on LG&E Energy and the Florida Public Service Commission.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Dayton Power and Light Company

[Docket No. ER99–1275–000]

Take notice that on January 14, 1999, Dayton Power and Light Company (Dayton), tendered for filing service agreements establishing with Ameren Services Company as customers under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements.

Copies of this filing were served upon with Ameren Services Company and the Public Utilities Commission of Ohio.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. Dayton Power and Light Company

[Docket No. ER99–1276–000]

Take notice that on January 14, 1999, Dayton Power and Light Company (Dayton), tendered for filing service agreements establishing Ameren Services Company as customers under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Ameren Services Company and the Public Utilities Commission of Ohio.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. Dayton Power and Light Company

[Docket No. ER99–1277–000]

Take notice that on January 14, 1999, Dayton Power and Light Company (Dayton), tendered for filing service agreements establishing TransAlta Energy Marketing (U.S.) Inc., as a customer under the terms of Dayton's Market-Based Sales Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements.

Copies of this filing were served upon TransAlta Energy Marketing (U.S.) Inc., and the Public Utilities Commission of Ohio.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. Pacific Gas and Electric Company

[Docket No. ER99–1278–000]

Take notice that on January 14, 1999, Pacific Gas and Electric Company (PG&E), tendered for filing a true-up to rates pursuant to Contract No. 14–06–200–2948A, PG&E Rate Schedule FERC No. 79 (Contract 2948A), between PG&E and the Western Area Power Administration (Western).

Pursuant to Contract 2948A and the PG&E-Western Letter Agreement dated February 7, 1992, electric energy sales are made initially at rates based on estimated costs and are then trued-up at rates based on recorded costs after the necessary data become available. The proposed rate change establishes recorded cost-based rates for true-up of energy sales from Energy Account No. 2, made during 1997, at rates based on estimated costs.

Copies of this filing have been served upon Western and the California Public Utilities Commission.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

27. Niagara Mohawk Power Corporation

[Docket No. ER99–1279–000]

Take notice that on January 14, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between Niagara Mohawk and Select Energy, Inc. This Transmission Service Agreement specifies that Select Energy, Inc., has signed on to and has agreed to the terms and conditions of Niagara Mohawk's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow Niagara Mohawk and Select Energy, Inc., to enter into separately scheduled transactions under which Niagara Mohawk will provide transmission service for Select Energy, Inc., as the parties may mutually agree.

Niagara Mohawk requests an effective date of January 8, 1999. Niagara Mohawk has requested waiver of the notice requirements for good cause shown.

Niagara Mohawk has served copies of the filing upon the New York State Public Service Commission and Select Energy, Inc.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

28. Duquesne Light Company

[Docket No. ER99–1280–000]

Take notice that on January 14, 1999, Duquesne Light Company tendered for filing proposed changes to Duquesne's Open Access Transmission Tariff (OATT) and for an order accepting its proposed changes.

Duquesne has requested an effective date of January 1, 1999.

A copy of this filing was served on the Pennsylvania Public Utilities Commission and customers presently taking service under Duquesne's OATT.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

29. Cinergy Services, Inc. Vastar Power Marketing, Inc.

[Docket No. ER99–1281–000]

Take notice that on January 14, 1999, Cinergy Services, Inc. (Cinergy) and Vastar Power Marketing, Inc. (Vastar), now a predecessor company of Southern Company Energy Marketing L.P., are requesting cancellations of Cinergy's Interchange Agreement Rate Schedule No. 52, and Vastar's Interchange Agreement Rate Schedule No. 2.

Cinergy and Vastar requests an effective date of one (1) day after this filing of the Notice of Cancellations and Narrative Statement.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

30. Northeast Utilities Service Company

[Docket No. ER99–1282–000]

Take notice that on January 14, 1999, Northeast Utilities Service Company (NUSCO), on behalf of The Connecticut Light and Power Company and Public Service Company of New Hampshire, tendered for filing pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Commission's Regulations, a rate schedule change for sales of electric power to Rowley Municipal Light Plant.

NUSCO states that a copy of this filing has been mailed to Rowley Municipal Light Plant and the Massachusetts Department of Public Utilities.

NUSCO requests that the rate schedule change become effective on February 1, 1999.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

31. Northeast Utilities Service Company

[Docket No. ER99–1283–000]

Take notice that on January 14, 1999, Northeast Utilities Service Company (NUSCO), tendered for filing a Service Agreement with New Hampshire Electric Cooperative, Inc. (NHEC), under the NU System Companies' System Power Sales/Exchange Tariff No. 6 and a Letter Agreement for specific service under the Tariff.

NUSCO states that a copy of this filing has been mailed to NHEC.

NUSCO requests that the Service Agreement and the Letter Agreement become effective January 15, 1999.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

32. Maine Public Service Company

[Docket No. ER99–1284–000]

Take notice that on January 14, 1999, Maine Public Service Company tendered for filing Amendments to Agreements for full requirements wholesale power with both Van Buren Light and Power Company, and with Eastern Maine Electric Cooperative. These Amendments correct a date for service.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

33. Boston Edison Company

[Docket No. ER99–1285–000]

Take notice that on January 14, 1999, Boston Edison Company (Boston Edison), tendered for filing a facilities agreement between Boston Edison and New England Power Company in support of NEP's plan to add an emergency alternative 115 kV line to serve load in the City of Quincy, Massachusetts.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

34. Dayton Power and Light Company

[Docket No. ER99–1286–000]

Take notice that on January 14, 1999, Dayton Power and Light Company (Dayton), tendered for filing an amendment to its Open Access Transmission Tariff to incorporate the transmission loading relief procedures developed by the North American Reliability Council approved by the Commission in Docket No. EL98–52.

Dayton requests an effective date of one day subsequent to this filing. Accordingly, Dayton requests waiver of the Commission's notice requirements.

Copies of this filing were served on Dayton's transmission service customers and the Public Utilities Commission of Ohio.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

35. Ameren Services Company

[Docket No. ER99–1287–000]

Take notice that on January 14, 1999, Ameren Services Company (Ameren), tendered for filing an amendment to its Open Access Transmission Tariff to explicitly incorporate the transmission loading relief (TLR) procedures developed by the North American Electric Reliability Council (NERC) approved by the Commission in Docket No. EL98–52–000.

Furthermore, Ameren Services requested an effective date coincident with its filing, and thereby respectfully requested a waiver of the Commission's notice requirements.

Copies of the filing have been served on Ameren Services transmission service customers, the Missouri Public Service Commission and the Illinois Commerce Commission.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

36. Southwestern Public Service Company

[Docket No. ER99–1288–000]

Take notice that on January 14, 1999, New Century Services, Inc., on behalf of Southwestern Public Service Company (Southwestern), tendered for filing notice indicating that the joint open access transmission tariff of Cheyenne Light, Fuel and Power Company (Cheyenne), Public Service Company of Colorado (PS Colorado), and Southwestern should be considered modified by NERC's TLR Procedures Amendment (Amendment). However, the Amendment shall only apply to Southwestern as Cheyenne and PS Colorado are not in the Eastern interconnect.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

37. Atlantic City Electric Company

[Docket No. ER99–1289–000]

Take notice that on January 14, 1999, Atlantic City Electric Company submitted a quarterly report for transactions under its market-based rate sales tariff. The report is for the period July 1, 1998 through September 30, 1998.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

38. Duquesne Light Company

[Docket No. ER99–1290–000]

Take notice that on January 14, 1999, Duquesne Light Company (Duquesne), tendered for filing Notice of an amendment to its Open Access Transmission Tariff to incorporate the transmission loading relief (TLR) procedures developed by the North American Electric Reliability Council (NERC) as approved by the Commission in Docket No. EL98–52–000.

Duquesne has requested an effective date of January 14, 1999.

A copy of this filing was served on the Pennsylvania Public Utilities Commission and customers presently taking service under Duquesne's OATT.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

39. South Carolina Electric & Gas Company

[Docket No. ER99–1291–000]

Take notice that on January 14, 1999, South Carolina Electric & Gas Company, in accordance with the Commission's Order On Petition For Declaratory Order issued in this docket on December 16, 1998, 85 FERC ¶ 61,353, tendered for filing notice stating that it uses the Transmission Line Relief (TLR) procedures of the North American Electric Reliability Council (NERC) and that SCE&G's Open Access Transmission Tariff should be considered modified by NERC's TLR procedures filed in Docket No. EL98–52–000 on October 7, 1998 in red-lined form.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

40. New York State Electric & Gas Corporation

[Docket No. ER99–1292–000]

Take notice that on January 14, 1999, New York State Electric & Gas Corporation (NYSEG), tendered for filing executed Network Service and Network Operating Agreements between NYSEG and Amerada Hess Corporation. These Agreements specify that the Transmission Customer has agreed to the rates, terms and conditions of NYSEG's currently effective open access transmission tariff and other revisions to the OATT applicable to all customers who take service under its retail access program.

NYSEG requests waiver of the Commission's 60-day notice requirements and an effective date of December 18, 1998, for the Agreement.

NYSEG has served copies of the filing on the New York State Public Service Commission and the Transmission Customer.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

41. Southern Company Services, Inc.

[Docket No. ER99–1302–000]

Take notice that on January 14, 1999, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Company), tendered for filing Southern Company's notice to the Commission that Southern Company uses the Transmission Loading Relief Procedures (TLR) of the North American Electric Reliability Council (NERC) and Southern Company's Open Access Transmission Tariff (FERC Electric Tariff, Original Volume No. 5), should be considered modified to reflect the generic amendment adopted by the Commission in Docket No. EL98–52–000.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

42. Western Resources, Inc.

[Docket No. ES99–20–000]

Take notice that on December 30, 1998, Western Resources, Inc. (Western Resources) submitted an application, under Section 204 of the Federal Power Act, for authorization to issue up to 3,000,000 shares of common stock, par value $5 per share, under its 1996 Long Term Incentive and Share Award Plan.

Western Resources also requested that the issuance of the securities be exempted from compliance with the Commission's competitive bidding and negotiated placement regulations.

Comment date: February 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

43. PP&L, Inc.

[Docket No. ES99–21–000]

Take notice that on January 11, 1999, PP&L, Inc. (Applicant) filed an Application under § 204 of the Federal Power Act seeking authority to issue up to $750 million on promissory notes and other evidences of secured and unsecured indebtedness maturing in less that one year from the date of issuance.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

44. El Paso Electric Company

[Docket No. ES99–22–000]

Take notice that on January 12, 1999, El Paso Electric Company (El Paso) filed an application with the Federal Energy Regulatory Commission seeking authority pursuant to Section 204 of the Federal Power Act to enter into a replacement $100 million revolving credit facility, to issue replacement first mortgage bonds relating to the revolving credit facility, and to engage in related transactions for the purpose of refinancing of a revolving credit facility that provides up to $70 million for nuclear fuel purchases and up to $50 million (depending on the amount of borrowings outstanding for nuclear fuel purchases) for working capital needs. El Paso has asked that the Commission grant the requested authorizations no later than February 10, 1999.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

45. Coso Energy Developers (BLM Facility); Coso Finance Partners (Navy I Facility); Coso Power Developers (Navy II Facility); Salton Sea Power Generation L.P. (Salton Sea III Facility); Del Ranch, L.P.; Elmore, L.P.; Vulcan/BN Geothermal Power Co.; Power Resources, Inc.; (PRI Facility); Salton Sea Power Generation L.P.; Fish Lake Power Company (Salton Sea IV Facility); Norcon Power Partners, L.P.; Yuma Cogeneration Associates; Salton Sea Power Generation L.P.; (Salton Sea I Facility); Leathers, L.P.; Salton Sea Power Generation L.P. (Salton Sea II Facility)

[Docket Nos. QF86–590–008; QF84–327–006; QF86–591–008; QF86–1043–005; L.P.; QF86–727–007; QF86–647–006; QF85–199–006; QF86–930–006; QF95–9–003; QF89–299–005; QF90–143–004; QF87–511–006; QF88–543–004; and QF89–297–005]

On January 19, 1999, the above-named applicants, located at 302 South 36th Street, Omaha, Nebraska 68131, filed with the Federal Energy Regulatory Commission in a single document combined applications for recertification of their facilities as qualifying small power production facilities and/or qualified cogeneration facilities. No determination has been made that the submittal constitutes a complete filing.

Recertification is sought to reflect the divestiture of half of the ownership interest in the facilities held by an upstream owner and a subsequent change in status of such owner.

Comment date: February 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

46. Saranac Power Partners, L.P.

[Docket No. QF90–114–007]

On January 19, 1999, Saranac Power Partners L.P., 302 South 36th Street, Omaha, Nebraska 68131, filed with the Federal Energy Regulatory Commission an application for recertification of a facility as a qualifying cogeneration facility. No determination has been made that the submittal constitutes a complete filing.

The Commission previously certified the facility as a qualifying cogeneration facility on June 5, 1990, in Docket No. QF90–114–000 and recertified the facility in Docket Nos. QF90–114–002. The Facility was self-recertified in Docket Nos. QF90–114–003, –004 and –005. Recertification is sought to reflect the divestiture of half of the ownership interest in the facility held by an upstream owner and a subsequent change in status of such owner.

Comment date: February 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 99–1810 Filed 1–26–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–930–000, et al.]

SE Holdings, L.L.C., et al.; Electric Rate and Corporate Regulation Filings

January 20, 1999.

Take notice that the following filings have been made with the Commission:

1. SE Holdings, L.L.C.

[Docket No. ER99–930–000]

Take notice that on January 14, 1999, SE Holdings, L.L.C., of Pittsburgh, Pennsylvania, a Delaware limited liability company, tendered for filing an amendment to a market based rate schedule which was submitted in this docket on December 16, 1998. The amendment edits certain provisions to both the rate schedule and the accompanying Code of Conduct which conform these filings more closely to the Commission's requirements and regulations.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Public Service Company of New Hampshire v. New Hampshire Electric Cooperative, Inc.

[Docket No. EL95–71–002]

Take notice that on January 13, 1999, the Public Service Company of New Hampshire tendered for filing an Amendment to Refund Report in the above-captioned matter. On October 6, 1998, the Commission ordered the Public Service Company of New Hampshire (PSNH) to recalculate bills and to refund with interest certain charges it had made to the New Hampshire Electric Cooperative, Inc. and to file a refund report with the Commission (85 FERC ¶ 61,044). PSNH filed its refund report on October 26, 1998. By letter dated December 29, 1998, the Commission's Division of Rate Applications informed PSNH that its refund report was deficient and directed PSNH to file an explanation of its refund calculation.

Copies of this filing were served upon New Hampshire Electric Cooperative, Inc., Bio Energy Corporation, and the Executive Director and Secretary of the New Hampshire Public Utilities Commission.

Comment date: February 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. K N Marketing, Inc.; MidCon Power Service Corp.; Energy Atlantic, LLC; Bangor Energy Resale, Inc.

[Docket Nos. ER95–869–014; ER94–1329–019; ER98–4381–001; and ER98–459–005]

Take notice that on January 12, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the internet under Records Information Management System (RIMS) for viewing and downloading.

4. Griffin Energy Marketing, L.L.C.; AES Power, Inc.; American Energy Trading, Inc.; MIECO Inc.

[Docket Nos. ER97–4168–005; ER94–890–019; ER97–360–009; and ER98–51–004]

Take notice that on January 12, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the internet under Records Information Management System (RIMS) for viewing and downloading.

5. Western Energy Marketers, Inc.; Poco Petroleum, Inc.; Poco Petroleum, Inc.; Kaztex Energy Ventures, Inc.; DC Tie, Inc.; Murphy Oil USA, Inc.

[Docket Nos. ER98–537–001; ER97–2197–005; ER97–2198–005; ER95–295–017; ER91–435–028; and ER97–610–007]

Take notice that on January 14, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the internet under Records Information Management System (RIMS) for viewing and downloading.

6. MAC Power Marketing, L.L.C.; Salem Electric, Inc.; Prairie Winds Energy; Nicole Energy Services; Bollinger Energy Corporation; ProGas Power, Inc.; NAP Trading and Marketing, Inc.; Lambda Energy Marketing Company; Eastern Pacific Energy; Power Exchange Corporation; Energy Transfer Group, L.L.C.; Power Fuels, Inc.; Anker Power Services, Inc.; Kimball Power Company

[Docket Nos. ER98–575–003; ER98–2175–003; ER95–1234–011; ER98–2683–002; ER98–1821–002; ER95–968–007; ER95–1278–009; ER94–1672–016; ER98–1829–004; ER95–72–017; ER96–280–012; ER96–1930–010; ER97–3788–005; ER95–232–016; and ER95–232–017

Take notice that on January 11, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the internet under Records Information Management System (RIMS) for viewing and downloading.

7. PowerSource Corp.; Direct Electric Inc.; Texas-Ohio Power Marketing, Inc.; Dynegy Power Services, Inc.

[Docket Nos. ER98–3052–002; ER94–1161–018; ER94–1676–016; and ER94–1612–020]

Take notice that on January 13, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the internet under Records Information Management System (RIMS) for viewing and downloading.

8. 3E Technologies, Inc.; Symmetry Device Research, Inc.; Alliance Power Marketing, Inc.; ICC Energy Corporation; Shamrock Trading, LLC; Kamps Propane, Inc.; Con Edison Solutions, Inc.

[Docket Nos. ER98–3809–001; ER96–2524–004; ER96–1818–012; ER96–1819–009; ER98–3526–002; ER98–1148–002; and ER97–705–007]

Take notice that on January 15, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned

proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the internet under Records Information Management System (RIMS) for viewing and downloading.

9. Monmouth Energy, Inc.

[Docket No. ER99–1293–000]

Take notice that on January 14, 1999, Monmouth Energy, Inc. (Monmouth), tendered for filing a petition for waiver and blanket approvals under various regulations of the Commission and for an order accepting its proposed tariff governing negotiated market-based capacity and energy sales and an order accepting a power sales agreement. If accepted for filing, Monmouth will use the market rate tariff to sell power from its generation facility.

Monmouth has requested an effective date for the market rate tariff of January 14, 1999. Monmouth has requested an effective date of the power sales agreement of April 10, 1998.

A copy of this filing was served on the New Jersey Board of Public Utilities, the Pennsylvania Public Utilities Commission and GPU.

Comment date: February 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. West Virginia Power

[Docket No. ER99–1294–000]

Take notice that on January 15, 1999, UtiliCorp United Inc., on behalf of its West Virginia Power division provided notice to the Commission that West Virginia Power adopts the North American Electric Reliability Council Transmission Loading Relief procedures.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. PJM Interconnection, L.L.C.

[Docket No. ER99–1295–000]

Take notice that on January 15, 1999, PJM Interconnection, L.L.C. (PJM), tendered for filing amendments to the PJM Open Access Transmission Tariff (PJM Tariff) to incorporate into the PJM Tariff the PJM Regional Transmission Owners' (RTOs) zonal rates for network integration transmission service, point-to-point transmission service, and reactive supply and voltage control services established in the settlements approved by the Commission in Docket Nos. ER97–3189–001 through 008 and to revise certain PJM-wide rates based on those settlement rates.

Copies of this filing were served upon all PJM members and all state electrical regulatory commissions in the PJM control area.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Tampa Electric Company

[Docket No. ER99–1296–000]

Take notice that on January 15, 1999, Tampa Electric Company (Tampa Electric), tendered for filing a notice pursuant to the Commission's ''Order on Petition for Declaratory Order,'' issued in the above-captioned proceeding on December 16, 1998 (December 16 Order), stating that: (1) it uses the North American Electric Reliability Council's (NERC's) Transmission Loading Relief procedures; and (2) its current open access transmission tariff should be modified to reflect the generic amendment proffered by NERC and approved by the Commission in the December 16, Order.

Tampa Electric states that a copy of its notice has been served on each person identified on the official service list in this proceeding.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Commonwealth Edison Company; Commonwealth Edison Company of Indiana

[Docket No. ER99–1297–000]

Take notice that on January 15, 1999, Commonwealth Edison Company and Commonwealth Edison Company of Indiana (collective ComEd), tendered for filing in accordance with the Federal Energy Regulatory Commission's December 16, 1998, ''Order on Petition for Declaratory Order'' issued in Docket No. EL98–52–000, 85 FERC ¶ 61,353 (1998) (December 16, 1998 Order), that ComEd's Open Access Transmission Tariff shall be considered modified by adopting the North American Electric Reliability Council's Transmission Loading Relief Alternative Transmission Tariff Amendment designated by the Commission in the December 16, 1998 Order.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Duke Energy Corporation

[Docket No. ER99–1298–000]

Take notice that on January 15, 1999, Duke Energy Corporation (Duke), tendered for filing an amendment of its Open Access Transmission Tariff to explicitly incorporate the transmission loading relief (TLR), procedures developed by the North American Electric Reliability Council (NERC) approved by the Commission in Docket No. EL98–52–000.

Duke requests an effective date coincident with its filing, and therefore respectfully requests waiver of the Commission's notice requirements.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Entergy Services, Inc.

Docket No. ER99–1299–000

Take notice that on January 15, 1999, pursuant to North American Electric Reliability Council, 85 FERC ¶ 61,353 (1998) (NERC), Entergy Services, Inc., as agent and on behalf of the Entergy Operating Companies, tendered for filing notice of a generic amendment to its Open Access Transmission Tariff (OATT) reflecting the North American Electric Reliability Council (NERC) Transmission Loading Relief (TRL), procedures accepted by the Commission in NERC.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Louisville Gas and Electric Company/Kentucky Utilities Co.

[Docket No. ER99–1300–000]

Take notice that on January 15, 1999, Louisville Gas and Electric Company/ Kentucky Utilities (LG&E/KU), tendered for filing an unexecuted Service Agreement for Market Based Sales Service, Rate MBSS, between LG&E/KU and Enserch Energy Services, Inc.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Maine Public Service Company

[Docket No. ER99–1301–000]

Take notice that on January 15, 1999, Maine Public Service Company (MPS), tendered for filing notification that its open access transmission tariff should not be considered modified by NERC's TLR Alternative Transmission Tariff Amendment and that MPS is not submitting procedures to address parallel flows.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. St. Joseph Light & Power Company

[Docket No. ER99–1303–000]

Take notice that on January 15, 1999, St. Joseph Light & Power Company (SJLP), provided notice to the Commission that SJLP adopts the Mid-Continent Area Power Pool's Line Loading Relief Procedures (LLR), as amended to comply with the Commission's orders in Docket No.

ER98–3709–000. SJLP attached to its notice (i) LLR and (ii) modifications to its open access transmission tariff to incorporate LLR.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. WestPlains Energy-Kansas

Docket No. ER99–1304–000

Take notice that on January 15, 1999, UtiliCorp United Inc., on behalf of its WestPlains Energy-Kansas (WestPlains-Kansas) division provided notice to the Commission that WestPlains-Kansas (1) adopts the Mid-Continent Area Power Pool's Line Loading Relief Procedures (LLR), as amended to comply with the Commission's orders in Docket No. ER98–3709–000, for transmission overloads within the Mid-Continent Area Power Pool (MAPP), and (2) adopts the North American Electric Reliability Council Transmission Loading Relief procedures for transmission overloads outside of MAPP.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Missouri Public Service Company

[Docket No. ER99–1305–000]

Take notice that on January 15, 1999, UtiliCorp United Inc., on behalf of its Missouri Public Service Company (MPS) division provided notice to the Commission that MPS (1) adopts the Mid-Continent Area Power Pool's Line Loading Relief Procedures (LLR), as amended to comply with the Commission's orders in Docket No. ER98–3709–000, for transmission overloads within the Mid-Continent Area Power Pool (MAPP), and (2) adopts the North American Electric Reliability Council Transmission Loading Relief procedures for transmission overloads outside of MAPP.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. Otter Tail Power Company

[Docket No. ER99–1306–000]

Take notice that on January 15, 1999, Otter Tail Power Company tendered for filing notification that Otter Tail Power Company adopts the Mid-Continent Area Power Pool's Line Loading Relief Procedures (LLR), as amended to comply with the Commission's orders in Docket No. ER98–3709–000. Otter Tail Power Company attached to its notice (i) LLR and (ii) modifications to its open access transmission tariff to incorporate LLR.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Louisville Gas and Electric Co.; Kentucky Utilities Company

[Docket No. ER99–1307–000]

Take notice that on January 15, 1999, Louisville Gas and Electric Company and Kentucky Utilities Company (the Companies) tendered for filing an amendment of its Open Access Transmission Tariff (LG&E Energy Corporation, FERC Electric Tariff, Original Volume No. 1), to explicitly incorporate the transmission loading relief (TLR) procedures developed by the North American Electric Reliability Council (NERC) approved by the Commission in Docket No. EL98–52–000.

The Companies request an effective date coincident with its filing, and therefore respectfully requests waiver of the Commission's notice requirements.

Copies of the filing have been served on the Companies' transmission service customers, the Kentucky Public Service Commission and the Virginia State Corporation Commission.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Carolina Power & Light Company

[Docket No. ER99–1308–000]

Take notice that on January 15, 1999, Carolina Power & Light Company (CP&L), tendered for filing a Service Agreement for Firm Point-to-Point Transmission Service with Carolina Power & Light—Wholesale Power Department. Service to this Eligible Customer will be in accordance with the terms and conditions of Carolina Power & Light Company's Open Access Transmission Tariff.

CP&L is requesting an effective date of February 1, 1999, for this Agreement.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. Carolina Power & Light Company

[Docket No. ER99–1309–000]

Take notice that on January 15, 1999, Carolina Power & Light Company (CP&L), tendered for filing a notice to amend its Open Access Transmission Tariff to incorporate the North American Electric Reliability Council's Transmission Loading Relief procedures.

CP&L has requested waiver of the 60-day notice provision and has requested an effective date of January 15, 1999.

Copies of the filing were served on persons that have executed point-to-point or network service agreements under CP&L's Open Access Transmission Tariff, the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. Oklahoma Gas and Electric Company

[Docket No. ER99–1310–000]

Take notice that on January 15, 1999, Oklahoma Gas and Electric Company (OG&E), tendered for filing in accordance with the Commission's December 16, 1998, Order on Petition for Declaratory Order in Docket No. EL98–52–000, 85 FERC & 61,353 (1998) that OG&E's open access transmission tariff shall be considered modified by adopting the North American Reliability Council's Transmission Line-Loading Relief Alternative Transmission Tariff Amendment.

Copies of this filing have been served on each of the affected parties, the Oklahoma Corporation Commission and the Arkansas Public Service Commission.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. Minnesota Power, Inc.

[Docket No. ER99–1311–000]

Take notice that on January 15, 1999, Minnesota Power, Inc., provided notice to the Commission that Minnesota Power, Inc., adopts the Mid-Continent Area Power Pool's Line Loading Relief Procedures (LLR), as amended, to comply with the Commission's orders in Docket No. ER98–3709–000. Minnesota Power, Inc. attached to its notice (i) LLR and (ii) modifications to its open access transmission tariff to incorporate LLR.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

27. The Empire District Electric Company

[Docket No. ER99–1312–000]

Take notice that on January 15, 1999, The Empire District Electric Company tendered for filing an amendment of its Open Access Transmission Tariff to explicitly incorporate the transmission loading relief (TLR) procedures developed by the North American Electric Reliability Council (NERC) approved by the Commission in Docket No. EL98–52–000.

The Empire District Electric Company requests an effective date coincident with its filing, and therefore respectfully requests waiver of the Commission's notice requirements.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

28. Northern States Power Company (Minnesota); Northern States Power Company (Wisconsin)

[Docket No. ER99–1313–000]

Take notice that on January 15, 1999, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (jointly NSP Companies), tendered for filing notification that the NSP Companies adopt the Mid-Continent Area Power Pool (MAPP) Line Loading Relief (LLR) procedures, as amended to comply with the Commission's orders in Docket No. ER97–3709–000. The NSP Companies attached to their notice (a) a copy of the LLR procedures, as amended; and (b) proposed modifications to Sections 13.6, 14.7 and 33 of its Open Access Transmission Tariff (Tariff) to incorporate the MAPP LLR procedures. This filing is submitted in compliance with ordering paragraph (C) in the Commission's ''Order on Petition for Declaratory Order'' issued December 16, 1998 in Docket No. EL98–52–000.

The NSP Companies state they have served a copy of the filing on the utility commissions in Minnesota, Michigan, North Dakota, South Dakota and Wisconsin and on customers presently taking service under the NSP Tariff.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

29. Southern Company Services, Inc.

[Docket No. ER99–1314–000]

Take notice that on January 15, 1999, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company (MPC), and Savannah Electric and Power Company (collectively referred to as Southern Company), tendered for filing one service agreement for network integration transmission service between SCS, as agent for Southern Company, and Southern Wholesale Energy, as agent for MPC; one service agreements for firm point-to-point transmission service between SCS, as agent for Southern Company, and Columbia Power Marketing Corporation (Columbia); one service agreement for non-firm point-to-point transmission service between SCS, as agent for Southern Company, and Columbia under the Open Access Transmission Tariff of Southern Company (FERC Electric Tariff, Original Volume No. 5).

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

30. Madison Gas and Electric Company

[Docket No. ER99–1315–000]

Take notice that on January 15, 1999, Madison Gas and Electric Company (MGE), tendered for filing an amendment of its Open Access Transmission Tariff (MGE FERC Electric Tariff, Original Volume No. 1), to explicitly incorporate the transmission loading relief (TLR) procedures developed by the North American Reliability Council (NERC) approved by the Commission in Docket No. EL98–52–000.

MGE requests an effective date coincident with its filing, and therefore respectfully requests waiver of the Commission's notice requirements.

Copies of the filing have been served on MGE's transmission service customers and the Public Service Commission of Wisconsin.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 99–1811 Filed 1–26–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3131–032]

S.R. Hydropower of Brockway Mills; Notice of Availability of Revised Draft Environmental Assessment

January 21, 1999.

A revised draft environmental assessment (EA) is available for public review. The EA is for an application for surrender of license. The EA reviews alternative for surrender and decommissioning the project. The EA finds approval of the application, with staff recommendations, would not constitute a major federal action significantly affecting the quality of the human environment. The Project is located on the Williams River, Windham County, Vermont.

The EA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the EA can be viewed in the Reference and Information Center, Room 2A, of the Commission's Offices at 888 First Street, NE, Washington, DC 20426. The EA may also be viewed on the web at www.ferc.fed.us. Please call (202) 208–2222 for assistance.

Please submit any comments within 45 days from the date of this notice. Any comments, conclusions, or recommendations that draw upon studies, reports, or other working papers of substance should be supported by appropriate documentation.

Comments should be addressed to David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Please affix Project No. 3131–032 to all comments. For further information, please contact the project manager, Mr. Robert Grieve, at (202) 219–2655.

David P. Boergers,

Secretary.

[FR Doc. 99–1823 Filed 1–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment Application

January 21, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment Application.

b. *Project No:* 2916–032.

c. *Date Filed:* September 14, 1998.

d. *Applicant:* East Bay Municipal Utility District.

e. *Name of Project:* Lower Mokelumne River.

f. *Location:* Mokelumne River, Amador, Calaveras, and San Joaquin Counties, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Jon A. Myers, Manager, Water Resources Planning, East Bay Municipal Utility District, 375 Eleventh Street, Oakland, CA 94607–4240, (510) 278–1121.

i. *FERC Contact:* Mohamad Fayyad, (202) 219–2665.

j. *Comment Date:* March 1, 1999.

k. *Description of Application:* EBMUD is proposing to remove Mine Run Dam, which is located on Mine Creek on the upstream reach of the project's Camanche Reservoir. The Mine Run Dam was used to control acid mine drainage from the abandoned deep shaft copper mine (Penn Mine). The Mine Run Dam controls the flow of contaminated water from the Penn Mine.

EBMUD plans to remove the Mine Run Dam as a part of the Environmental Protection Agency's (EPA) Long Term Solution Project (Remediation Plan) for the Penn Mine Site. The Remediation Plan was mandated by EPA through a Clean Water Act section 309 order.

1. 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 specific 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, N.E., Washington, D.C. 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.

David P. Boergers,

Secretary.

[FR Doc. 99–1812 Filed 1–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment to Article 407

January 21, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Action:* Notice of Amendment to Article 407.

b. *Project No:* 6972–026.

c. *License Issued:* May 30, 1986.

d. *Licensee:* Hollow Dam Power Company.

e. *Name of Project:* Hollow Dam Project.

f. *Location:* West Branch of the Oswegatchie River in St. Lawrence County, New York.

g. *Authorization:* Paragraph B of Order amending License, issued February 27, 1990 (50 FERC ¶ 62,126).

h. *Licensee contact:* Mr. Sean Fairfield, Algonquin Power Systems, Inc., 2085 Hurontario St.—Suite 210, Mississauga, ON L5A 4G1, (905) 273–8900.

i. *FERC Contact:* Robert Grieve (202) 219–2655.

j. *Comment Date:* March 1, 1999.

k. *Description of Proceeding:* Article 407 requires the licensee provide a minimum flow of 21 cfs below the spillway by removing two stoplogs at each of three slots along the project dam and maintaining a minimum headpond elevation of 630.8 feet. The Commission's staff request of the licensee to recalibrate the minimum flow release method resulted in the licensee proposing to release the 21 cfs flow by removing the appropriate stoplogs from the three slots and maintaining a minimum headpond elevation of 630.92 feet.

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, N.E., Washington, D.C. 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.

David P. Boergers,

Secretary.

[FR Doc. 99–1813 Filed 1–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions to Intervene and Protests and Comments

January 21, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11646–000.

c. *Date filed:* December 8, 1998.

d *Applicant:* Elsinore Hydropower.

e. *Name of Project:* Elsinore Hydroelectric Project.

f. *Location:* On Lake Elsinore, Morrell Canyon Creek, and South Fork of Decker Canyon Creek, in Riverside County, California. Would Utilize U.S. Forest Service lands in the Trabuco Ranger District of the Cleveland National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C., § 791(a)–825(r).

h. *Applicant Contact:* Mr. Harold L. Mitchell, Elsinore Hydropower, 11808 Rancho Bernando Road, #123–1, San Diego, CA 92128, (619) 592–1540.

i. *FERC Contact:* Any questions on this notice should be addressed to Robert Bell, E-mail address, robert.bell@ferc.fed.us, or telephone 202–219–2806.

j. Deadline for filing motions to intervene, protests and comments: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's rules of practice and procedures require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Description of Project: The proposed pumped storage project would have two upper reservoirs (one in Morrell Canyon the other in Decker Canyon) and would use the natural Lake Elsinore as the lower reservoir. The project would consist of: (1) a proposed 550-foot-long, 75-foot-high impervious core rock fill upstream Morrell Canyon Dam; (2) a proposed 575-foot-long, 105-foot-high impervious core rock fill downstream Morrell Canyon Dam; (3) a proposed impoundment having a surface area of 41 acres, with a stream capacity of 1,700 acre-feet, and normal maximum water surface elevation of 2,845 feet msl; (4) a proposed 1,800-foot-long, 155-foot high impervious core rock filled Decker Canyon Dam; (4) a proposed impoundment having a surface area of 45 acres, with a storage capacity 1,600 acre-feet, and normal maximum water surface elevation of 2,760 feet msl; (5) the existing Lake Elsinore impoundment having a water surface elevation of 3,400 acres, with a storage capacity of 68,000 acre-feet, and a normal maximum water surface elevation 2,248 feet msl; (6) three proposed 10-foot diameter steel line penstocks with a y branch at an elevation below the two upper reservoirs; (7) a proposed powerhouse containing three generating unit with a total installed capacity of 524 MW; (8) there proposed 12-foot-diameter tailraces to Lake Elsinore; (9) a proposed 10-miles-long, 500 kV transmission line; and (10) appurtenant facilities.

The project would have an annual generation of 300,000 MWh and would be sold to a local utility.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

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.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''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, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or 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.

David P. Boergers,

Secretary.

[FR Doc. 99–1814 Filed 1–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2233]

Portland General Electric Company Smurfit Newsprint Corporation; Notice of Initial Information Meeting

January 21, 1999.

By letter dated September 1, 1998, Portland General Electric Company (PGE) of Portland, Oregon, and Smurfit Newsprint Corporation of Oregon City, Oregon, co-licensees, have asked to use an alternative procedure in filing an application for a new license for their Willamette Falls Project No. 2233.[1]

The Commission's regulations allow applicants the option of preparing their own Environmental Assessment (EA) for hydropower projects, and filing the EA with their license application as part of the alternative licensing procedure.[2] On December 10, 1998, the Commission approved the use of an alternative licensing procedure in the preparation of the Willamette Falls license application.

The alternative procedures include provisions for the distribution of an initial information package, and for the identification of special studies and environmental issues. On December 31, 1998, PGE, acting on behalf of itself and Smurfit Newsprint Corporation distributed an initial information package (IIP) to all parties who had expressed interest in the proceeding. Copies of the IIP can be obtained by contacting David Heintzman at PGE at (503) 464–8162.

Two public meetings will be held to discuss these documents. PGE will give an overview of the existing facilities and operation, discuss what is currently known about environmental resources at the project, and discuss how these resources are currently being managed. As time permits preliminary environmental issues and special studies will be discussed.

Additional notices seeking comments on the specific project proposal, public scoping, interventions and protests, and recommended terms and conditions will be issued at later dates.

PGE will hold the public meetings on February 17 and February 18, 1999. All interested individuals, organizations, and agencies representatives are invited and encouraged to attend any or all the meetings.

The February 17th meeting will be held at the Oregon City High School Cafeteria, 1306 12th Street, Oregon City, Oregon from 7 p.m. until 9 p.m.

The February 18th meeting will be held at the Two World Trade Center, Plaza Conference Room, 121 SW Salmon Street, Portland, Oregon from 9 a.m. until 3 p.m.

For further information, please contact Dave Heintzman at PGE at (503) 464–8162 or John Blair at the Commission at (202) 219–2845.

David P. Boergers,

Secretary.

[FR Doc. 99–1822 Filed 1–26–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6226–7]

Notice of Public Meetings on Drinking Water Issues

Notice is hereby given that the Environmental Protection Agency (EPA) is holding a public meeting on February 10–12, 1999 at the Park Hyatt Hotel, 24th and M Street, NW, Washington, D.C. for the purpose of information exchange with stakeholders on issues related to the health effects of microbial pathogens and disinfection byproducts (DBPs) in drinking water. The meeting will start at 8:30 AM on February 10 and will adjourn on February 12 at 4:00 PM. The meeting will provide: (1) A summary of the current literature on the health effects from DBPs and microbial pathogens; (2) a summary of ongoing and planned health effects research in support of the Stage 2 microbial pathogen and disinfection byproduct rules and when the information will be available; and (3) perspectives on characterizing the risk from DBPs and microbial pathogens.

EPA is inviting all interested members of the public to participate in the meeting. As with all previous meetings in this series, to the extent that is available, EPA is instituting an open door policy to allow any member of the public to attend any of the meetings for any length of time. Approximately 50 seats will be available for the public. Seats will be available on a first-come, first-served basis.

For additional information about the meeting, please contact Ephraim King or Mike Cox of EPA's Office of Ground Water and Drinking Water at (202) 260–7575 or by e-mail at cox.michael@epamail.epa.gov.

Dated: January 20, 1999.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 99–2026 Filed 1–26–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34151; FRL 6035–1]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on July 26, 1999.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of

[1] The project consists of an 8-foot-high dam along the crest of Willamette Falls on the Willamette River. PGE operates the 16-megawatt T.W. Sullivan powerhouse, located on the west side of the falls. Co-licensee, Smurfit Newsprint Corporation, operates a 1.5-megawatt powerhouse on the east side of the falls. The project is not located on any Federal land.

[2] 81 FERC 61,103 (1997).

Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery, telephone number and e-mail: Rm. 216, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA, provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This Notice announces receipt by the Agency of applications from registrants to delete uses in the three pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product names, active ingredients, and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before July 26, 1999, to discuss withdrawal of the applications for amendment. This 180–day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion. (Note: Registration number(s) preceded by ** indicate a 30–day comment period.)

TABLE 1 — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
008660–00050	1% Rotenone Garden Dust	Rotenone; Cube resins other than Rotenone	All Food crop uses
010350–00010	Dursban 20 MEC	Chlorpyrifos	Indoor uses on furniture, upholstery, rugs, direct application to pets, indoor/outdoor commercial use in sewer manholes
**066951–00002	Lindane Technical Powder	Lindane	Alfalfa, apples, apricots, asparagus, avocados, beans (All Types), beets, carrots, cherries, clover, cotton, cucumber, eggplant, flax, grapes, guavas, lentils, mangoes, peas (all types), pears, pecans, peppers, pineapples, plums including prunes, pumpkins, quinces, safflower, soybeans, squash, strawberries, sudangrass, sugar beets, summer squash, sunflower, tomato, tobacco, ornamental plants, lawns, beef cattle, goats, hogs, horses, mules, sheep, and military use on human skin and clothing

The following Table 2, includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2 — REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Company No.	Company Name and Address
008660	Pursell Industries, Inc., c/o H.R. McLane, Inc., 74 7210 Red Road, Suite 206, Miami, FL 33143.
010350	3M Animal Care, Attn: S. Price, 3M Center 270–2N–03, St. Paul, MN 55144.
066951	Kanoria Chemicals Industries Ltd., c/o Jellinek, Schwartz Connolly, Inc., 1525 Wilson Blvd., Suite 600, Arlington, VA 22209.

III. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: September 29, 1998.

Linda A. Travers,

Director, Information Resources Services Division, Office of Pesticide Programs.

[FR Doc. 99–1754 Filed 1–26–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66261; FRL 6045–9]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by July 26, 1999, orders will be issued canceling all of these registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery, telephone number and e-mail: Rm. 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time,

request that any of its pesticide registrations be canceled. The Act further provides that EPA must publish a notice of receipt of any such request in the **Federal Register** before acting on the request.

II. Intent to Cancel

This Notice announces receipt by the Agency of requests to cancel some 24 pesticide products registered under section 3 or 24 of FIFRA. These registrations are listed in sequence by registration number (or company number and 24 number) in the following Table 1.

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000264–00451	Asulam Technical	Methyl sulfanilylcarbamate
000577–00548	Cuprinol No. 30 Clear Wood Preservative	2-(Thiocyanomethylthio)benzothiazole
		Methylenebis(thiocyanate)
000655–00790	Prentox Larva-Lur	Dimethyl (2,2,2-trichloro-1-hydroxyethyl)phosphonate
000769–00655	SMCP Para-Blox Weather Proof Rat Bait Fish and Grain Fl	2-(Diphenylacetyl)-1,3-indandione
000769–00657	SMCP (R) 110	2-(Diphenylacetyl)-1,3-indandione, sodium salt
000769–00660	SMCP Para Blox Kills Rats Weath PRF Paraffin Rat Bait Fish	2-(Diphenylacetyl)-1,3-indandione
000769–00669	Commerical Size Para-Blox (Cereal & Molasses)	2-(Diphenylacetyl)-1,3-indandione
000769–00670	Kill Rats with Para-Blox	2-(Diphenylacetyl)-1,3-indandione
000769–00706	Pelletized Slug and Snail Bait	4-(Methylthio)-3,5-xylyl methylcarbamate
000769–00707	Crumblized Slug and Snail Bait	4-(Methylthio)-3,5-xylyl methylcarbamate
000769–00758	AFC Diphacinnone 0.1%	2-(Diphenylacetyl)-1,3-indandione
000769–00787	Di-Mix 110	2-(Diphenylacetyl)-1,3-indandione, sodium salt
010182 MO–96–0012	Starfire Herbicide	1,1'-Dimethyl-4,4'-bipyridinium dichloride
010182 MO–96–0013	Gramoxone Extra Herbicide	1,1'-Dimethyl-4,4'-bipyridinium dichloride
028293–00088	Unicorn Coumaphos Screwworm Spray	*O,O*-Diethyl *O*-(3-chloro-4-methyl-2-oxo-2*H*-1-benzopyran-7-yl) phosphorothioate
041014–00009	Marlate 400 Flowable Concentrate	Methoxychlor (2,2-bis(*p*-methoxyphenyl)-1,1,1-trichloroethane)
041014–00011	Marlate 300 Methoxychlor Flowable	Methoxychlor (2,2-bis(*p*-methoxyphenyl)-1,1,1-trichloroethane)
045385–00046	Chem-Tox Low Odor Flea Spray	*O,O*-Diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate
056228 ID–91–0018	Zinc phosphide	Zn3P2
065626–00001	Mycotrol GHOF for Rangeland and Improved Pastures	Beauveria bassiana GHA
065626–00003	Mycotrol GHOF for Repackaging Use Only	Beauveria bassiana GHA
065626–00004	Mycotrol GHES for Rangeland and Improved Pastures	Beauveria bassiana GHA
065626–00005	Mycotrol GHES for Crops	Beauveria bassiana GHA
065626–00006	Mycotrol GHES for Repackaging Only	Beauveria bassiana GHA

Unless a request is withdrawn by the registrant within 180 days of publication of this notice, orders will be issued canceling all of these registrations. *Note: Kincaid Enterprises, Inc., EPA Company Number 041014, has requested a 30–day comment period for their two products listed in this notice.* Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 180–day period. The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA Company Number.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000264	Rhone-Poulenc Ag Co., Box 12014, Research Triangle Park, NC 27709.
000577	The Sherwin-Williams Co., Cuprinol Group/The Thompson's Co., 101 Prospect Ave, Cleveland, OH 44115.
000655	Prentiss Inc., C.B., 2000 Floral Park, NY 11001.
000769	Sureco Inc., An Indirect Subsidiary of Verdant Brands, 9555 James Ave., South, Suite 200, Bloomington, MN 55431.
010182	Zeneca Ag Products, Box 15458, Wilmington, DE 19850.
028293	Unicorn Laboratories, 12385 Automobile Blvd., Clearwater, FL 33762.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company No.	Company Name and Address
041014	Kincaid Enteprises Inc., Box 549, Nitro, WV 25143.
045385	CTX Inc., 481 Scotland Rd., Mchenry, IL 60050.
056228	U.S. Department of Agriculture, Animal & Plant Health Inspection Service, 4700 River Rd., Unit 152, Riverdale, MD 20737.
065626	Mycotech Corp., Attn: Mary M. Mcmahon, Box 4109, Butte, MT 59702.

III. Loss of Active Ingredients

Unless the request for cancellation is withdrawn, one pesticide active ingredient will no longer appear in any registered products. Those who are concerned about the potential loss of this active ingredient for pesticidal use are encouraged to work directly with the registrant to explore the possibility of their withdrawing their request for cancellation. The active ingredient is listed in the following Table 3, with the EPA Company and CAS Number.

TABLE 3. — ACTIVE INGREDIENT WHICH WOULD DISAPPEAR AS A RESULT OF REGISTRANT'S REQUESTS TO CANCEL

CAS No.	Chemical Name	EPA Company No.
3337–71–1	Methyl Sulfanilylcarbamate	000264

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before July 26, 1999. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in **Federal Register** (56 FR 29362) June 26, 1991; (FRL 3846–4). Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: January 14, 1999.

Richard D. Schmitt,

Acting Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 99–1752 Filed 1–26–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66262; FRL 6051–8]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by July 26, 1999, orders will be issued cancelling all of these registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery, telephone number and e-mail address: Room 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be cancelled. The Act further provides that EPA must publish

a notice of receipt of any such request in the **Federal Register** before acting on the request.

II. Intent to Cancel

This Notice announces receipt by the Agency of requests to cancel some 33 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in the following Table 1.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000352 OK–92–0009	Du Pont Sinbar Herbicide	3-tert-Butyl-5-chloro-6-methyluracil
000352 OR–92–0003	Du Pont Sinbar Herbicide	3-tert-Butyl-5-chloro-6-methyluracil
000352 PA–90–0003	Du Pont Sinbar Terbacil Weed Killer	3-tert-Butyl-5-chloro-6-methyluracil
000352 VA–90–0004	Du Pont Sinbar Terbacil Weed Killer	3-tert-Butyl-5-chloro-6-methyluracil
000352 WA–93–0007	Du Pont Sinbar Herbicide	3-tert-Butyl-5-chloro-6-methyluracil
000432–00746	Gold Crest Vengeance Rodenticide	*N*-Methyl-2,4-dinitro-*N*-(2,4,6-tribromophenyl)-6-(trifluoromethyl)benzenamine
000769–00706	Pelletized Slug and Snail Bait	4-(Methylthio)-3,5-xylyl methylcarbamate
000769–00707	Crumblized Slug and Snail Bait	4-(Methylthio)-3,5-xylyl methylcarbamate
001812–00417	Dupont Lorox DF Herbicide	3-(3,4-Dichlorophenyl)-1-methoxy-1-methylurea
001812–00418	Dupont Karmex DF Herbicide	3-(3,4-Dichlorophenyl)-1,1-dimethylurea
002393 WA–91–0003	Hopkins Zinc Phosphide Mouse Bait for Control of Mice I	Zinc phosphide (Zn3P2)
002393 WA–91–0018	Hopkins Zinc Phosphide Mouse Bait for Control of Mice I	Zinc phosphide (Zn3P2)
003125–00123	Guthion 2S	*O,O*-Dimethyl phosphorodithioate *S*-((4-oxo-1,2,3-benzotriazin-3(4*H*)-yl)methyl)
003125–00193	Guthion 50% Wettable Powder Crop Insecticide	*O,O*-Dimethyl phosphorodithioate *S*-((4-oxo-1,2,3-benzotriazin-3(4*H*)-yl)methyl)
003125–00338	Guthion 3 Flowable Insecticide	*O,O*-Dimethyl phosphorodithioate *S*-((4-oxo-1,2,3-benzotriazin-3(4*H*)-yl)methyl)
003125–00378	Guthion 35% Wettable Powder Insecticide	*O,O*-Dimethyl phosphorodithioate *S*-((4-oxo-1,2,3-benzotriazin-3(4*H*)-yl)methyl)
003125–00379	Guthion Solupak 35% Wettable Powder In Water Soluble PA	*O,O*-Dimethyl phosphorodithioate *S*-((4-oxo-1,2,3-benzotriazin-3(4*H*)-yl)methyl)
003125–00425	Guthion Technical	*O,O*-Dimethyl phosphorodithioate *S*-((4-oxo-1,2,3-benzotriazin-3(4*H*)-yl)methyl)
003125–00426	Guthion 2L	*O,O*-Dimethyl phosphorodithioate *S*2-((4-oxo-1,2,3-benzotriazin-3(4*H*)-yl)methyl)
003125–00427	Guthion 3 Flowable Insecticide	*O,O*-Dimethyl phosphorodithioate *S*-((4-oxo-1,2,3-benzotriazin-3(4*H*)-yl)methyl)
003282–00079	D-Con Mouse Killing Station	3-(3-(4'-(Bromo-(1,1-biphenyl)-4-yl)-1,2,4,4-tetrahydro-1-naphthyl)-4-hydroxycoumarin
005887–00001	1% Rotenone Garden Dust	Rotenone
		Cube Resins other than rotenone
007173–00197	Ridall-Zinc Tracking Powder for Control of House Mice	Zinc phosphide (Zn3P2)
007401–00426	Hi-Yield 7.5% Bromacil Liquid Concentrate	5-Bromo-3-sec-butyl-6-methyluracil, lithium salt
007401–00427	Hi-Yield 2.5% Bromacil Liquid Weed Killer	5-Bromo-3-sec-butyl-6-methyluracil, lithium salt
007969–00053	Ronilan Fungicide 50W	3-(3,5-Dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione
010163–00119	Prokil Azinphos-M	*O,O*-Dimethyl phosphorodithioate *S*-((4-oxo-1,2,3-benzotriazin-3(4*H*)-yl)methyl)
010163–00148	Gowan Azinphos-M 50W	*O,O*-Dimethyl phosphorodithioate *S*-((4-oxo-1,2,3-benzotriazin-3(4*H*)-yl)methyl)
034282–00006	Rinse - Disinfectant - Sanitizer - Deodorizer	Ethanol
		Alkyl* dimethyl benzyl ammonium chloride *(50%C_{14}, 40%C_{12}, 10%C_{16})
059639–00088	Orthene Turf, Tree & Ornamental Spray WSP	*O,S*-Dimethyl acetylphosphoramidothioate
062719 TX–96–0007	Treflan E. C.	Trifluralin (α,α,α-trifluro-2,6-dinitro-*N,N*-dipropyl-p-toluidine) (Note: α = alpha)

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
062719 WI–95–0006	Treflan M. T. F.	Trifluralin (α,α,α-trifluro-2,6-dinitro-*N,N*-dipropyl-p-toluidine) (Note: α = alpha)
068329–00010	Alpha 412	Dodecylguanidine hydrochloride
		Methylenebis(thiocyanate)

Unless a request is withdrawn by the registrant within 180 days of publication of this notice, orders will be issued cancelling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 180–day period. The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA Company Number.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000352	E. I. Du Pont De Nemours & Co., Inc., Barley Mill Plaza, Walker's Mill, Wilmington, DE 19880.
000432	Agrevo Environmental Health, 95 Chestnut Ridge Rd., Montvale, NJ 07645.
000769	Sureco Inc., An Indirect Subsidiary of Verdant Brands, 9555 James Ave., South, Suite 200, Bloomington, MN 55431.
001812	Griffin L.L.C., Box 1847, Valdosta, GA 31603.
002393	HACO, Inc., Box 7190, Madison, WI 53707.
003125	Bayer Corp., Agriculture Division, 8400 Hawthorn Rd., Box 4913, Kansas City, MO 64120.
003282	Reckitt & Colman Inc., Household Products Division, Attn: EPA Regulatory Dept, 1655 Valley Rd., Wayne, NJ 07470.
005887	Sureco Inc., An Indirect Subsidiary of Verdant Brands, 9555 James Ave., South, Suite 200, Bloomington, MN 55431.
007173	Liphatech, Inc., 3101 W. Custer Ave., Milwaukee, WI 53209.
007401	Voluntary Purchasing Group Inc., Box 460, Bonham, TX 75418.
007969	BASF Corp., Agricultural Products, Box 13528, Research Triangle Park, NC 27709.
010163	Gowan Co., Box 5569, Yuma, AZ 85366.
034282	Dickler Chemical Laboratories Inc., Box 9523, Philadelphia, PA 19124.
059639	Valent U.S.A. Corp., 1333 N. California Blvd, Ste 600, Walnut Creek, CA 94596.
062719	Dow Agrosciences LLC, 9330 Zionsville Rd., 308/3E, Indianapolis, IN 46268.
068329	Unichem, A Division of BJ Services Co., U.S.A., 5500 Northwest Central Dr., Houston, TX 77092.

III. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before July 26, 1999. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

IV. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in **Federal Register** (56 FR 29362) June 26, 1991; [FRL 3846–4]. Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: January 11, 1999.

Linda A. Travers,

Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 99–1750 Filed 1–26–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34157; FRL 6051–9]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: The Agency will approve these use deletions and the deletions will become effective on or soon after the date of publication.

FOR FURTHER INFORMATION CONTACT: By mail: Dennis McNeilly, Office of Pesticide Programs (7505C), Environmental Protection Agency 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery, telephone number and e-mail: Rm. 216, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5404; mcneilly.dennis@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA, provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in two chlorpyrifos pesticide registrations listed in Table 1 below. These registrations are listed by registration number, product names, active ingredients and the specific uses deleted. Although the food use site being deleted has been a registered site for chlorpyrifos products, a tolerance has not been established for this commodity under the Federal Food, Drug, and Cosmetic Act (FFDCA). Therefore, under FIFRA section 2(bb), this uses represent an unreasonable adverse effect on the environment, as it would result in human dietary risk from residues resulting from use of a pesticide in or on food inconsistent with the standard under section 408 of FFDCA. As such, the Agency is hereby waiving the 180–day comment period normally given for the deletion of a minor use, in accordance with FIFRA section 6(f)(1)(c). The Agency has determined that, while these actions require publication for the purpose of announcement, a comment period is not warranted.

TABLE 1—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
062719–00220	Lorsban 4E	Chlorpyrifos	Use on popcorn
067760–28	Nufos 4E	Chlorpyrifos	Use on popcorn

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2—REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Company No.	Company Name and Address
062719	Dow AgroSciences Corporation, 9330 Zionsville Rd., Indianapolis, IN 46268
067760	Cheminova, Inc., Oak Hill Park, 1700 Route 23, Suite 210, Wayne, New Jersey 07470

III. Existing Stocks Provisions

The Agency has authorized the registrants to sell or distribute product under the previously approved labeling for a period of 18 months after the effective date of use deletions.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: January 14, 1999.

Richard D. Schmitt,

Acting Director, Information Resources Services Division, Office of Pesticide Programs.

[FR Doc. 99–1751 Filed 1–26–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34153A; FRL 6051–7]

Correction; Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing an amendment to a notice of receipt of request by registrant to delete uses in certain pesticide registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery, telephone number and e-mail: Rm. 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail: hollins.james@epamail.epa.gov.

Corrections to Intent to Delete Uses

This is an amendment to **Federal Register** dated December 2, 1998 (63 FR 66542) (FRL 6044–4). The EPA Registrations (041014–00009, Marlate 400 Flowable Concentrate and 041014–00011, Marlate 300 Methoxychlor Concentrate) listed in referenced **Federal Register** (FR) notice were incorrectly included in notice. The correct registrations for Kincaid Enterprises, Inc., should have been listed as follows:

EPA Reg. No.	Product Name	Active Ingredient	Delete From Label
041014–00002	Marlate 50 Methychlor Insecticide	Methychlor	Livestock dipping uses
041014–00003	Marlate Garden Insecticide 5% Dust	Methychlor	Livestock dipping uses
041014–00005	Marlate Methoxychlor Technical	Methychlor	Livestock dipping uses
041014–00012	Marlate 70% Methoxychlor Dust Base	Methychlor	Livestock dipping uses

The 30–day comment period announced in referenced FR notice for these registrations still applies.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: December 14, 1998

Linda A. Travers,

Director, Information Resources Services Division, Office of Pesticide Programs.

[FR Doc. 99–1753 Filed 1–26–99; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2313]

Petitions for Reconsideration and Application for Review of Action in Rulemaking Proceedings

January 20, 1999.

Petitions for Reconsideration and Application for Review have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, DC or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed by February 11, 1999. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.49b)(1). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations, (Sibley, Iowa and Brandon, South Dakota) (MM Docket No. 96–66, RM–8729, RM–8821).

Number of Petitions Filed: 1.

Subject: Wireless Ventures, Inc. (WT Docket No. 97–82. Emergency Request for Waiver of Automatic License Cancellation Provisions of Section 1.2110(f) of the Commission's Rules (PCS C Block Licenses for Markets 21, 164, 352 & 373).

Number of Petitions Filed: 1.

Subject: Federal-State Joint Board on Universal Service (CC Docket No. 96–45.

Number of Petitions Filed: 1.

Subject: Biennial Regulatory Review-Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services (WT Docket 98–20).

Amendment of the Amateur Service Rules to Authorize Visiting Foreign Amateur Operators to Operate Stations in the United States (WT Docket No. 96–188, RM–8677.

Number of Petitions Filed: 8.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–1799 Filed 1–26–99; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

DJR Logistics, Inc., 10 Industrial Highway, Tinicum Industrial Park, MS #29, Lester, PA 19113, Officers: Dennis J. Rowles, President; Connie L. Rowles, Secretary.

Dated: January 21, 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–1829 Filed 1–26–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Agency information collection activities: Proposed collection; comment request

AGENCY: Board of Governors of the Federal Reserve System

SUMMARY: *Background.* On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83-Is and supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Request for comment on information collection proposals.

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection,

including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected; and

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before March 29, 1999.

ADDRESSES: Comments, which should refer to the OMB control number or agency form number, should be addressed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M-P-500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.14 of the Board's Rules Regarding Availability of Information, 12 CFR 261.14(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form and instructions, the Paperwork Reduction Act Submission (OMB 83-I), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Mary M. West, Chief, Financial Reports Section (202-452-3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Diane Jenkins (202-452-3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal to approve under OMB delegated authority the extension for three years, without revision, of the following reports:

1. Report title: Notification of Foreign Branch Status

Agency form number: FR 2058
OMB control number: 7100-0069
Frequency: on occasion
Reporters: state member banks, national banks, bank holding companies, Edge and agreement corporations
Annual reporting hours: 20
Estimated average hours per response: 15 minutes
Number of respondents: 80
Small businesses are not affected.

General description of report: This information collection is mandatory (12 U.S.C. 321, 601, 602, 615, and 1844(c)) and is not given confidential treatment.

Abstract: Member banks, bank holding companies, and Edge and agreement corporations are required to notify the Federal Reserve System of the opening, closing, or relocation of an approved foreign branch. The notice requests information on the location and extent of service provided by the branch, and is filed within thirty days of the change in status. The Federal Reserve System needs the information requested on the FR 2058 form to fulfill supervisory responsibilities specified in Regulation K including the supervision of foreign branches of U.S. banking organizations.

Regulation K, ''International Banking Operations,'' sets forth the conditions under which a foreign branch may be established. For their initial establishment of foreign branches, organizations must request prior Federal Reserve approval as directed in Attachment A of the FR K-1, ''International Applications and Prior Notifications Under Subparts A and C of Regulation K'' (OMB No. 7100-0107). For subsequent branch establishments into additional foreign countries, organizations must give the Federal Reserve System forty-five days prior written notice using Attachment B of FR K-1. Organizations use the FR 2058 notification to notify the Federal Reserve when any of these branches has been opened, closed, or relocated.

2. Report title: International Applications and Prior Notifications under Subparts A and C of Regulation K

Agency form number: FR K-1
OMB control number: 7100-0107
Frequency: on occasion
Reporters: state member banks, national banks, bank holding companies, Edge and agreement corporations, and certain foreign banking organizations
Annual reporting hours: 636
Estimated average hours per response:
Attachments A - G: 10
Attachments H, I: 15
Attachment J: 20
Number of respondents: 36
Small businesses are not affected.

General description of report: This information collection is mandatory(12 U.S.C. 601-604(a), 611-631, 1843(c)(13), 1843(c)(14), and 1844(c)) and is not given confidential treatment. The applying organization has the opportunity to request confidentiality for information that it believes will qualify for a Freedom of Information Act exemption.

Abstract: The FR K-1 comprises a set of applications and notifications that govern the formation of Edge or agreement corporations and the international and foreign activities of U.S. banking organizations. The applications and notifications collect information on projected financial data, purpose, location, activities, and management. The Federal Reserve requires these applications for regulatory and supervisory purposes and to allow the Federal Reserve to fulfill its statutory obligations under the Federal Reserve Act and the Bank Holding Company Act of 1956.

Regulatory Flexibility Act Statement: The Board certifies that the extension of the above applications and notifications is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Proposal to approve under OMB delegated authority the extension for three years, with revision, of the following reports:

1. Report title: Reports Related to Public Welfare Investments of State Member Banks

Agency form number: FR H-6
OMB control number: 7100-0278
Frequency: event-generated
Reporters: state member banks
Annual reporting hours: 78
Estimated average hours per response:
Investment Notice: 2
Application: 2.75
Extension of divestiture period: 5
Number of respondents: 35
Small businesses are not affected.

General description of report: This information collection is required to obtain a benefit (12 U.S.C. 338a) and is generally not given confidential treatment. However, if the information collected contains an examination rating (or other supervisory information), that information would be exempt from disclosure (5 U.S.C. 552(b)(4)).

Abstract: The FR H-6 comprises of an investment notice, application for Board approval of an investment, and request for extension of the divestiture period of an investment. The state member banks may make certain public welfare investments without prior Board approval, they need only notify the Federal Reserve. Certain other public welfare investments require prior approval and the request must be

submitted to the Board. If an investment ceases to conform to certain requirements the state member bank must divest itself of the investment. In some cases the bank must submit a request for extension of the divestiture period. The proposed revisions for the FR H-6 would conform the information collection with the recently revised Regulation H. The Board is eliminating the requirement that, to avoid applying for Board approval, the investment must be smaller than 2 percent of capital and surplus. This should result in fewer applications and more notices of investments not requiring Board approval. Additionally, a requirement has been added to the application for Board approval: if the bank is not permitted to make the investment without Board approval, the institution must explain the reason(s) why the investment is ineligible.

Regulatory Flexibility Act Analysis: Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 605(b)) the Federal Reserve hereby certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

2. Report title: Application for Prior Approval to Become a Bank Holding Company, or for a Bank Holding Company to Acquire an Additional Bank or Bank Holding Company

Agency form number: FR Y-3
OMB control number: 7100-0121
Frequency: Event-generated
Reporters: Corporations seeking to become bank holding companies, or bank holding companies and state chartered banks that are members of the Federal Reserve System
Annual reporting hours: 30,443
Estimated average hours per response:
Section 3(a)(1): 49 hours,
Section 3(a)(3) and 3(a)(5): 59.5 hours
Number of respondents:
Pursuant to Section 3(a)(1): 274,
Pursuant to Section 3(a)(3) and 3(a)(5): 286
Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. §§ 1842(a)(1), (a)(3), and (a)(5) and 12 U.S.C. § 1844(c)). Individual respondent data are available to the public except any portions which have been granted confidential treatment at the applicant—s request (5 U.S.C.552 (b)(4) and (b)(8)).

Abstract: This application collects information concerning proposed bank holding company formations, acquisitions, and mergers between banks and bank holding companies for review by the Federal Reserve. The application collects financial and managerial information and data on competitive and public convenience factors.

Current Actions: Tier 3 capital would be included in the information requested for question 4.d of the FR Y-3 due to changes in the international risk-based capital standards. Information on debt servicing would be added to the FR Y-3 to conform the report with revisions to sections 225.24 and 225.17 of Regulation Y.

Clarifications are proposed to the ''Competition and Convenience and Needs'' section of the application to remove certain outdated references. Question 11 of this section would be clarified and question 12 of this section would be revised to conform with proposed changes to the Interagency Bank Merger Act Application (FR 2070; OMB No. 7100-0171). In addition, clarifications would be made to the publication requirements for this application.

3. Report title: Application for Prior Approval to Engage Directly or Indirectly in Certain Nonbanking Activities

Agency form number: FR Y-4
OMB control number: 7100-0121
Frequency: Event-generated
Reporters: Bank holding companies
Annual reporting hours: 4,147
Estimated average hours per response:
Post-consummation: 0.50 hours;
Expedited notification: 5 hours;
Complete notification: 12 hours.
Number of respondents:
Post-consummation: 29;
Expedited notification: 92;
Complete notification: 306.
Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. § 1843 and 1844 (c)). Individual respondent data are available to the public except any portions granted confidential treatment at the applicant—s request (5 U.S.C. § 552(b)(4) and (8)).

Abstract: This form is completed by a bank holding company seeking prior approval (1) to acquire or retain the assets or shares of a nonbank company or (2) to engage *de novo* in nonbank activities. Most applications require information on the proposed transaction, information on competition and public benefits, and financial and managerial information. For applications to engage *de novo* in nonbank activities permissible under Regulation Y, less detailed information is required.

Current Actions: The Federal Reserve proposes to revise the FR Y-4 to reflect changes to Regulation Y that provide for two separate streamlined procedures for certain nonbanking proposals that are intended to reduce significantly regulatory burden and to improve the ability of well-run bank holding companies to respond quickly to changes in the market place. The FR Y-4 would become a notification form instead of an application.

4. Report title: Annual Report of Foreign Banking Organizations; Foreign Banking Organization Structure Report on U.S. Banking and Nonbanking Activities; Foreign Banking Organization Confidential Report of Operations

Agency form number: FR Y-7; FR Y-7A; FR 2068
OMB control number: 7100-0125
Frequency: Annual
Reporters: foreign banking organizations
Annual reporting hours: 5,150 hours
Estimated average hours per response: 15.75
Number of respondents: 327
Small businesses are not affected.

General description of report: These information collections are mandatory (12 U.S.C. §§1844(c), 3106, and 3108(a)). Upon request from a respondent certain information in the FR Y-7 and FR Y-7A may be given confidential treatment pursuant to the Freedom of Information Act (5 U.S.C. §§ 552(b)(4) and (6)). The FR 2068 is a confidential report of operations that is exempted from public disclosure pursuant to the Freedom of Information Act (5 U.S.C. § 552(b)(8) and 12 CFR § 261.11(h).

Abstract: The FR Y-7, FR Y-7A, and FR 2068 are annual reports completed by foreign banking organizations that engage in banking in the United States, either indirectly through a subsidiary bank, Edge or agreement corporation, or commercial lending company, or directly through a branch or agency. The FR Y-7 collects financial, managerial, and organizational information on the foreign banking organization. The FR 2068 collects confidential financial and organizational information, which is not collected in the FR Y-7. A foreign banking organization is currently exempt from filing the FR 2068 if it meets certain criteria related to the size and type of its U.S. banking operations. The FR Y-7A collects structural information on the foreign banking organization and its subsidiaries. All of the reports are filed as of the end of the reporter's fiscal year. The information contained in these reports is used by the Federal Reserve System to assess the foreign banking organization's ability to be a continuing source of strength to its U.S. banking operations and to determine compliance with U.S. laws and regulations.

Current Actions: The Federal Reserve proposes to reduce regulatory reporting burden for foreign banking organizations (FBOs) by eliminating the FR 2068 and by reducing and clarifying the amount of information to be reported on the FR Y-7 and FR Y-7A. Most of the information collected in the FR 2068 is now publicly available. The publicly available portion of two of the items currently reported on the FR 2068 would be added to the FR Y-7: (1) financial statements of unconsolidated majority-owned related subsidiaries, and (2) financial data on unconsolidated minority-owned related companies. The most significant changes on the FR Y-7 are the elimination of the information requested on directors and officers, the simplification of the information requested for the organization chart, and the addition of two items currently reported on the FR 2068 as mentioned above The most significant changes on the FR Y-7A are the simplification of the information requested on securities held through debts previously contracted and on Legal Authority, and the addition of four new items.

Proposal to approve under OMB delegated authority the implementation of the following report:

1. Report title: Notice for Prior Approval to Become a Bank Holding Company, or for a Bank Holding Company to Acquire an Additional Bank or Bank Holding Company

Agency form number: FR Y-3N

OMB control number: 7100-0121

Frequency: Event-generated

Reporters: Corporations seeking to become bank holding companies, or bank holding companies and state chartered banks that are members of the Federal Reserve System

Annual reporting hours: 945

Estimated average hours per response: 5 hours

Number of respondents: 189

Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. § 1844(c)). Individual respondent data are available to the public except any portions which have been granted confidential treatment at the applicant's request (5 U.S.C. 552 (b)(4) and (b)(8)).

Abstract: The Federal Reserve is proposing to implement the FR Y-3N due to Regulation Y revisions that provide for streamlined processes for reviewing applications and notifications from respondents meeting certain qualifying criteria. The FR Y-3N requests substantially less information than the current FR Y-3 for respondents that meet the qualifying criteria.

Current Actions: The proposed FR Y-3N reporting form would be used for: (1) notifications filed using the abbreviated notice procedures for certain BHC formations, as described in section 225.17 of Regulation Y; (2) notifications filed to acquire shares, assets, or control of a bank, or a merger or consolidation between BHCs, filed under the streamlined procedures described in section 225.14 of Regulation Y, and (3) notifications filed to acquire a nonbank insured depository institution that require approval under section 4 of the BHC Act, if the BHC and the proposal would meet all of the criteria for expedited action under section 225.14 if the nonbank insured depository institution were a bank.

Proposal to approve under OMB delegated authority the discontinuance of the following reports:

1. Report title: Notification Pursuant to Section 211.23(h) of Regulation K on Acquisitions by Foreign Banking Organizations

Agency form number: FR 4002

OMB control number: 7100-0110

Frequency: Event-generated

Reporters: foreign banking organizations

Annual reporting hours: 80

Estimated average hours per response: 0.50

Number of respondents: 160

Small businesses are not affected.

General description of report: This information collection is mandatory (12 U.S.C. §§ 1844(c), 3106, and 3108(a)). Upon request from a respondent certain information in the FR 4002 may be given confidential treatment pursuant to the Freedom of Information Act (5 U.S.C. §§ 552(b)(4) and (6)).

Abstract: The FR 4002 is an event-generated information collection that foreign banking organizations are required to submit, in a letter to the appropriate Federal Reserve Bank. The information is due within thirty days of the end of a quarter during which the foreign banking organization acquires shares of companies that engage, directly or indirectly, in business in the United States, or during which a foreign subsidiary of the FBO commences direct activities in the United States. The letter should include a brief description of the nature and scope of each company's U.S. business(es), including the four-digit Standard Industrial Classification (SIC) code(s) of the U.S. activities of the company and of its direct parent, and a statement of total assets and total revenue of the direct parent. The foreign banking organization is not required to report information whose collection would cause the FBO to incur ''unreasonable effort or expense,'' or information that is otherwise ''unknown and not reasonably available.''

Current Actions: In December 1997, the Board proposed changes to Regulation K to require the information reported in the FR 4002 annually instead of quarterly (62 FR 68424). If the Board implements these proposed changes, the information collected on the FR 4002 will be reflected annually in the FR Y-7 and FR Y-7A, eliminating the need for this separate information collection. However, the final rulemaking has not been published. This proposal seeks approval to discontinue the FR 4002 upon publication of a final rulemaking permitting annual reporting of the information.

Board of Governors of the Federal Reserve System, January 21, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–1838 Filed 1–26–99; 8:45AM]

Billing Code 6210–01–F

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 99-1492) published on page 3518 of the issue for Friday, January 22, 1999.

Under the Federal Reserve Bank of Kansas City heading, the entry for Bert D. Backard, Independence, Kansas, is revised to read as follows:

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Bert D. Blackard, Independence, Kansas; to acquire voting shares of First Howard Bankshares, Inc., Cherryvale, Kansas, and thereby indirectly acquire voting shares of First National Bank of Howard, Howard, Kansas, First Security Bankshares, Inc., Topeka, Kansas, I and B, Inc., Cherryvale, Kansas, and Peoples State Bank, Cherryvale, Kansas.

Comments on this application must be received by February 8, 1999.

Board of Governors of the Federal Reserve System, January 22, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–1884 Filed 1–26–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company

Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 22, 1999.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Bay Port Financial Corporation, Bay Port, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Bay Port State Bank, Bay Port, Michigan.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. MemphisFirst Corporation, Memphis, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of MemphisFirst Community Bank, Memphis, Tennessee, in organization.

Board of Governors of the Federal Reserve System, January 22, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–1883 Filed 1–26–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 11, 1999.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Wachovia Corporation, Winston-Salem, North Carolina; to acquire Interstate/Johnson Lane, Inc., Charlotte, North Carolina, and thereby engage in underwriting and dealing in municipal revenue bonds (including certain unrated and private ownership municipal revenue bonds), 1-4 family mortgage-related securities, consumer receivable-related securities, and commercial paper, *see Citicorp*, 73 Fed. Res. Bull. 473 (1987), and underwriting and dealing in all types of debt and equity securities, *see J.P. Morgan & Co., Inc., The Chase Manhattan Corp., Bankers Trust New York Corp., Citicorp, and Security Pacific Corp.*, 75 Fed. Res. Bull. 192 (1989); in extending credit and providing services related to credit, pursuant to §§ 225.28(b)(1) and (2) of Regulation Y; in providing leasing services, pursuant to § 225.28(b)(3) of Regulation Y; in performing trust company functions, pursuant to § 225.28(b)(5) of Regulation Y; in providing financial and investment advisory services, pursuant to §§ 225.28(b)(6)(i)-(vi) of Regulation Y; in providing securities brokerage, riskless principal, private placement, and other agency transactional services, pursuant to §§ 225.28(b)(7)(i)-(iv) of Regulation Y; in underwriting and dealing in government obligations and money market instruments that state member banks may underwrite and deal, pursuant to § 225.28(b)(8)(i) of Regulation Y; in investing and trading activities, pursuant to § 225.28(b)(8)(ii) of Regulation Y; and in providing management consulting advice, pursuant to § 225.28(b)(9)(i) of Regulation Y.

In connection with the proposed transaction, Wachovia Corporation also has applied to acquire an option to purchase up to 19.9 percent of the outstanding shares of Interstate/Johnson Lane, Inc.

B. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Community Trust Financial Services Corporation, Hiram, Georgia; to acquire First Family Financial Services of Georgia, Inc., Atlanta, Georgia, and thereby engage in making, acquiring, brokering, or servicing loans or other extension of credit, pursuant to § 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, January 22, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–1885 Filed 1–26–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act; Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 12:00 noon, Monday, February 1, 1999.

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. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: January 22, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–1915 Filed 1–22–99; 4:20 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has made a final finding of scientific misconduct in the following case:

Samar N. Roy, Ph.D., New York Blood Center: Based on a report forwarded to the Office of Research Integrity (ORI) by the New York Blood Center (NYBC) on February 26, 1998, and information obtained by ORI during its oversight review, ORI found that Dr. Roy, former assistant member, Laboratory of Membrane Biochemistry, NYBC, engaged in scientific misconduct in biomedical research supported in part by a National Heart, Lung, and Blood Institute (NHLBI), National Institutes of Health (NIH), grant.

Specifically, Dr. Roy intentionally falsified the claim reported in S.N. Roy, B. Kudryk, and C.M. Redman, J. Biol. Chem. 270:23761–23767 (1995) (the ''JBC 270 paper'') that he had obtained the expression of wild type and mutant fibrinogen in yeast cells. Dr. Roy falsified the claim by ''spiking'' various samples with fibrinogen obtained from mammalian sources that were submitted to other laboratories for analysis. Also, Dr. Roy intentionally falsified the data reported in Figure 2A of the JBC 270 paper by using a different exposure of the same autoradiogram that he later used in the first six lanes of Figure 2 reported in S. Roy, A. Sun, and C. Redman, J. Biol. Chem. 271:24544–24550 (1996) (the ''JBC 271 paper''). The falsified autoradiogram in Figure 2A of the JBC 270 paper was described differently, though correctly, in Figure 2 of the JBC 271 paper. The JBC 270 paper has been retracted.

Dr. Roy has accepted the ORI finding and has entered into a Voluntary Exclusion Agreement with ORI in which he has voluntarily agreed, for the three (3) year period beginning January 7, 1999:

(1) To exclude himself from any contracting or subcontracting with any agency of the United States Government and from eligibility for, or involvement in nonprocurement transactions (e.g., grants and cooperative agreements) of the United States Government as defined in 45 CFR Part 76 (Debarment Regulations); and

(2) To exclude himself from serving in any advisory capacity to the Public Health Service (PHS), including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant.

FOR FURTHER INFORMATION CONTACT: Acting Director, Division of Research Investigations, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852 (301) 443–5330

Chris B. Pascal,

Acting Director, Office of Research Integrity.

[FR Doc. 99–1798 Filed 1–26–99; 8:45 am]

BILLING CODE 4160–17–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for HIV, STD and TB Prevention Division of HIV and AIDS Prevention

Name: Consultation Meeting on HIV Prevention in Disproportionately Affected Communities.

Time and Dates: 4 p.m.–6 p.m., February 1, 1999; 9 a.m.–5 p.m., February 2, 1999.

Place: Atlanta Sheraton Buckhead, 3405 Lenox Rd, Atlanta, Georgia 30326. Telephone 404/261–9250.

Status: Attendees will include invited participants from affected communities around the nation and is open to the public, limited only by space available. The meeting room will accommodate approximately 70 people.

Purpose: Attendees will be charged with reviewing major concepts and strategies that pertain to the Centers for Disease Control and Prevention (CDC), Division of HIV and AIDS Prevention's pending funding announcements for communities of color. The funding announcements are in response to the eighteen million dollars appropriated to the CDC by Congress in response to the Congressional Black Caucus.

Matters to be Discussed: Agenda items include discussion of directly funding community based organizations; national, regional and minority organizations; faith communities; and community development and coalition building.

Contact Person for More Information: Carrie Salone, National Center for HIV, STD and TB Prevention, Division of HIV and AIDS Prevention, 1600 Clifton Rd., NE, m/s E–58, Atlanta, Georgia 30333. Telephone 404/639–5244, e-mail *CAJ2@cdc.gov*

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and ATSDR.

Dated: January 20, 1999.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 99–1836 Filed 1–26–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Savannah River Site Phase II Environmental Dose Reconstruction Project (Source Term): Public Meetings

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) and the Risk Assessment Corporation (RAC) announce the following public meetings.

Name: Savannah River Site (SRS) Phase II Environmental Dose Reconstruction Project (Source Term): Public Meetings.

Dates: The meeting dates are:

1. Thursday, February 4, 1999, 7 p.m.–9 p.m.

2. Tuesday, February 9, 1999, 7 p.m.–9 p.m.

3. Wednesday, February 10, 1999, 7 p.m.–9 p.m.

Addresses: The meeting locations are:

1. Hilton Savannah DeSoto, 15 East Liberty Street, Savannah, Georgia 32412–8207. Telephone 912/232–9000.

2. Holiday Inn Express, 155 Colony Parkway, Aiken, South Carolina 29803. Telephone 803/648–0999.

3. Holiday Inn Coliseum, 630 Assembly Street, Columbia, South Carolina 29201. Telephone 803/799–7800.

Status: Open to the public, limited only by the space available. The meeting rooms accommodate approximately 50 people.

Background: Under a Memorandum of Understanding (MOU) signed in December 1990 with the Department of Energy (DOE), replaced by an MOU signed in 1996, the Department of Health and Human Services (HHS) was given the responsibility and resources for conducting analytic

epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production use. HHS has delegated program responsibility to CDC.

In addition, an MOU was signed in October 1990 and renewed in November 1992 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

Purpose: The SRS Dose Reconstruction Project supports research that evaluates past releases of radioactive materials and chemicals from the SRS to the surrounding environment. The CDC and RAC are conducting a study of the SRS to determine whether past nuclear materials production caused offsite health effects. Phase I of that study involved the most comprehensive review of records ever undertaken at any of the U.S. Weapons facilities. Phase II of the study, to be completed in August of 1999, uses that information to estimate past releases of radionuclides and chemicals from the SRS. The research team has also analyzed the offsite environmental measurements of these materials performed since the early 1950's. Phase II of the project is nearing completion, with the release of a draft, 1400-page report for technical peer review in February of 1999.

This series of public meetings will present the study's draft results, and will provide an opportunity for individuals to comment on the research and to provide additional information concerning past SRS operations.

Public input and the promise to provide clear and easily obtained sources of public information are important parts of this study, from start to finish. Newsletters have been published regularly to provide updates on the progress of the research. Fact sheets highlighting specific research topics have been released throughout the work as well.

Contact Person for More Information: Paul G. Renard, Project Officer, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Buford Highway, NE, M/S F–35, Atlanta, Georgia 30341–3724. Telephone 770/488–7040, fax 770/488–7044.

The Director, Management Analysis and Services Office has been delegated the authority to sign Federal Register notices pertaining to announcements of meetings and other committee management activities, for both CDC and ATSDR.

Dated: January 20, 1999.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 99–1837 Filed 1–26–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Project:

Title: Family Preservation and Family Support (FP/FS) Services Implementation Study—State Level Data Collection

OMB No.: 0970–0137

Description: The Omnibus Budget Reconciliation Act of 1993 (OBRA 93) established title IV–B, subpart 2 of the Social Security Act (42 U.S.C. 62–628) to provide funds to states for the development of family preservation and family support programs and services. Subpart 2, Section 435 of OBRA 93 requires the Secretary of HHS to evaluate the effectiveness of programs carried out under the legislation. The Adoption and Safe Families Act of 1997, P.L. 105–89, reauthorizes the family preservation and family support programs and services and amended Section 431 [42 U.S.C. 639a] to add two new services: Time-Limited Family Reunification Services and Adoption Promotion and Support Services.

In this second phase of data collection, the five data collection instruments, which were used during the previous phase (1996–1999) will be used with minor changes to reflect the language and amendments of the 1997 reauthorization of the program. Each instrument is geared toward obtaining information from individuals/agencies who will have a slightly different perspective on the context, planning, and implementation of the FP/FS legislation. The data collection instruments will seek information on the programs and services funded, the goals of the planning process, populations targeted, reform efforts initiated, the relationship between family preservation, family support and child welfare, staffing and training, and information systems. Data collection on states planning and implementation experiences will be accomplished through semi-structured interviews with state officials and other key stakeholders who are knowledgeable about child welfare.

Both qualitative and quantitative analyses will be completed to highlight the process states employ to implement the legislation coordinate with other funding sources, develop new systems, and improve service delivery systems. Data analyses also will focus on the impact of legislative changes on the state implementation of the program and comparisons of state implementation before and after the legislative reauthorization. Information obtained from data analyses will provide feedback to ACF in the determination of future policy guidance and the scope and nature of technical assistance to be provided to states. The information will also provide direct feedback to states concerning successful implementation strategies.

Respondents: State, Local or Tribal government and Not-for-Profit Institutions.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Traditional Child Welfare Staff	40	1	.54	21.60
Program Coordinator	10	1	1.00	10.00
Stakeholders	80	1	1.00	80.00
Family Preservation Staff	10	1	.75	7.50
Family Support Staff	10	1	1.00	10.00

Estimated Total Annual Burden Hours: 129.10.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and

Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: January 21, 1999.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 99–1860 Filed 1–26–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0811]

Agency Information Collection Activities: Proposed Collection; Comment Request; Guidance for Industry: Designation, Development, and Application Review for Products in Fast-track Drug Development Programs

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the proposed collection of information concerning submissions by sponsors of investigational new drugs and applicants for new drug approvals or biological licenses that request fast-track designation and the guidance for industry on fast-track drug development programs.

DATES: Submit written comments on the collection of information by March 29, 1999.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct of the information they conduct or sponsor. Collection of information is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information listed as follows.

With respect to the following collection of information, FDA invites comment on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Guidance for Industry: Designation, Development, and Application Review for Products in Fast-track Drug Development Programs (OMB Control Number 0910–0389)—Extension

Section 112(a) of the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Pub. L. 105–115) amends the Federal Food, Drug, and Cosmetic Act (the act) by adding section 506 (21 U.S.C. 356) and authorizes FDA to take appropriate action to facilitate the development and expedite the review of new drugs, including biological products, intended to treat a serious or life-threatening condition and that demonstrate a potential to meet an unmet medical need. The issuance of the guidance will be under section 112(b) of FDAMA, which requires the agency to issue guidance regarding fast-track policies and procedures within 1 year of the date of enactment of FDAMA, November 21, 1997. The guidance will discuss collections of information that are expressly specified under section 506 of the act, other sections of the Public Health Service Act (the PHS Act), or implementing regulations. For example, under section 506 of the act, an applicant who seeks fast-track designation must submit a request to FDA. Some of the support for such a request may be required under regulations, such as parts 312, 314, and 601 (21 CFR parts 312, 314, and 601), which specify the types and format of information and data that should be submitted to FDA for evaluation of the safety and effectiveness of investigational new drug applications (IND's) (part 312), new drug applications (part 314), or biological license applications (part 601). The guidance will describe three general areas involving collection of information: Designation requests, premeeting packages, and requests to submit portions of an application. Of these, designation requests, and premeeting packages in support of obtaining a fast-track program benefit will provide for additional collections of information not provided elsewhere in statute or regulation. Information in support of fast-track designation or fast-track program benefits that has previously been submitted to the agency, may, in some cases, be incorporated by referring to them rather than by resubmission. In some instances, a summary of data and information may be submitted in support of fast-track designation or fast-

track program benefits. Therefore, FDA anticipates that the PRA reporting burden under the guidance will be minimal.

Under section 506(a)(1) of the act, an applicant who seeks fast-track designation is required to submit a request to the agency. In order to receive a fast-track designation, the requester must establish that the product meets the statutory standard for designation, i.e., that: (1) The product is intended for a serious or life-threatening condition; and (2) the product has the potential to address an unmet medical need. In most cases, the agency expects that information to support a designation request will have been gathered under existing provisions of the act, the PHS Act, or the implementing regulation. Such information, if already submitted to the agency, may be summarized in a fast-track designation request. The guidance will also recommend that a designation request include, where applicable, additional information not specified elsewhere by statute or regulation. For example, additional information may be needed to show that a product has the potential to meet an unmet medical need where approved therapy exists for the serious or life-threatening condition to be treated. Such information may include: Clinical data, published reports, summaries of data and reports, and a list of references. The amount of information and discussion in a designation request need not be voluminous, but it should be sufficient to permit a reviewer to assess whether the criteria for fast-track designation have been met.

After the agency makes a fast-track designation, a sponsor or applicant may submit a premeeting package, which may include additional information to support a request to participate in certain fast-track programs. As with the request for fast-track designation, the agency expects that most sponsors or applicants will have gathered such information to meet existing requirements under the act, the PHS Act, or implementing regulations, such as descriptions of clinical safety and efficacy trials not conducted under an IND (i.e., foreign studies), and information to support a request for accelerated approval. If information has been previously submitted to FDA under an OMB approved collection of information, the discussion of such information in a fast-track premeeting package may be summarized. Consequently, FDA anticipates that the additional collection of information attributed solely to the guidance will be minimal.

Section 506(c) of the act requires a collection of information before an applicant may be permitted to submit to FDA portions of an application for review. Under this provision of the fast-track statute, a sponsor must submit clinical data sufficient for the agency to determine, after preliminary evaluation, that a fast-track product may be effective. Section 506(c) also requires that an applicant provide a schedule for the submission of information necessary to make the application complete before FDA can commence its review. The guidance will not provide for any new collection of information regarding the submission of portions of an application that is not required under section 506(c) or any other provision of the act.

All forms that will be referred to in the guidance have valid OMB control numbers. These forms include: FDA Form 1571 (OMB Control No. 0910–0104, expires December 31, 1999); FDA Form 356h (OMB Control No. 0910–0338, expires April 30, 2000); and FDA Form 3397 (OMB Control No. 0910–0297, expires April 30, 2001). Respondents to this information collection are sponsors and applicants that seek fast-track designation under section 506 of the act.

The agency estimates that the aggregate annual number of respondents submitting requests for fast-track designation to the Center for Biologics Evaluation and Research (CBER) and the Center for Drug Evaluation and Research (CDER) will be approximately 60. To obtain this estimate, FDA extrapolated from the number of requests for fast-track designation actually received by CBER and CDER in a 6-month period since November 21, 1997, the date of enactment of FDAMA. Within this time period, CBER received 9 requests, and CDER received 20 requests. FDA estimates that the number of hours needed to prepare a request for fast-track designation may generally range between 40 and 80 hours per request, depending on the complexity of each request, with an average of 60 hours per request, as indicated in Table 1 of this document.

Not all requests for fast-track designation may meet the statutory standard. The agency estimates that approximately 90 percent of all annual requests, approximately 54 respondents, for fast-track designation would be granted. Of those respondents who receive fast-track designation for a product, FDA expects that all will submit a premeeting package and that a premeeting package would generally need more preparation time than needed for a designation request because the issues may be more complex and the data may need to be more developed. FDA estimates that the preparation hours may generally range between 80 and 120 hours, with an average of 100 hours per package, as indicated in Table 1 of this document.

The hour burden estimates contained in Table 1 of this document are for information collections requests in the guidance only and do not include burden estimates for statutory requirements specifically mandated by the act, the PHS Act, or implementing regulations. FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Designation Request	60	1	60	60	3,600
Premeeting Packages	54	1	54	100	5,400
Totals	114		114		9,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: January 20, 1999.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 99–1797 Filed 1–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0143]

Agency Information Collection Activities; Announcement of OMB Approval; Guidance for Industry: Current Good Manufacturing Practice for Blood and Blood Components: (1) Quarantine and Disposition of Units From Prior Collections From Donors with Repeatedly Reactive Screening Test for Antibody to Hepatitis C Virus (Anti-HCV); (2) Supplemental Testing, and the Notification of Consignees and Blood Recipients of Donor Test Results for Anti-HCV

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Guidance for Industry: Current Good Manufacturing Practice for Blood and Blood Components: (1) Quarantine and Disposition of Units From Prior Collections From Donors with Repeatedly Reactive Screening Test for Antibody to Hepatitis C Virus (Anti-HCV); (2) Supplemental Testing, and the Notification of Consignees and Blood Recipients of Donor Test Results for Anti-HCV'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 21, 1998 (63 FR 56192), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0388. The approval expires on April 30, 1999.

Dated: January 20, 1999.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 99–1795 Filed 1–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0721]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Premarket Approval of Medical Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by February 26, 1999.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance. In the **Federal Register** of October 6, 1998 (63 FR 53675), the agency requested comments on the proposed collection of information. No comments were received.

Due to a clerical error, the title of the information collection that appeared in the **Federal Register** of October 6, 1998, was incorrect. The correct title follows.

I. Premarket Approval of Medical Devices—21 CFR Part 814 and FDAMA Sections 201, 202, 205, 207, 208, 209 (OMB Control Number 0910–0231—Extension)

Section 515 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e) sets forth requirements for premarket approval of certain medical devices. Under section 515 of the act, an application must contain several pieces of information, including: Full reports of all information concerning investigations showing whether the device is safe and effective; a statement of components; a full description of the methods used in, and the facilities and controls used for, the manufacture and processing of the device; and labeling specimens. The implementing regulations, contained in part 814 (21 CFR part 814), further specify the contents of a premarket approval application (PMA) for a medical device and the criteria FDA will employ in approving, denying, or withdrawing approval of a PMA. The purpose of these regulations is to establish an efficient and thorough procedure for FDA's review of PMA's for class III (premarket approval) medical devices. The regulations will facilitate the approval of PMA's for devices that have been shown to be safe and effective and otherwise meet the statutory criteria for approval. The regulations will also ensure the disapproval of PMA's for devices that have not been shown to be safe and effective and that do not otherwise meet the statutory criteria for approval.

Under § 814.15, an applicant may submit in support of a PMA studies from research conducted outside the United States, but an applicant must explain in detail any differences between standards used in a study to support the PMA's and those standards found in the Declaration of Helsinki. Section 814.20 provides a list of information required in the PMA, including: A summary of information in the application, a complete description of the device, technical and scientific information, and copies of proposed labeling. Section 814.37 provides requirements for an applicant who seeks to amend a pending PMA. Section 814.82 sets forth postapproval requirements FDA may propose, including periodic reporting on safety effectiveness, and reliability, and display in the labeling and advertising of certain warnings. Other potential postapproval requirements include the maintenance of records to trace patients and the organizing and indexing of records into identifiable files to enable FDA to determine whether there is reasonable assurance of the device's continued safety and effectiveness. Section 814.84 specifies the contents of periodic reports.

II. FDA Modernization Act of 1997

The FDA Modernization Act of 1997 (FDAMA), enacted on November 21, 1997, to implement revisions to the act, streamlines the process of bringing safe and effective drugs, medical devices, and other therapies to the U.S. market. Several provisions of this act that affect the PMA process and impact collection of information have been or will be implemented by FDA and are discussed as follows.

Section 201(b) of FDAMA amends section 515(d) of the act to allow submission of data from investigations of earlier versions of a device, in support of a safety and effectiveness determination for a PMA. The data is valid if modifications to earlier versions of the investigational device, whether made during or after the investigation, do not constitute a significant change that would invalidate the relevance of the data. This section also allows for the submission of data or information relating to an approved device that are relevant to the design and intended use of a device for which an application is pending, provided the data are available for use under the act (i.e., available by right of reference or in the public domain).

Section 202 of FDAMA amends section 515(d) of the act to state that FDA will provide special review, which can include expedited processing of a PMA application, for certain devices intended to treat or diagnose life threatening or irreversibly debilitating diseases or conditions.

Section 205(a) of FDAMA amends section 513(a)(3) of the act (21 U.S.C. 360c(a)(3)) to allow sponsors planning to submit a PMA to submit a written request to FDA for a meeting to determine the type of information (valid scientific evidence) necessary to support the effectiveness of their device. FDA must meet with the requester and communicate in writing the agency's determination of the type of data that will be necessary to demonstrate effectiveness within 30 days after the meeting.

Section 205(c) of FDAMA amends section 515(d) of the act to state that PMA supplements are required for all changes that affect safety or effectiveness, unless such change involves modifications in a manufacturing procedure or method of manufacturing. Clearance for this information collection, included within a proposed rule, has already been sought by FDA in an earlier document (63 FR 20558, April 27, 1998).

Section 205(c) of FDAMA amends section 515(d) of the act to allow for approval of incremental changes in design affecting safety and effectiveness based on nonclinical data that demonstrate the change creates the intended additional capacity, function, or performance of the device; and clinical data included in the original PMA application or any supplement to that application that provides reasonable assurance of safety and effectiveness. If needed, FDA may require a sponsor to submit new clinical data to demonstrate safety and effectiveness.

Section 207 of FDAMA amends section 513 of the act to allow an applicant who submits a premarket notification submission (510(k)) and receives a not substantially equivalent (NSE) determination, placing the device into a class III category, to request FDA to classify the product into class I or II. The request must be in writing and sent within 30 days from the receipt of the NSE determination. Within 60 days from the date the written request is submitted to FDA, the agency must classify the device by written order.

If FDA classifies the device into class I or II, this device can be used as a predicate device for other 510(k)'s. However, if FDA determines that the device will remain in class III, the device cannot be distributed until the applicant has obtained an approved PMA or an approved investigational device exemption.

Section 208 of FDAMA amends section 513 of the act to allow PMA applicants to have the same access as FDA to data and information submitted by FDA to a classification panel, except data not available for public disclosure; the opportunity to submit information based on the PMA, through FDA, to the panel; and the same opportunity as FDA to participate in panel meetings.

Section 209(b) of FDAMA amends section 515(d) of the act to state that FDA must, upon the written request of the applicant, meet with that party within 100 days of receipt of the filed PMA application to discuss the review status of the application. With the concurrence of the applicant, a different schedule may be established. Prior to this meeting, FDA must inform the applicant in writing of any identified deficiencies and what information is required to correct those deficiencies. FDA must also promptly notify the applicant if FDA identifies additional deficiencies or of any additional information required to complete agency review.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
814.15, 814.20, and 814.37	52	1	52	837.28	43,539
814.82	37	1	37	134.68	4,983
814.84	37	1	37	10	370
Total					48,892

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
814.82(a)(5) and (a)(6)	814	1	814	16.7	13,594
Total					13,594

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
Note: Statutory burden is not included on the burden chart.

III. Reporting/Disclosure

The reporting burden can be broken out by certain sections of the PMA regulation: (1) § 814.15—Research conducted outside the United States, (2) § 814.20—Application, and (3) § 814.37—PMA amendments and resubmitted PMA's.

The bulk of the burden is due to the previous three requirements. Included in these three requirements are the conduct of laboratory and clinical trials as well as the analysis, review, and physical preparation of the PMA application. FDA's estimate of the hours per response (837.28) was derived through FDA's experience and consultation with industry and trade associations. Included in these three requirements are the conduct of laboratory and clinical trials as well as the analysis, review, and physical preparation of the PMA application. FDA estimates, based on the 1985 study, that these requirements account for the bulk of the burden identified by manufacturers.

IV. § 814.39—PMA Supplements

Clearance for this information collection, included within a proposed rule, has already been sought by FDA in an earlier document (63 FR 20558).

V. § 814.82—Postapproval Requirements

Postapproval requirements concern approved PMA's for devices that were not reclassified and require an annual report. In the last decade (1988 to 1997), the range of PMA's which fit this category averaged approximately 37 per year (70 percent of the 52 annual submissions). Most approved PMA's have been subject to some restriction. Approximately half of the average submitted PMA's (26) require associated postapproval information (i.e., clinical trials or additional preclinical information) that is labor-intensive to compile and complete, and the other PMA's require minimal information. Based on its experience and on consultation with industry, FDA estimates that preparation of reports and information required by this section requires 4,983 hours (134.68 hours per respondent).

VI. § 814.84—Reports

Postapproval requirements described in § 814.82 require a periodic report. FDA has determined respondents meeting the criteria of § 814.84 will submit reports on an annual basis. As stated previously, the range of PMA's fitting this category averaged approximately 37 per year. These reports have minimal information requirements. FDA estimates that respondents will construct their report and meet their requirements in approximately 10 hours. This estimate is based on FDA's experience and on consultation with industry. FDA estimates that the periodic reporting required by this section will take 370 hours.

VII. Recordkeeping

The recordkeeping burden in this section involves the maintenance of records to trace patients and the organization and indexing of records into identifiable files to ensure the device's continued safety and effectiveness. These requirements are to be performed only by those manufacturers who have an approved PMA and who had original clinical research in support of that PMA. For a typical year's submissions, 70 percent of the PMA's are eventually approved and close to 100 percent of those have original clinical trial data. Therefore, about 37 PMA's a year (52 annual submissions times 70 percent) would be subject to these requirements. Also, because the requirements apply to all active PMA's, all holders of active PMA applications must maintain these records. PMA's have been required since 1976, so there are around 814 active PMA's that could be subject to these requirements (22 years x 37 per year). Each study has approximately 200 subjects, and, at an average of 5 minutes per subject, there is a total burden per study of 1,000 minutes, or 16.7 hours. The aggregate burden for all 814 holders of approved original PMA's, therefore, is 13,594 hours.

The applicant determines which records should be maintained during product development to document and/or substantiate the device's safety and effectiveness. Records required by the current good manufacturing practice/quality systems regulation (21 CFR part 820) may be relevant to a PMA review and may be submitted as part of an application. In individual instances, records may be required as conditions to approval to ensure the device's continuing safety and effectiveness.

Respondents to this information collection are persons filing an application with the Secretary of Health and Human Services for approval of a class III medical device. Part 814 defines a person as any individual, partnership, corporation, association, scientific or academic establishment, government agency or organizational unit, or other legal entity. These respondents include manufacturers of commercial medical devices in distribution prior to May 28, 1976 (the enactment date of the Medical Device Amendments).

Dated: January 20, 1999.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 99–1852 Filed 1–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Notice of Formation of a Subcommittee to the Food and Drug Administration Science Board

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the formation of a subcommittee to the Food and Drug Administration (Science Board). The subcommittee has been established to address scientific issues related to the research programs conducted by the FDA's Center for Food Safety and Applied Nutrition (CFSAN). The subcommittee's findings will be presented to the Science Board for full public discussion at a future meeting.

FOR FURTHER INFORMATION CONTACT: Anita O'Connor, Office of Science (HF–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3312.

SUPPLEMENTARY INFORMATION: FDA is announcing the formation of a subcommittee of the Science Board to the Food and Drug Administration (Science Board). The subcommittee has been established to address issues related to the scientific quality, mission relevance, and scientific management and leadership of the research programs conducted by CFSAN. The subcommittee will hold its meeting(s) over the next 3 months to: (1) Collect information on CFSAN's research programs, (2) conduct an external peer review of CFSAN research for quality and relevance, and (3) assess CFSAN's programmatic prioritization. The subcommittee's findings will be presented to the Science Board for full public discussion at a future meeting which will be announced in the **Federal Register** prior to the meeting. This notice is issued under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463 (5 U.S.C. app. 2)).

Dated: January 20, 1999.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 99–1793 Filed 1–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98E–0784]

Determination of Regulatory Review Period for Purposes of Patent Extension; Viagra™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Viagra™ and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Viagra™ (sildenafil citrate). Viagra™ is indicated for the treatment of erectile dysfunction. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Viagra™ (U.S. Patent No. 5,250,534) from Pfizer, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated December 10, 1998, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Viagra™ represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Viagra™ is 1,176 days. Of this time, 996 days occurred during the testing phase of the regulatory review period, while 180 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective*: January 8, 1995. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on January 8, 1995.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act*: September 29, 1997. FDA has verified the applicant's claim that the new drug application (NDA) for Viagra™ (NDA 20–895) was initially submitted on September 29, 1997.

3. *The date the application was approved*: March 27, 1998. FDA has verified the applicant's claim that NDA 20–895 was approved on March 27, 1998.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 283 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before March 29, 1999, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before July 26, 1999, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 18, 1999.

Thomas J. McGinnis,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 99–1796 Filed 1–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98E–0757]

Determination of Regulatory Review Period for Purposes of Patent Extension; Xeloda™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Xeloda™ and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Xeloda™ (capecitabine). Xeloda™ is indicated for the treatment of patients with metastatic breast cancer resistant to both paclitaxel and an anthracycline-containing chemotherapy regimen or resistant to paclitaxel and for whom further anthracycline therapy is not indicated. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Xeloda™ (U.S. Patent No. 4,966,891) from Hoffmann–La Roche, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated December 10, 1998, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Xeloda™ represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Xeloda™ is 1,410 days. Of this time, 1,228 days occurred during the testing phase of the regulatory review period, while 182 days occurred during the approval phase. These periods of time were derived from the following dates:

1. The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act)(21 U.S.C. 355) became effective: June 22, 1994. The applicant claims June 19, 1994, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was June 22, 1994, which was 30 days after FDA receipt of the IND.

2. The date the application was initially submitted with respect to the human drug product under section 505 of the act: October 31, 1997. The applicant claims October 28, 1997, as the date the new drug application (NDA) for Xeloda™ (NDA 20–896) was initially submitted. However, FDA records indicate that NDA 20–896 was submitted on October 31, 1997.

3. The date the application was approved: April 30, 1998. FDA has verified the applicant's claim that NDA 20–896 was approved on April 30, 1998.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 799 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before March 29, 1999, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before July 26, 1999, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 18, 1999.

Thomas J. McGinnis,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 99–1851 Filed 1–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98E–0783]

Determination of Regulatory Review Period for Purposes of Patent Extension; Emadine™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Emadine™ and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory

review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Emadine™ (emedastine difumarate). Emadine™ is indicated for the temporary relief of the signs and symptoms of allergic conjunctivitis. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Emadine™ (U.S. Patent No. 4,430,343) from Kanebo, Ltd., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated December 10, 1998, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Emadine™ represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Emadine™ is 1,410 days. Of this time, 766 days occurred during the testing phase of the regulatory review period, while 644 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective*: February 20, 1994. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on February 20, 1994.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act*: March 26, 1996. The applicant claims March 22, 1996, as the date the new drug application (NDA) for Emadine™ (NDA 20–706) was initially submitted. However, FDA records indicate that NDA 20–706 was submitted on March 26, 1996.

3. *The date the application was approved*: December 29, 1997. FDA has verified the applicant's claim that NDA 20–706 was approved on December 29, 1997.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,028 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before March 29, 1999, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before July 26, 1999, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 18, 1999.

Thomas J. McGinnis,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 99–1792 Filed 1–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–1268]

Guidance for Industry on Variations in Drug Products That May Be Included in a Single Abbreviated New Drug Application; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Variations in Drug Products That May Be Included in a Single ANDA.'' This guidance was developed by the Office of Generic Drugs (OGD) in the Center for Drug Evaluation and Research to provide information to applicants on certain specific variations of a drug product that should be included in a single abbreviated new drug application (ANDA) and describe the general factors to be considered when determining whether single or multiple ANDA's should be submitted. It is intended to reduce the burden on industry for submitting and maintaining separate applications for certain variations of the same drug product.

DATES: Written comments may be submitted on the guidance by April 27, 1999. General comments on agency guidances are welcome at any time.

ADDRESSES: Copies of this guidance for industry are available on the Internet at ''http://www.fda.gov/cder/guidance/index.htm''. Submit written requests for single copies of ''Variations in Drug Products That May Be Included in a Single ANDA'' to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Robert L. West, Center for Drug Evaluation and Research (HFD–600), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–5846.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a guidance for industry entitled ''Variation in Drug Products That May Be Included in a Single ANDA.'' Prior

to October 1, 1990, applicants were to submit separate ANDA's for each dosage form of a drug product and also for each variation (e.g., strength, color, shape) within a dosage form. Separate applications were requested for ease of review since having information on a number of variations within one application could make review more difficult. On October 1, 1990, the OGD Interim Policy and Procedure Guide (PPG) 20–90 was issued. This guide permitted certain variations of solid oral dosage forms and injectables to be submitted within a single abbreviated application. On June 7, 1995, PPG 20–90 was amended to allow certain variations to be filed as supplements.

This guidance incorporates the policies and procedures in PPG 20–90 and clarifies the practice of permitting variations of products in a single application.

This guidance is being issued as a level 1 guidance consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). It is being implemented immediately without prior public comment because it is intended to reduce the burden on industry. However, the agency wishes to solicit comments from the public and is providing a 90-day comment period and establishing a docket for the receipt of comments.

This guidance represents the agency's current thinking on variations in drug products that may be included in a single abbreviated application. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

Interested persons may, at any time, submit written comments on the guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 20, 1999.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 99–1850 Filed 1–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–1218]

Blood Standards; Pilot Program for Gamma Irradiated Blood and Blood Components and Draft ''Guidance for Industry: Gamma Irradiation of Blood and Blood Components: A Pilot Program for Licensing;'' Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its intent to establish a pilot program for licensed blood product manufacturers seeking to market irradiated blood components in interstate commerce. FDA is also announcing the availability for public comment of a draft guidance document entitled ''Guidance for Industry: Gamma Irradiation of Blood and Blood Components: A Pilot Program for Licensing.'' FDA is proposing a pilot program that would allow a manufacturer to self-certify conformance to specific criteria as a substitute for the Center for Biologics Evaluation and Research (CBER) review of information submitted in a biologics license application (BLA) supplement filing. Instead of submitting a BLA supplement with supporting operating procedures and data derived from validation and quality control testing, the manufacturer would submit an application form (FDA Form 356h), a self-certification statement that provides that the manufacturer is in compliance with all applicable FDA regulations and meets the criteria for gamma irradiated blood and blood components set forth in the draft guidance document entitled ''Guidance for Industry: Gamma Irradiation of Blood and Blood Components: A Pilot Program for Licensing,'' as well as written request to the CBER Director for an exception to filing a detailed supplement. This action is part of FDA's continuing effort to achieve the objectives of the President's ''Reinventing Government'' initiatives and is intended to reduce unnecessary burdens for industry without diminishing public health protection.

DATES: Written comments on the proposed pilot program and draft guidance document may be submitted at any time, however, comments should be submitted by April 27, 1999, to ensure their adequate consideration in preparation of the final document and for the initiation of the pilot program.

ADDRESSES: Submit written requests for single copies of ''Guidance for Industry: Gamma Irradiation of Blood and Blood Components: A Pilot Program for Licensing'' to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at 1–888–CBER–FAX or 301–827–3844. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit written comments and letters of interest on the proposed pilot program and the draft guidance document to the Dockets Management Branch (HFA–305), 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Steven F. Falter, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing its intent to launch a pilot program for licensed blood product manufacturers seeking to market irradiated blood components in interstate commerce. The pilot program provides that FDA will review for completeness FDA Form 356h, the self-certification, and written request for an exception to filing a detailed supplement and at FDA discretion will schedule a prelicense inspection within 90 days of receipt of the self-certification to confirm conformance with applicable Federal regulations and the recommended criteria contained in the draft guidance document.

To participate in the program a manufacturer must already be licensed for nonirradiated blood components and should be ready for a prelicense inspection at the time it forwards FDA Form 356h, self-certification, and request for exception to FDA. If, during the prelicense inspection, FDA finds significant deficiencies in quality assurance, manufacturing facilities, or product safety, purity, potency, or effectiveness, FDA may withdraw the manufacturer from the pilot program and the manufacturer will be required to submit a BLA supplement with complete supporting documentation

prior to marketing irradiated blood components in interstate commerce.

FDA intends the pilot program to span approximately 1 year, but the actual length of the program depends on the number of manufacturers participating in the program. FDA intends to begin the pilot program 30 days after a final notice announcing the initiation of the program and the availability of the final guidance document is published in the **Federal Register**. At the end of the pilot program, FDA will evaluate the program for efficiency and effectiveness. FDA will make this analysis available to the public upon its completion. If the program proves to be efficient and effective, FDA will consider extending the program to other blood products.

FDA also is announcing the availability of a draft guidance document entitled ''Guidance for Industry: Gamma Irradiation of Blood and Blood Components: A Pilot Program for Licensing.'' This draft guidance document is intended to help manufacturers of irradiated blood components comply with the regulations in Title 21 of the Code of Federal Regulations and to provide criteria acceptable for the manufacture of irradiated blood components. At this time, the draft guidance document is being made available for comment purposes only and is not intended for use by the industry. The agency has adopted good guidance practices (GGP's) that set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This document is being issued as a draft level 1 guidance document consistent with GGP's.

This draft guidance document represents the agency's current thinking with regard to gamma irradiation of blood and blood components intended for transfusion. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both. As with other guidance documents, FDA does not intend this document to be all-inclusive and cautions that not all information may be applicable to all situations. The document is intended to provide information and does not set forth requirements.

II. Comments

FDA is soliciting the following from the public: (1) Comments on the draft guidance document, (2) comments concerning the public's interest in a pilot program that would allow licensure by self-certification, a written request for exception to filing a detailed supplement, and an inspection in lieu of a complete application review, and (3) letters of interest from manufacturers who would consider participating in the pilot program.

The draft guidance document is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit to the Dockets Management Branch (address above) written comments regarding this draft guidance document and the pilot program, including those comments expressing interest in participating in the pilot program. Written comments may be submitted at any time, however, comments should be submitted by April 27, 1999, to ensure adequate consideration in preparation of the final document and the pilot program. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in the brackets in the heading of this document. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document by using the World Wide Web (WWW). For WWW access, connect to CBER at ''http://www.fda.gov/cber/guidelines.htm''.

Dated: January 20, 1999.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 99–1794 Filed 1–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Dental Research Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Dental Research Council, NADCRC January Meeting.

Date: January 25–26, 1999.

Open: January 25, 1999, 8:30 am to 5:00 pm.

Agenda: Director's Report, Division Updates, Presentations.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Closed: January 26, 1999, 9:00 am to 2:00 pm.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Contact Person: Dushanka V. Kleinman, Deputy Director, National Institute of Dental Research, National Institutes of Health, 9000 Rockville Pike, 31/2C39, Bethesda, MD 20892.

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. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: January 21, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–1825 Filed 1–26–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4441–N–06]

Submission for OMB Review: Comment Request

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of

Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comment due date: February 26, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–1305. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35.

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, and extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: January 19, 1999.

David S. Cristy,

Director, IRM Policy and Management Division.

Title of Proposal: Requisition for Disbursement of Section 202 Loan Funds.

Office: Housing.

OMB Approval Number: 2502–0187.

Description of the Need for the Information and Its Proposed Use: Forms HUD–92403–CA will be used by the non-profit borrower entity to obtain disbursement on its HUD-funded building loan under the Section 202 Housing Program for the Elderly or Handicapped. Its use during the construction period will enable the borrower to obtain funds to settle his obligations or reimbursements in a timely manner.

Form Number: HUD–92403–CA.

Respondents: Not-For-Profit Institutions.

Frequency of Submission:

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–92403–CA	310		3		.5		465

Total Estimated Burden Hours: 465.

Status: Reinstatement without changes.

Contact: Rita Ross, HUD, (202) 708–2556; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: January 19, 1999.

[FR Doc. 99–1800 Filed 1–26–99; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4441–N–07]

Submission for OMB Review: Comment Request

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: February 26, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–1305. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be of obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and house of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: January 19, 1999.

David S. Cristy,

Director, IRM Policy and Management Division.

Title of Proposal: Eligibility of a Non-Profit Corporation.

Office: Housing.

OMB Approval Number: 2502–0057.

Description of the Need for the Information and Its Proposed Use: Form HUD–3433 identifies the nonprofit qualifications to successfully sponsor a multifamily housing project. Forms HUD–3434 and 3435 identify the nonprofit motivation for sponsoring the project and relationships that exist between the officers, directors and other development team members. Outstanding regulations prohibit nonprofits from being controlled or under the direction of firms seeking to derive a profit or gain.

Form Number: HUD–3433, HUD–3434, and HUD–3435.

Respondents: Businesses or Other For-Profit, Non-Profit Institutions, and Federal Government.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–3433	30		1		.75		22.50
HUD–3434	30		1		.50		15
HUD–3435	210		1		.25		52.50

Total Estimated Burden Hours: 90.

Status: Reinstatement without changes.

Contact: Wendy Carter, HUD, (202) 708–2300; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

[FR Doc. 99–1801 Filed 1–26–99; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Blackstone River Valley National Heritage Corridor Commission; Notice of Meeting

Notice is hereby given in accordance with Section 552b of Title 5, United States Code, that a meeting of the Blackstone River Valley National Heritage Corridor Commission will be held on Thursday, February 4, 1999.

The Commission was established pursuant to Pub. L. 99–647. The purpose of the Commission is to assist federal, state and local authorities in the development and implementation of an integrated resource management plan for those lands and waters within the Corridor.

The meeting will convene at 5:30 PM at the Amica Corporate Headquarters, 100 Amica Way, Lincoln, RI for the following reasons:

1. Approval of Minutes
2. Executive Director's report
3. Chairman's Report
4. Approval of Fiscal Year 1999 Development Plan
5. Approval of Commission By-Laws

It is anticipated that about twenty people will be able to attend the session in addition to the Commission members.

Interested persons may make oral or written presentations to the Commission or file written statements. Such requests should be made prior to the meeting to: Michael Creasey, Acting Executive Director, Blackstone River Valley National Heritage Corridor Commission, One Depot Square, Woonsocket, RI 02895, Tel.: (401) 762–0250.

Further information concerning this meeting may be obtained from Michael Creasey, Acting Executive Director of the Commission at the aforementioned address.

Michael Creasey,

Acting Executive Director BRVNHCC.

[FR Doc. 99–644 Filed 1–26–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

Applicant: Milwaukee County Zoological Gardens, Milwaukee, WI, PRT–007101.

The applicant requests a permit to import tracheal and gastric lavage samples from a captive held Bonobo (*Pan paniscus*) currently held at Zoofari, Mexico to enhance the survival of the species through scientific research and propagation.

Applicant: Milwaukee County Zoological Gardens, Milwaukee, WI, PRT–007119.

The applicant requests a permit to import one captive held male Bonobo (*Pan paniscus*) currently held at Zoofari, Mexico to enhance the survival of the species through conservation education and propagation.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with the application are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the above address within 30 days of the date of publication of this notice.

Dated: January 22, 1999.

Mary Ellen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 99–1858 Filed 1–26–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–040–08–1410–00; AA–44380]

Realty Action: Sec. 302 of the Federal Land Policy and Management Act Classification and Lease: Alaska

AGENCY: Bureau of Land Management, Anchorage Field Office.

ACTION: Notice of Realty Action, Sec. 302 of the Federal Land Policy and Management Act, Classification and Lease of Public Land—Anchorage, Alaska.

SUMMARY: The following public lands are located in the Le Blondeau Glacier area, on the south bank of the Tsirku River approximately 30 miles west of Haines, Alaska. These lands have been examined and found suitable for classification and lease under the provisions of Sec. 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, 1732 and 43 CFR 2920). Albert Gilliam, dba Alaska Cross Country Guiding and Rafting, has requested renewal of his commercial occupancy lease on an existing base camp that he has maintained for the past 10 years. This lease is intended to

authorize continuous use, operation and maintenance of the existing base camp that Mr. Gilliam uses as a stop off point for guiding activities, such as wilderness hiking, hunting and rafting tours.

Copper River Meridian

T. 30 S., R. 55 E.,
Section 18 Containing 1.00 acre, more or less.

SUPPLEMENTARY INFORMATION: These lands have been selected by the State of Alaska for future conveyance under the Alaska Statehood Act. The lease will be offered at non-competitive fair market rental of $850.00 annual. The term is 30 years, subject to the following: (1) The lease will terminate upon conveyance to the State of Alaska; (2) or upon non-compliance with the terms and conditions of the lease; and (3) the applicant or holder will comply with the requirements of the annual Special Recreation Permit, specifically the requirements contained in 43 CFR 8370. If the applicant or holder fails to meet these requirements, BLM will terminate the lease, require that the premises be vacated and treat the improvements as unauthorized occupancy and use of public lands according to regulations found in 43 CFR 9230. The lease is renewable at the discretion of the authorized officer and transferable only with BLM approval.

Application Comments

For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the Bureau of Land Management, Field Manager, Anchorage Field Office, 6881 Abbott Loop Road, Anchorage, Alaska 99507–2599. In the absence of timely objections, this proposal shall become the final.

FOR FURTHER INFORMATION CONTACT: Kathy A. Stubbs, BLM, Anchorage Field Office, 6881 Abbott Loop Road, Anchorage, Alaska 99507–2599, (907) 267–1284 or 1–800–478–1263.

Nicholas Douglas,

Field Manager.

[FR Doc. 99–1853 Filed 1–26–99; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–01; N–62920]

Notice of Realty Action; Direct Sale; Nevada

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The following land in Elko County, Nevada has been examined and identified as suitable for disposal by direct sale, including the mineral estate, under Section 203 and Section 209 of the Federal Land Policy and Management Act (FLPMA) of October 21, 1976 (43 U.S.C. 1713 and 1719) at no less than fair market value as determined by an appraisal:

Mount Diablo Meridian, Nevada

T. 37 N., R. 59 E., Section 26,
E½NW¼NW¼NW¼.
Comprising 5.0 acres, more or less.

The above described land is being offered as a direct sale to the Nevada Department of Transportation. The land will not be offered for sale until at least 60 days after the date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this action is available for review at the Bureau of Land Management, Elko Field Office, 3900 E. Idaho Street, Elko, Nevada 89801.

SUPPLEMENTARY INFORMATION: The proposed action is consistent with the objectives of the Elko RMP and are consistent with Federal, State, and local laws, regulations, and plans to the maximum extent possible. The land is not needed for any resource program and is not suitable for management by the Bureau or another Federal department or agency. The proposal has been reviewed by the Elko County Planning Commission.

The land has no known value for minerals. Therefore, the mineral estate, will be conveyed simultaneously with the sale of the surface estate. Acceptance of the sale offer will constitute an application to purchase the mineral estate. A non-refundable mineral estate fee of $50.00 will be required along with the purchase money. Failure to submit the purchase money and the non-refundable filing fee for the mineral estate within the time frame specified by the authorized officer will result in cancellation of the sale.

The subject lands have been previously segregated from appropriation under the public land laws and mineral laws on behalf of the Western Resource Management Land Exchange (N–59405). A decision, based on the Environmental Assessment (BLM/EK/PL–99/008), determined that the direct sale to the Nevada Department of Transportation (NDOT) best serves the interest of the public rather than to dispose of the parcel through a land exchange. This action will not adversely impact the exchange. The segregative effect by the Western Resource Management Land Exchange (N–59405) is hereby terminated for the subject parcel described above. The termination will be effective at 9 a.m., 30 days after publication of this notice in the **Federal Register**.

Upon publication of this Notice of Realty Action in the **Federal Register**, the subject lands will be segregated from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws or disposals pursuant to Sections 203 and 209 of FLPMA. The segregation shall terminate upon issuance of a patent or other document of conveyance, upon publication in the **Federal Register** of a Notice of Termination of Segregation, or 270 days from date of this publication, which ever occurs first.

The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, (43 U.S.C. 945).

The rights granted by the existing highway right-of-way (Nev-061282) and material site right-of-way (Nev-059247), both held by (NDOT), will merge with title to the land upon issuance of patent and therefore, no reservation of these rights will be made.

For a period of 45 days from the date of publication in the **Federal Register**, interested parties may submit comments to the Bureau of Land Management, Elko Field Office, 3900 Idaho Street, Elko, Nevada 89801. Any adverse comments will be evaluated by the State Director, who may sustain, vacate or modify this realty action and issue a final determination. In the absence of timely filed objections, this realty action will become a final determination of the Department of the Interior.

Dated: January 12, 1999.

Helen Hankins,

Field Manager.

[FR Doc. 99–1809 Filed 1–26–99; 8:45 am]

BILLING CODE 4310–HC–P

UNITED STATES INTERNATIONAL TRADE COMMISSION

[Investigation No. AA1921–188 (Review)]

Prestressed Concrete Steel Wire Strand From Japan

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission determines,[2] pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that revocation of the antidumping finding on prestressed concrete steel wire strand from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on September 1, 1998 (63 FR 46477), and determined on December 4, 1998, that it would conduct an expedited review (63 FR 70158, December 18, 1998). The views of the Commission are contained in USITC Publication 3156 (February 1999), entitled Prestressed Concrete Steel Wire Strand from Japan: Investigation No. AA1921–188 (Review).

Issued: January 22, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–1891 Filed 1–26–99; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Commissioner Askey dissenting.

INTERNATIONAL TRADE COMMISSION

Refrigeration Compressors From Singapore (Inv. No. 701–TA–B (Review)); Brass Fire Protection Products From Italy (Inv. No. 731–TA–165 (Review))

AGENCY: United States International Trade Commission.

ACTION: Termination of five-year reviews.

SUMMARY: The subject five-year reviews were initiated in November 1998 to determine whether revocation of the existing suspension agreement/antidumping duty order would be likely to lead to continuation or recurrence of dumping and material injury to a domestic industry. On January 14, 1999, the Department of Commerce published notice that it was revoking the orders because no domestic interested party responded to its notice of initiation by the applicable deadline (64 FR 2471, January 14, 1999). Accordingly, pursuant to section 207.69 of the Commission's Rules of Practice and Procedure (19 CFR § 207.69), the subject reviews are terminated.

EFFECTIVE DATE: January 14, 1999.

FOR FURTHER INFORMATION CONTACT: Vera Libeau (202–205–3176), 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: These reviews are being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.69 of the Commission's rules (19 CFR § 207.69).

Issued: January 20, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–1889 Filed 1–26–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–201–69]

Certain Steel Wire Rod

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of an investigation under section 202 of the Trade Act of 1974 (19 U.S.C. § 2252) (the Act).

SUMMARY: Following receipt of a properly filed petition on January 12, 1999, on behalf of Atlantic Steel Industries, Inc., Birmingham Steel Corp., Connecticut Steel Corp., Co-Steel Raritan, GS Industries, Inc., Keystone Steel & Wire Co., North Star Steel Co., North Star Steel Texas, Inc., Northwestern Steel & Wire Co., the Independent Steel Workers Alliance, and the United Steelworkers of America AFL–CIO, the Commission instituted investigation No. TA–201–69 under section 202 of the Act to determine whether hot-rolled bars and rods, in irregularly wound coils, of circular or approximately circular solid cross section, having a diameter of 5 mm or more but less than 19 mm, of non-alloy or alloy steel, except such bars and rods of free-machining steel [1] or of alloy steel containing by weight 24 percent or more of nickel, provided for in subheadings 7213.91, 7213.99, 7227.20, and 7227.90.60 of the Harmonized Tariff Schedule of the United States (HTSUS),[2] are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

For further information concerning the conduct of this investigation, hearing procedures, 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 206, subparts A and B (19 CFR part 206).

EFFECTIVE DATE: January 12, 1999.

FOR FURTHER INFORMATION CONTACT: Sioban Maguire (202–708–4721), 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:

Participation in the investigation and service list.—Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than 21 days after publication of this notice in

[1] Free-machining steel is any steel product containing by weight one or more of the following elements, in the specified proportions: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.4 percent of phosphorous, more than 0.05 percent of selenium, and/or more than 0.01 percent of tellurium.

[2] The product covered by the investigation is commonly known as ''wire rod.'' The scope of the investigation does not cover concrete reinforcing bars and rods, or bars and rods of stainless steel or tool steel, which are provided for in other HTSUS subheadings.

the **Federal Register**. The Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of confidential business information (CBI) under an administrative protective order (APO) and CBI service list.—Pursuant to section 206.17 of the Commission's rules, the Secretary will make CBI gathered in this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than 21 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 CBI under the APO.

Hearings on injury and remedy.—The Commission has scheduled separate hearings in connection with the injury and remedy phases of this investigation. The hearing on injury will be held beginning at 9:30 a.m. on April 15, 1999 at the U.S. International Trade Commission Building. In the event that the Commission makes an affirmative injury determination or is equally divided on the question of injury in this investigation, a hearing on the question of remedy will be held beginning at 9:30 a.m. on June 8, 1999. Requests to appear at the hearings should be filed in writing with the Secretary to the Commission on or before April 7 and June 2, 1999, respectively. All persons desiring to appear at the hearings and make oral presentations should attend prehearing conferences to be held at 9:30 a.m. on April 12 and June 4, 1999, respectively, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the hearing are governed by sections 201.6(b)(2) and 201.13(f) of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs on injury is April 9, 1999; that for filing prehearing briefs on remedy, including any commitments pursuant to 19 U.S.C. § 2252(a)(6)(B), is May 27, 1999. Parties may also file posthearing briefs. The deadline for filing posthearing briefs on injury is April 20, 1999; that for filing posthearing briefs on remedy is June 14, 1999. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the consideration of injury on or before April 20, 1999, and pertinent to the consideration of remedy on or before June 14, 1999. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with section 201.16(c) of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the 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: This investigation is being conducted under the authority of section 202 of the Trade Act of 1974; this notice is published pursuant to section 206.3 of the Commission's rules.

By order of the Commission.

Issued: January 22, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–1890 Filed 1–26–99; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Consent Judgments Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, and 42 U.S.C. § 9622(d), notice is hereby given that a proposed Consent Decree in *United States* v. *C&D Technologies, Inc., et al.*, Civil Action Number 99–52 (WHW), DOJ #90–11–2–1075, was lodged in the United States District Court for the District of New Jersey on January 6, 1999. The Consent Decree resolves the liability of defendants under Sections 106(a) and 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. §§ 9606(a) and 9607(a), and the Resource Conservation and Recovery Act, 42 U.S.C. § 6973 relating to the NL Industries, Inc. Superfund Site in Pedricktown, New Jersey (the ''Site'').

Under the proposed decree Defendants agree to perform EPA's first operable unit and Phase V removal action for the Site as set forth in EPA's Record of Decision of July 1994 (''OU1''), which requires: excavation, treatment, and disposal of soils and removal of stream sediments contaminated with lead above the remedial action objective of 500 parts per million (ppm); extraction and treatment of contaminated ground water; and appropriate environmental monitoring to ensure effectiveness of the remedy. The estimated cost for the remedy is $21,021,550. Defendants also agree to pay the first $3,515,064 in Past Costs and Future Response Costs incurred in connection with the Site. In exchange for the work and payment of response costs, Defendants will receive a covenant not to sue for response actions at the Site subject to certain reservations of rights.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, written comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *C&D Technologies, Inc., et al.* DOJ # 90–11–2–1075.

The proposed Consent Decree may be examined at the Office of the United States Attorney, District of New Jersey, 970 Broad Street Room 501, Newark, New Jersey 07102; at the Region II Office of the U.S. Environmental Protection Agency, 290 Broadway, New York, New York 10278; and at the Consent Decree Library, 1120 G Street, N.W., 3d Floor, Washington, D.C. 20005, (202) 624–0892. Copies of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 3d Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $65.50 (25 cents per page reproduction costs) payable to the Consent Decree Library.

Joel M. Gross,

Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–1806 Filed 1–26–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

In accordance with Departmental policy at 28 CFR 50.7, notice is hereby given that on January 8, 1999, a

proposed consent decree in *United States* v. *Hercules Incorporated,* Civil Action No. LRC99–022, was lodged with the United States District Court for the Eastern District of Arkansas, Western Division. The proposed Consent Decree resolves the liability of the Settling Defendant under Sections 107 of CERCLA at the Vertac Superfund Site (''Site'') located in Jacksonville, Arkansas. Under the terms of the Consent Decree, the Settling Defendant has agreed to pay $1.0 million for compensation for injury to natural resources. This sum will be used for implementation of restoration projects and payment of the Department of Interior's assessment costs.

For a period of thirty (30) days from the date of this publication, the Department of Justice will receive written comments relating to the proposed consent decree from persons who are not parties to the action. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Hercules Incorporated,* DOJ #90–7–18F.

The proposed consent decree may be examined at the offices of the United States Attorney for the Eastern District of Arkansas, Western Division, 425 W. Capital, 5th Floor, Little Rock, Arkansas 72201, and at the office of the United States Department of the Interior, Office of the Solicitor, Southeast Regional Office, Richard B. Russell Federal Building, 75 Spring St., S.W., Atlanta, Georgia 30303 (Attention: Holly Deal, Attorney-Advisor). A copy of the consent decree may also be examined at the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005, (202) 624–0892. Copies of the decree may be obtained in person or by mail from the Consent Decree Library. Such requests should be accompanied by a check in the amount of $6.50 (25 cents per page reproduction charge for decree, with attachment) payable to ''Consent Decree Library''. When requesting copies, please refer to *United States* v. *Hercules Incorporated,* DOJ #90–7–1–18F.

Joel Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–1807 Filed 1–26–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980, as Amended

Notice is hereby given that a proposed consent decree in the action entitled *United States* v. Tansitor Electronics, Inc. et al., Civil Action No. 2:99–CV–14, was lodged on January 11, 1999, with the United States District Court for the District of Vermont. The proposed consent decree resolves the claims of the United States in a complaint filed against Tanitor Electronics, Inc. (''Tansitor'') and Siemens Communication Systems, Inc. (''Siemens'') (the ''Settling Defendants''), pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. §§ 9606 and 9607. In the compliant, which was filed with the proposed decree, the United States seeks (1) recovery of past unreimbursed response costs incurred by the United States at the Tansitor Electronics, Inc. Superfund Site (''Site''), located in Bennington, Vermont, (2) recovery for injury to natural resources at the Site, and (3) an order requiring Settling Defendants to implement the remedy selected for the Site by EPA in a Record of Decision dated September 29, 1995 (''ROD''). The Settling Defendants are current and former owners and operators of the Site.

Pursuant to the proposed settlement, the Settling Defendants have agreed to (1) Reimburse the EPA Hazardous Substance Superfund in the amount of $300,000, (2) pay the United State's future oversight costs in connection with the Site in excess of $40,000, (3) pay $21,000 to the Department of the Interior with respect to damages to natural resources at the Site, and (4) implement the remedy for the Site selected by EPA in the ROD, which includes the filing of a restrictive easement, long-term groundwater monitoring, and the implementation of further studies of certain contingencies occur.

The State of Vermont is also a party to the settlement. The Settling Defendants have agreed to reimburse Vermont for all future oversight costs in excess of $10,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed decree. Any comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Tansitor Electronics, Inc.,* DOJ Ref. Number 90–11–3–737A.

The proposed consent decree may be examined in EPA Region 1 (contact Audrey Zucker, 617–918–1788); and the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005, (202) 614–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $91.50 (25 cents per page reproduction costs) for the decree with all appendices, or in the amount of $37.25 for the decree without Appendix A, which is the ROD, payable to the Consent Library.

Joel M. Gross,

Section Chief, Enviromental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–1808 Filed 1–26–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Reinstatement, with change, of a previously approved collection for which approval has expired; National Instant Criminal Background Check System (NICS) Federal Firearms Licensee Enrollment Form.

The Department of Justice (DOJ), Federal Bureau of Investigation (FBI) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the emergency review procedures of the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Emergency review and approval of this collection has been requested from OMB by February 5, 1999. If granted, this emergency approval is only valid for 180 days. Comments should be directed to Office of Management and Budget, Office of Information and Regulatory Affairs, Attn: Department of Justice Desk Officer, Washington, DC 20530.

During the first 60 days of this same period a regular review of this collection is also being undertaken. Public comments are encouraged and will be accepted until March 29, 1999. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of the information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time should be directed to Jim Jaye, National Instant Criminal Background Check System, Operations Manager, Federal Bureau of Investigation, CIJS Division, Module A–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306, (304) 625–7331.

Overview of this information collection:

(1) Type of Information Collection: Reinstatement, with change, of previously approved collection for which approval has expired.

(2) Title of the Form/Collection: National Instant Criminal Background Check System (NICS) Federal Firearms Licensee Enrollment Form.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form: None. Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Business or other for-profit (Federally licensed firearms dealers, manufacturers, or importers).

Brief Abstract: The Brady Handgun Violence Prevention Act of 1994, requires the Attorney General to establish a national instant criminal background check system that any Federal Firearm Licensee may contact, by telephone or by other electronic means in addition to the telephone, for information, to be supplied immediately, on whether receipt of a firearm to a prospective purchaser would violate federal or state law. Information pertaining to licensees who may contact the NICS is being collected manage and control access to the NICS, to ensure appropriate resources are available to support the NICS, and also to ensure the privacy and security of NICS information.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 6,000 Federal Firearms Licensees annually at an average of 20 minutes to respond.

(6) An estimate of the total public burden (in hours) associated with the collection: 2,000 hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 1001 G Street NW, Suite 850, Washington, DC 20530.

Dated: January 26, 1999.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 99–1802 Filed 1–26–99; 8:45 am]

BILLING CODE 4410–02–M

FOREIGN CLAIMS SETTLEMENT COMMISSION

[F.C.S.C. Meeting Notice No. 2–99]

Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date and Time: Friday, February 5, 1999, 10:00 a.m.

Subject Matter: Hearings on the Record on Objections to Proposed Decisions on claims against Albania, as follows:

Claim No. ALB–092 Thanas A. Laske, ALB–173 Marigo Tellios, et al., ALB–220 Gjergji Gjeli

Status: Open.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street, N.W., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room 6002, Washington, DC 20579. Telephone: (202) 616–6988.

Dated at Washington, DC, January 25, 1999.

David E. Bradley,

Chief Counsel.

[FR Doc. 99–2025 Filed 1–25–99; 2:14 pm]

BILLING CODE 4410–BA–P

DEPARTMENT OF JUSTICE

Department of Justice, Office of Justice Programs

Agency Information Collection Activities: Extension of a Currently Approved Collection; Comment Request

ACTION: Notice of Information Collection Under Review, (Reinstatement, without change, of a previously approved collection for which approval has expired).

The National Judicial Reporting Program, Form NJRP–1

The Department of Justice, Office of Justice Programs, Bureau of Justice Statistics (BJS), has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on October 28, 1998, allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment until January 28, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC 20530. Additionally, comments may be submitted to DOJ via facsimile to (202) 514–1590.

Written comments and/or suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitted electronic submission of responses.

Overview of this information:

(1) *Type of information collection:* Reinstatement, without change, of a previously approved collection for which approval has expired.

(2) *The title of the form/collection:* National Judicial Reporting Program.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is NJRP–1. Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State Court authorities. The National Judicial Reporting Program (NJRP) is the only collection effort that provides an ability to maintain important statistics on felons convicted and sentenced in state courts. The NJRP enables the Bureau, Federal, State, and local correctional administrators; legislators; researchers; and planners to track change in the numbers and types of offenses and sentences felons convicted in state courts receive; as well as track changes in the demographics, conviction type, number of charges, sentence length, and time between arrest and conviction and sentencing of felons convicted in state courts.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 344 respondents will take 8.1 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual burden hours are 2,786.

If additional information is required contact: Ms. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530, or via facsimile at (202) 514–1534.

Dated: January 21, 1999.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 99–1830 Filed 1–26–99; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 99–04; Exemption Application No. D–10288, et al.]

Grant of Individual Exemptions; Salomon Smith Barney Inc, et al

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Salomon Smith Barney, Inc. Located in New York, New York.

[Prohibited Transaction Exemption 99–04; Exemption Application No. D–10288]

Exemption

Section I—Transactions

A. The restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to any purchase or sale of securities between certain affiliates of Salomon Smith Barney, Inc. (SSB) which are foreign broker-dealers or banks (the Foreign Affiliates, as defined below) and employee benefit plans (the Plans) with respect to which the Foreign Affiliates are parties in interest, including options written by a Plan, SSB, or a Foreign Affiliate, provided that the following conditions, and the General Conditions of Section II, are satisfied:

(1) The Foreign Affiliate customarily purchases and sells securities for its own account in the ordinary course of its business as a broker-dealer or bank;

(2) The terms of any transaction are at least as favorable to the Plan as those the Plan could obtain in a comparable arm's length transaction with an unrelated party; and

(3) Neither the Foreign Affiliate nor an affiliate thereof has discretionary authority or control with respect to the investment of the Plan assets involved in the transaction, or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets, and the Foreign Affiliate is a

party in interest or disqualified person with respect to the Plan assets involved in the transaction solely by reason of section 3(14)(B) of the Act or section 4975(e)(2)(B) of the Code, or by reason of a relationship to a person described in such sections. For purposes of this paragraph, the Foreign Affiliate shall not be deemed to be a fiduciary with respect to a Plan solely by reason of providing securities custodial services for a Plan.

B. The restrictions of sections 406(a)(1)(A) through (D) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to any extension of credit to the Plans by the Foreign Affiliates to permit the settlement of securities transactions, regardless of whether they are effected on an agency or a principal basis, or in connection with the writing of options contracts, provided that the following conditions and the General Conditions of Section II, are satisfied:

(1) The Foreign Affiliate is not a fiduciary with respect to the Plan assets involved in the transaction, unless no interest or other consideration is received by the Foreign Affiliate or an affiliate thereof, in connection with such extension of credit; and

(2) Any extension of credit would be lawful under the Securities Exchange Act of 1934 (the 1934 Act) and any rules or regulations thereunder, if the 1934 Act, rules, or regulations were applicable.

C. The restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the lending of securities to the Foreign Affiliates by the Plans, provided that the following conditions, and the General Conditions of Section II, are satisfied:

(1) Neither the Foreign Affiliate nor an affiliate thereof has discretionary authority or control with respect to the investment of the Plan assets involved in the transaction, or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets;

(2) The Plan receives from the Foreign Affiliate (by physical delivery, by book entry in a securities depository, wire transfer, or similar means) by the close of business on the day the loaned securities are delivered to the Foreign Affiliate, collateral consisting of cash, securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities, irrevocable U.S. bank letters of credit issued by persons other than the Foreign Affiliate or an affiliate of the Foreign Affiliate, or any combination thereof. All collateral shall be in U.S. dollars, or dollar-denominated securities or bank letters of credit, and shall be held in the United States;

(3) The collateral has, as of the close of business on the preceding business day, a market value equal to at least 100 percent of the then market value of the loaned securities (or, in the case of letters of credit, a stated amount equal to same);

(4) The loan is made pursuant to a written loan agreement (the Loan Agreement), which may be in the form of a master agreement covering a series of securities lending transactions, and which contains terms at least as favorable to the Plan as those the Plan could obtain in a comparable arm's length transaction with an unrelated party;

(5) In return for lending securities, the Plan either: (a) Receives a reasonable fee, which is related to the value of the borrowed securities and the duration of the loan, or (b) has the opportunity to derive compensation through the investment of cash collateral. In the latter case, the Plan may pay a loan rebate or similar fee to the Foreign Affiliate, if such fee is not greater than what the Plan would pay in a comparable arm's length transaction with an unrelated party;

(6) The Plan receives at least the equivalent of all distributions on the borrowed securities made during the term of the loan, including, but not limited to, cash dividends, interest payments, shares of stock as a result of stock splits, and rights to purchase additional securities, that the Plan would have received (net of applicable tax withholdings)[1] had it remained the record owner of such securities;

(7) If the market value of the collateral as of the close of trading on a business day falls below 100 percent of the market value of the borrowed securities as of the close of trading on that day, the Foreign Affiliate delivers additional collateral, by the close of the Plan's business on the following business day, to bring the level of the collateral back to at least 100 percent. However, if the market value of the collateral exceeds 100 percent of the market value of the borrowed securities, the Foreign Affiliate may require the Plan to return part of the collateral to reduce the level of the collateral to 100 percent;

(8) Before entering into a Loan Agreement, the Foreign Affiliate furnishes to the independent Plan fiduciary: (a) The most recent available audited statement of the Foreign Affiliate's financial condition, (b) the most recent available unaudited statement of its financial condition (if more recent than the audited statement), and (c) a representation that, at the time the loan is negotiated, there has been no material adverse change in its financial condition that has not been disclosed since the date of the most recent financial statement furnished to the independent Plan fiduciary. Such representation may be made by the Foreign Affiliate's agreeing that each loan of securities shall constitute a representation that there has been no such material adverse change.

(9) The Loan Agreement and/or any securities loan outstanding may be terminated by the Plan at any time, whereupon the Foreign Affiliate shall deliver certificates for securities identical to the borrowed securities (or the equivalent thereof in the event of reorganization, recapitalization, or merger of the issuer of the borrowed securities) to the Plan within: (a) The customary delivery period for such securities, (b) five business days, or (c) the time negotiated for such delivery by the Plan and the Foreign Affiliate, whichever is least, or, alternatively, such period as permitted by Prohibited Transaction Class Exemption (PTCE) 81–6 (46 FR 7527, January 23, 1981, as amended at 52 FR 18754, May 19, 1987), as it may be amended or superseded;[2]

(10) In the event that the loan is terminated and the Foreign Affiliate fails to return the borrowed securities, or the equivalent thereof, within the time described in paragraph 9, the Plan may purchase securities identical to the borrowed securities (or their equivalent as described above) and may apply the collateral to the payment of the purchase price, any other obligations of the Foreign Affiliate under the Loan Agreement, and any expenses associated with the sale and/or purchase. The Foreign Affiliate is obligated to pay, under the terms of the Loan Agreement,

[1] The Department notes the applicant's representation that dividends and other distributions on foreign securities payable to a lending Plan may be subject to foreign tax withholdings and that the Foreign Affiliate will always put the Plan back in at least as good a position as it would have been in had it not loaned the securities.

[2] PTCE 81–6 provides an exemption under certain conditions from section 406(a)(1)(A) through (D) of the Act and the corresponding provisions of section 4975(c) of the Code for the lending of securities that are assets of an employee benefit plan to a U.S. broker-dealer registered under the 1934 Act (or exempted from registration under the 1934 Act as a dealer in exempt Government securities, as defined therein) or to a U.S. bank, that is a party in interest with respect to such plan.

and does pay, to the Plan the amount of any remaining obligations and expenses not covered by the collateral, plus interest at a reasonable rate. Notwithstanding the foregoing, the Foreign Affiliate may, in the event it fails to return borrowed securities as described above, replace non-cash collateral with an amount of cash not less than the then current market value of the collateral, provided that such replacement is approved by the independent Plan fiduciary; and

(11) The independent Plan fiduciary maintains the situs of the Loan Agreement in accordance with the indicia of ownership requirements under section 404(b) of the Act and the regulations promulgated under 29 CFR 2550.404(b)-1. However, in the event that the independent Plan fiduciary does not maintain the situs of the Loan Agreement in accordance with the indicia of ownership requirements of Section 404(b) of the Act, the Foreign Affiliate shall not be subject to the civil penalty which may be assessed under section 502(i) of the Act, or the taxes imposed by section 4975(a) and (b) of the Code.

If the Foreign Affiliate fails to comply with any condition of the exemption in the course of engaging in a securities lending transaction, the Plan fiduciary who caused the Plan to engage in such transaction shall not be deemed to have caused the Plan to engage in a transaction prohibited by section 406(a)(1)(A) through (D) of the Act solely by reason of the Foreign Affiliate's failure to comply with the conditions of the exemption.

Section II—General Conditions

A. The Foreign Affiliate is a registered broker-dealer or bank subject to regulation by a governmental agency, as described in Section III.B, and is in compliance with all applicable rules and regulations thereof in connection with any transactions covered by this exemption;

B. The Foreign Affiliate, in connection with any transactions covered by this exemption, is in compliance with the requirements of Rule 15a–6 (17 CFR 240.15a–6) of the 1934 Act, and Securities and Exchange Commission (S.E.C.) interpretations thereof, providing for foreign affiliates a limited exemption from U.S. broker-dealer registration requirements;

C. Prior to any transaction, the Foreign Affiliate enters into a written agreement with the Plan in which the Foreign Affiliate consents to the jurisdiction of the courts of the United States for any civil action or proceeding brought in respect of the subject transactions;

D. The Foreign Affiliate maintains, or causes to be maintained, within the United States for a period of six years from the date of any transaction such records as are necessary to enable the persons described in paragraph E to determine whether the conditions of the exemption have been met, except that——

(1) a party in interest with respect to a Plan, other than the Foreign Affiliate, shall not be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975 (a) and (b) of the Code, if such records are not maintained, or not available for examination, as required by paragraph E; and

(2) a prohibited transaction shall not be deemed to have occurred if, due to circumstances beyond the Foreign Affiliate's control, such records are lost or destroyed prior to the end of the six year period;

E. Notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the Foreign Affiliate makes the records referred to in paragraph (D) unconditionally available during normal business hours at their customary location to the following persons or a duly authorized representative thereof: (1) The Department, the Internal Revenue Service, or the S.E.C.; (2) any fiduciary of a Plan; (3) any contributing employer to a Plan; (4) any employee organization any of whose members are covered by a Plan; and (5) any participant or beneficiary of a Plan. However, none of the persons described in (2) through (5) of this subsection are authorized to examine the trade secrets of the Foreign Affiliate or commercial or financial information which is privileged or confidential.

Section III—Definitions

A. The term *affiliate* of another person shall include: (1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person; (2) any officer, director, or partner, employee or relative (as defined in section 3(15) of the Act) of such other person; and (3) any corporation or partnership of which such other person is an officer, director or partner. For purposes of this definition, the term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual;

B. The *term Foreign Affiliate* shall mean an affiliate of Salomon Smith Barney Inc. (or its successor in name within Citigroup) that is subject to regulation as a broker-dealer or bank by (1) the Ontario Securities Commission and the Investment Dealers Association in Canada; (2) the Securities and Futures Authority in the United Kingdom; (3) the Deutsche Bundesbank and the Federal Banking Supervisory Authority, i.e., der Bundesaufsichtsamt fuer das Kreditwesen (the BAK) in Germany; or

(4) the Ministry of Finance and the Tokyo Stock Exchange in Japan;

C. The *term security* shall include equities, fixed income securities, options on equity and on fixed income securities, government obligations, and any other instrument that constitutes a security under U.S. securities laws. The term ''security'' does not include swap agreements or other notional principal contracts.

EFFECTIVE DATE: This exemption is effective as of June 7, 1996.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on October 6, 1998 at 63 FR 53703.

Written Comments

The Department received written comments with respect to the notice of proposed exemption (the Notice), which were submitted by the applicant. The comments request certain modifications and additions to the operative language of the final exemption and to the Summary of Facts and Representations (the Summary) contained in the Notice (see 63 FR 53705). These modifications and additions are discussed below.

1. First, in order to perfect the record upon which the Notice was based, the comments provide new information regarding certain corporate mergers and restructurings that have occurred. In November, 1997, a subsidiary of the then Travelers Group Inc. (now, Citigroup Inc., as discussed below) acquired all of the shares of Salomon Inc., the ultimate parent of Salomon Brothers Inc. (Salomon Bros.). Initially, Salomon Bros. and Smith Barney Inc. (Smith Barney), an affiliate of Travelers Group Inc., were operated as separately registered broker-dealers. However, on September 1, 1998, Salomon Bros. was merged into Smith Barney, and Smith Barney became the surviving corporation and changed its name to Salomon Smith Barney Inc. On October 15, 1998, Salomon Smith Barney Inc. was merged into Pendex Real Estate Corporation, a New York corporation. The New York entity survived the merger and changed its name to Salomon Smith Barney Inc., a New York

corporation. In addition, in April of 1998, Travelers Group Inc. and Citicorp announced a proposed merger. On October 8, 1998, the merger closed, and Citicorp was merged into a subsidiary of Travelers Group Inc. Travelers Group Inc. became a bank holding company and changed its name to Citigroup Inc.

Accordingly, the applicant requests, and the Department concurs with, the following revisions to the Notice, which are reflected in this exemption.

a. All references to Salomon Brothers Inc. should be changed to Salomon Smith Barney Inc. and all references to Salomon Bros. to SSB.

b. In Paragraph 1 of the Summary, the first two full subparagraphs and the first sentence of the third subparagraph (see 63 FR 53705, column 3) should be replaced with the following:

Salomon Smith Barney Inc., a New York corporation, is an indirect subsidiary of Salomon Smith Barney Holdings Inc., a Delaware corporation, which in turn is a subsidiary of the Citigroup Inc. (formerly the Travelers Group Inc.). Salomon Smith Barney Inc. is one of the largest full-line investment service firms in the United States. It is registered with and regulated by the S.E.C. as a broker-dealer, is registered with and regulated by the Commodities Futures Trading Commission as a futures commission merchant, is a member of the New York Stock Exchange and other principal securities exchanges in the United States, and is also a member of the National Association of Securities Dealers, Inc. As of December 31, 1997, the then Travelers Group Inc. had approximately $387 billion in assets and approximately $21 billion in stockholders' equity.

SSB has several affiliates which are broker-dealers or banks. Those covered by the proposed exemption * * * etc.

c. The references to Salomon Bros. Canada Inc., Salomon Bros. U.K. Limited, Salomon Bros. U.K. Equity Limited, Salomon Bros. International Limited, Salomon Bros. AG, and Salomon Bros. Asia should be changed to Salomon Smith Barney Canada Inc., Salomon Brothers U.K. Limited, Salomon Brothers U.K. Equity Limited, Salomon Brothers International Limited, Salomon Brothers AG, and Salomon Smith Barney (Japan) Limited, respectively.

2. Second, in consideration of the corporate mergers and restructurings that have occurred or may occur in the future involving SSB, the comments request that the Department confirm that this exemption will continue to be effective for any successor entity to SSB, provided that Citigroup remains the indirect parent corporation of such successor entity. In this regard, the Department notes that this exemption would be effective if SSB reorganized or changed its name, provided that such actions did not occur in connection with the sale of the underlying assets of SSB to an unrelated third party. Thus, in response to this comment, the Department has modified the definition of the term ''Foreign Affiliate'' in Section III.B. of the exemption to clarify that such term applies to an affiliate of SSB or its successor in name within Citigroup.

3. Third, the comments request certain modifications in order to clarify that the provisions of this exemption are consistent with other recent similar exemptions granted by the Department.[3]

a. The comments state that Section I.A. of the Notice (see 63 FR 53703–4) should be revised to read as follows (note deleted and italicized language):

A. The restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to any purchase or sale of securities [delete ''including options on securities''] between certain affiliates of Salomon Smith Barney Inc. (SSB) which are foreign broker-dealers or banks (the Foreign Affiliates, as defined below) and employee benefit plans (the Plans) with respect to which the Foreign Affiliates are parties in interest, *including options written by a Plan, SSB, or a Foreign Affiliate,* * * *

The revised language regarding options, above, is more specific in order to clarify that such options may be written by a Plan. In this regard, the Department cautions Plan fiduciaries to understand the risks and benefits associated with particular options strategies and to monitor such strategies effectively, in order to act prudently, as required under section 404(a) of the Act, when making investment decisions on behalf of a Plan.

b. The comments state that the following sentence should be added to the end of Section I.A., Paragraph 3 of the Notice (see 63 FR 53704, column 1):

For purposes of this paragraph, the Foreign Affiliate shall not be deemed to be a fiduciary with respect to a Plan solely by reason of providing securities custodial services for a Plan.

c. The comments state that the word ''any'' in Section I.B, Paragraph 1 of the Notice (see 63 FR 53704, column 1) should be replaced with the word ''such'' so that the phrase reads ''in connection with *such* extension of credit.''

d. The comments state that, in order to avoid any ambiguity, Footnote 4 of the Summary (see 63 FR 53707, center column) should be modified by adding the following italicized language:

SSB represents that currently all such requirements *under* Rule 15a–6 relating to record-keeping of principal transactions would be applicable [delete ''to''] *in respect of* any Foreign Affiliate in a *principal* transaction that would be covered by this proposed exemption.

The Department concurs with the applicant's requests and, where necessary, has so modified the language of this exemption.

4. Fourth, the comments request, as a matter of clarification, that the following sentence be added to the end of the first subparagraph of Paragraph 11 in Section I.C. of the Notice (see 63 FR 53705, column 1):

However, in the event that the independent Plan fiduciary does not maintain the situs of the Loan Agreement in accordance with the indicia of ownership requirements of Section 404(b) of the Act, the Foreign Affiliate shall not be subject to the civil penalty which may be assessed under section 502(i) of the Act, or the taxes imposed by section 4975(a) and (b) of the Code.

The Department acknowledges the above-described clarification to the Notice and has so modified the language of this exemption.

5. Fifth, the comments request certain clarifications and additions to the information contained in Paragraph 6 of the Summary (see 63 FR 53706–07), in order to conform the language of the Summary to the relevant language of S.E.C. Rule 15a–6 and to reflect certain S.E.C. interpretations or modifications to that rule, pursuant to a No-Action letter issued to Cleary, Gottlieb, Steen & Hamilton on April 9, 1997.

a. The comments state that references to ''U.S. major institutional investor'' and ''major institutional investor'' should be changed to ''major U.S. institutional investor'' in order to be consistent with Rule 15a–6.

b. The comments state that a footnote should be inserted after the definition of ''major U.S. institutional investor'' in the third full subparagraph of Paragraph 6 of the Summary (see 63 FR 53707, column 1) which reads as follows:

Note that the categories of entities that qualify as ''major U.S. institutional investors'' has been expanded by an S.E.C. No-Action letter. See No-Action Letter issued to Cleary, Gottlieb, Steen & Hamilton on April 9, 1997 (the April 9, 1997 No-Action Letter).

c. The comments state that another footnote should be inserted after the text of subparagraph (c)(5) of Paragraph 6 of the Summary (see 63 FR 53707, center column) which reads as follows:

Under certain circumstances described in the April 9, 1997 No-Action Letter (e.g.,

[3] See, e.g., Prohibited Transaction Exemption (PTE) 97–08 (62 FR 4811, January 31, 1997) regarding Morgan Stanley & Co., PTE 97–57 (62 FR 56203) regarding NatWest Securities Corp., and PTE 98–62 (63 FR 71307) regarding Barclays Bank PLC.

clearance and settlement transactions), there may be direct transfers of funds and securities between a Plan and a Foreign Affiliate. Please note that in such situations (as in the other situations covered by Rule 15a–6), the U.S. broker-dealer will not be acting as a principal with respect to any duties it is required to undertake pursuant to Rule 15a–6.

d. The comments state that the following sentence should be inserted at the end of subparagraph (c)(6) of Paragraph 6 of the Summary (see 63 FR 53707, center column):

Under certain circumstances, the foreign associated person may have direct communications and contact with the U.S. institutional investor. (See April 9, 1997 No-Action Letter.)

The Department acknowledges the above-described clarifications to the information included in the Summary.

6. Finally, with respect to the lending of securities by a Plan to a Foreign Affiliate, the applicant states that it wishes to avoid the necessity of amending this individual exemption each time PTCE 81–6 is further amended or superseded. Therefore, the comments request that the following phrase be added to the language at the end of Section I.C., Paragraph 9 of the Notice (see 63 FR 53704, column 3), relating to the required time for delivery of borrowed securities back to the plan:

''or, alternatively, such period as permitted by Prohibited Transaction Class Exemption (PTCE) 81–6 (46 FR 7527, January 23, 1981, as amended at 52 FR 18754, May 19, 1987), as it may be amended or superseded.''

In addition, the comment states that the above phrase should be inserted after the sentence ending ''. . . whichever is least'' in Paragraph 18 of the Summary (see 63 FR 53708, column 3), also relating to the required time for delivery of borrowed securities back to the plan.

The Department has modified the language of this exemption to reflect the applicant's clarifications to the record, as discussed above, and also acknowledges such clarifications as they relate to the information contained in the Notice, as published in the **Federal Register** on October 6, 1998.

No other comments were received by the Department.

Accordingly, based on the information contained in the entire record, the Department has determined to grant the proposed exemption as modified herein.

FOR FURTHER INFORMATION CONTACT: Ms. Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Individual Retirement Accounts (the IRAs) for Sharilyn Brune, Richard C. Glowacki, Carl B. Mockensturm, Arthur T. Parrish, W. Alan Robertson, David A. Snavely and Duane Stranahan, Jr. (collectively, the IRA Participants) Located in Holland, OH.

(Prohibited Transaction Exemption 99–05; Application Nos. D–10636—D–10642, respectively)

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, effective December 1, 1998 to (1) the cash sale by the IRAs[4] to TTC Holdings, Inc. (TTC), the parent of The Trust Company of Toledo, N.A., the trustee of the IRAs and a disqualified person, of certain preferred stock (the Preferred Stock) issued by TTC; and (2) the arrangement for the subsequent purchase by the IRA Participants in their individual capacities, from TTC, pursuant to an agreement with TTC, of an equal number of shares of common stock (the Common Stock) issued by TTC, provided the following conditions are met:

(a) The terms and conditions of the sale and purchase transactions were at least as favorable to each IRA as the terms obtainable in an arm's length transaction with an unrelated party.

(b) The sale by the IRAs of the Preferred Stock and the purchase by the IRA Participants of the Common Stock, in their individual capacities, were one-time transactions for cash which occurred on the same business day;

(c) Each IRA received from TTC, as the sales price for the Preferred Stock, cash consideration reflecting the fair market value of such stock as determined by a qualified, independent appraiser;

(d) Each IRA Participant purchased, in his or her individual capacity, shares of the Common Stock which were equal in number to the shares of Preferred Stock sold by TTC;

(e) No IRA was required to pay any commissions, fees or other expenses in connection with each sale transaction; and

(f) An independent fiduciary determined that the transactions described herein were in the best interest and protective of the IRAs at the time of the transactions; supervised and monitored such transactions on their behalf; assured that the conditions of the proposed exemption were met; and took whatever actions were necessary and proper to protect the interests of the IRAs, including reviewing amounts paid by TTC for the Preferred Stock.

EFFECTIVE DATE: This exemption is effective as of December 1, 1998.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on December 16, 1998 at 63 FR 69319.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department at (202) 219–8881. (This is not a toll-free number.)

Individual Retirement Accounts (the IRAs) for Robert C. Hummel, Garth L. Gibson, Hugh B. Force, Ellen K. Davidson and Michael Davidson (Collectively; the Participants) Located respectively in Greeley, Colorado; Montrose, Colorado; Fort Collins, Colorado; Green River, Wyoming; and Green River, Wyoming.

(Prohibited Transaction Exemption 99–06; Exemption Application Nos. D–10683, D–10684, D–10685, D–10697 and D–10698)

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective December 15, 1998, to the cash sales (the Sales) of certain shares of closely-held common stock of First Mountain Company (the Stock) by the IRAs[5] to the Participants, disqualified persons with respect to the IRAs, provided that the following conditions have been met:

1. The terms and conditions of the Sales were at least as favorable to each IRA as those obtainable in an arm's-length transaction with an unrelated party;

2. The Sale of the Stock by each IRA was a one-time transaction for cash;

3. Each IRA received the fair market of the Stock, as was established by a qualified, independent appraiser, at the time of the Sale; and

4. The IRAs did not pay any commissions, costs or other expenses in connection with the Sales.

EFFECTIVE DATE: The exemption is effective as of December 15, 1998.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on December 16, 1998 at 63 FR 69323 (the Notice).

[4] Pursuant to 29 CFR 2510.3–2(d), the IRAs are not within the jurisdiction of Title I of the Employee Retirement Income Security Act of 1974 (the Act). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

[5] Because each IRA has only one Participant, there is no jurisdiction under 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

Written Comments

The Department received one written comment from the applicant (the Comment) with respect to the Notice and no requests for a public hearing. The Comment states that Robb and Lynne Morgan Ruyle did not consummate the transaction as outlined in the Notice. Instead, Robb and Lynne Morgan Ruyle each decided to terminate their respective IRAs, distribute the IRAs' assets to themselves, file the appropriate tax returns, and pay the penalties and taxes associated with such distributions. As such, the Applicant states that this exemption need not apply to the Robb and Lynne Morgan Ruyle IRAs.

The Department concurs and has eliminated all references to the Robb and Lynne Morgan Ruyle IRAs in this exemption. [6]

Accordingly, the Department has determined to grant the proposed exemption as modified herein.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department at (202) 219–8883. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions do not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 21st day of January, 1999.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

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BILLING CODE 4510–29–P

[6] The files containing exemption requests for Robb and Lynn Morgan Ruyle were assigned numbers D–10687 and D–10686, respectively. Because the applicant requested that this exemption not apply to the Robb and Lynn Morgan Ruyle IRAs, the Department has closed these files administratively.

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10468, et al.]

Proposed Exemptions; Wells Fargo Bank, N.A. (Wells Fargo)

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

Unless otherwise stated in the Notice of Proposed Exemption, all interested persons are invited to submit written comments, and with respect to exemptions involving the fiduciary prohibitions of section 406(b) of the Act, requests for hearing within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC. 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, NW., Washington, DC. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Wells Fargo Bank, N.A. (Wells Fargo), Located in San Francisco, CA

[Application No. D–10468]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990).[1]

Section I. Proposed Exemption for the Conversion of Assets (the Conversion Transactions)

If the exemption is granted, the restrictions of section 406(a) and section 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (F) of the Code, shall not apply, effective September 16, 1996, to the exchange of the assets of various employee benefit plans (the Plans) that are either held in certain collective investment funds (the CIF or CIFs) maintained by Wells Fargo, or otherwise held by Wells Fargo as trustee, investment manager or in any other capacity as fiduciary on behalf of the Plans, for shares of any open-end investment company (the Fund or Funds) registered under the Investment Company Act of 1940 (the 1940 Act) to which Wells Fargo or any of its affiliates (collectively, Wells Fargo) serves as investment adviser and may provide other services, provided the following conditions are met:

(a) The Plans are not sponsored by Wells Fargo.

(b) No sales commissions are paid by a Plan in connection with a Conversion Transaction.

(c) All or a *pro rata* portion of the assets of a CIF or all or a *pro rata* portion of the assets of the Plans held by Wells Fargo in any capacity as fiduciary on behalf of such Plans are transferred in-kind to the Funds in exchange for shares of such Funds.

(d) The Plans or the CIFs receive shares of the Funds that have a total net asset value equal in value to the assets of the Plans or the CIFs exchanged for such shares on the date of transfer.

(e) The current market value of the assets of a Plan or the CIF is determined in a single valuation performed in the same manner as of the close of the same business day with respect to all such Plans participating in the transaction on such day, using independent sources in accordance with the procedures set forth in Rule 17a–7b (Rule 17a–7) under the Investment Company Act of 1940 (the 1940 Act), as amended, and the procedures established by the Funds pursuant to Rule 17a–7 for the valuation of such assets. Such procedures must require that all securities for which a current market price cannot be obtained by reference to the last sale price for transactions reported on a recognized securities exchange or NASDAQ be valued based on an average of the highest current independent bid and lowest current independent offer, as of the close of business on the last business day prior to the Conversion Transaction determined on the basis of reasonable inquiry from at least three sources that are broker-dealers or pricing services independent of Wells Fargo.

(f) A second fiduciary (the Second Fiduciary) who is acting on behalf of each affected Plan and who is independent of and unrelated to Wells Fargo, as defined in paragraph (g) of Section III below, receives advance written notice of the Conversion Transaction and the disclosures described in paragraph (f) of Section II below.

(g) On the basis of the information described in paragraph (f) of Section II below, the Second Fiduciary authorizes in writing the Conversion Transaction, the investment of such assets in corresponding Funds and the fees received by Wells Fargo in connection with its services to the Funds. Such authorization by the Second Fiduciary is consistent with the responsibilities, obligations, and duties imposed on fiduciaries by Part 4 of Title I of the Act.

(h)(1) For the Conversion Transaction which occurred on September 16, 1996, the written confirmation described below in paragraph (h)(2) was made by Wells Fargo to all Second Fiduciaries of the appropriate Plans within 38 business days of the transaction.

(2) Not later than 30 days after completion of each Conversion Transaction (except for the transaction described in paragraph (h)(1) above), Wells Fargo sends by regular mail to the Second Fiduciary, a written confirmation that contains the following information:

(A) The identity of each of the assets that was valued for purposes of the transaction in accordance with Rule 17a–7(b)(4) under the 1940 Act;

(B) The price of each of the assets involved in the transaction; and

(C) The identity of each pricing service or market maker consulted in determining the value of such assets.

(i) No later than 90 days after completion of each Conversion Transaction, Wells Fargo sends by regular mail to the Second Fiduciary, a written confirmation that contains the following information:

(1) The number of CIF units held by such affected Plan immediately before the conversion (and the related per unit value and the aggregate dollar value of the units transferred); and

(2) The number of shares in the Funds that are held by such affected Plan following the conversion (and the related per share net asset value and the aggregate dollar value of the shares received).

(j) The conditions set forth in paragraphs (d), (e), (f), (n), (o), (p), and (q) of Section II below are satisfied.

Section II. Proposed Exemption for Receipt of Fees From Funds (Transactions Involving the Receipt of Fees)

If the exemption is granted, the restrictions of section 406(a) and section 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(D) through (F) of the Code, shall not apply to the receipt of fees by Wells Fargo from the Funds for acting as the investment adviser, as well as for acting as the custodian, sub-administrator, or for providing any ''secondary service'' (the Secondary Service) to the Funds [as defined in Section III(h)], in connection with the investment in the Funds by the Plans for which Wells Fargo acts as a fiduciary, provided that:

(a) No sales commissions are paid by the Plans in connection with purchase or sale of shares of the Funds through a Conversion Transaction, and no redemption fees are paid in connection with the sale of such shares by the Plans to the Funds.

(b) The price paid or received by the Plans for shares of the Funds, in connection with a Conversion Transaction is the net asset value per share, as defined in paragraph (e) of Section III, at the time of the transaction and is the same price which would have been paid or received for the shares by any other investor at that time.

(c) Neither Wells Fargo nor an affiliate, including any officer or director purchases from or sells to any of the Plans shares of any of the Funds.

(d) As to each individual Plan, the combined total of all Plan-level and Fund-level fees received by Wells Fargo for the provision of services to such

[1] For purposes of this proposed exemption, reference to provisions of Title I of the Act, unless otherwise specified, refer also to corresponding provisions of the Code.

Plan and to the Funds (with respect to the Plan's assets invested in the Funds), respectively, are not in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.

(e) Wells Fargo does not receive any fees payable pursuant to Rule 12b–1 under the 1940 Act (the 12b–1 Fees) in connection with the transactions.

(f) The Second Fiduciary receives, in advance of the investment by the Plan in a Fund, a full and detailed written disclosure of information concerning such Fund (including, but not limited to—

(1) A current prospectus for each Fund in which a Plan is considering investing;

(2) A statement describing the fees for investment advisory or similar services, any Secondary Services, and all other fees to be charged to or paid by the Plan and by the Funds, including the nature and extent of any differential between the rates of such fees;

(3) The reasons why Wells Fargo may consider such investment to be appropriate for the Plan;

(4) A statement describing whether there are any limitations applicable to Wells Fargo with respect to which assets of a Plan may be invested in the Funds, and if so, the nature of such limitations; and

(5) Upon request of the Second Fiduciary, a copy of the proposed exemption and/or a copy of the final exemption, if granted, once such documents are published in the **Federal Register**.

(g) On the basis of the prospectus and disclosure referred to in paragraph (f) of this Section II, the Second Fiduciary gives prior approval for such purchases, holdings and sales of Fund shares through Conversion Transactions that is consistent with the responsibilities obligations, and duties imposed on fiduciaries by Part 4 of Title I of the Act. Such approval must be in accordance with the provisions of Prohibited Transaction Exemption (PTE) 77–4 (42 FR 18732, April 8, 1977) or its successor, as it may be amended from time to time.

(h) The authorization, described in paragraph (g) of this Section II, is terminable at will by the Second Fiduciary of a Plan, without penalty to such Plan. Such termination will be effected by Wells Fargo redeeming the shares of the Fund held by the affected Plan by the close of the business day following the date of receipt by Wells Fargo, either by mail, hand delivery, facsimile, or other available means of written communication at the option of the Second Fiduciary, of the termination form (the Termination Form), as defined in paragraph (i) of Section III below, or any other written notice of termination; provided that if, due to circumstances beyond the control of Wells Fargo, the sale cannot be executed within one business day, Wells Fargo shall have one additional business day to complete such redemption.

(i) Each Plan satisfies either (but not both) of the following:

(1) For a Plan for which Wells Fargo serves as a non-discretionary trustee, the Plan does not pay any Plan-level investment management fees, investment advisory fees, or similar fees to Wells Fargo with respect to Plan assets invested in the Funds. (This condition does not preclude the payment of investment advisory fees or similar fees by a Fund to Wells Fargo under the terms of its investment advisory agreement adopted in accordance with section 15 of the 1940 Act, nor does it preclude the payment of fees for Secondary Services to Wells Fargo pursuant to a duly adopted agreement between Wells Fargo and the Funds.)

(2) For a Plan for which Wells Fargo serves as a discretionary fiduciary (i.e., a trustee or investment manager), such Plan pays Wells Fargo an investment advisory fee based on total Plan assets from which a credit has been subtracted representing such Plan's *pro rata* share of investment advisory fees paid by the Funds. (This condition also does not preclude the payment of fees for Secondary Services to Wells Fargo pursuant to a duly adopted agreement between Wells Fargo and the Funds.)

(j) In the event of an increase in the rate of any fees paid by the Funds to Wells Fargo regarding any investment management services, investment advisory services, or fees for similar services that Wells Fargo provides to the Funds over an existing rate for such services that had been authorized by a Second Fiduciary, in accordance with paragraph (g) of this Section II, Wells Fargo will, at least 30 days in advance of the implementation of such increase, provide a written notice (which may take the form of a proxy statement, letter, or similar communication that is separate from the prospectus of the Fund and which explains the nature and amount of the increase in fees) to the Second Fiduciary of each of the Plans invested in a Fund which is increasing such fees. Such notice shall be accompanied by the Termination Form, as defined in paragraph (i) of Section III below.

(k) In the event of an addition of a Secondary Service, as defined in paragraph (g) of Section III below, provided by Wells Fargo to the Fund for which a fee is charged or an increase in the rate of any fee paid by the Funds to Wells Fargo for any Secondary Service, as defined in paragraph (h) of Section III below, that results either from an increase in the rate of such fee or from the decrease in the number or kind of services performed by Wells Fargo for such fee over an existing rate for such Secondary Service which had been authorized by the Second Fiduciary of a Plan, in accordance with paragraph (g) of this Section II, Wells Fargo will, at least 30 days in advance of the implementation of such additional service for which a fee is charged or fee increase, provide a written notice (which may take the form of a proxy statement, letter, or similar communication that is separate from the prospectus of the Fund and which explains the nature and amount of the additional service for which a fee is charged or the nature and amount of the increase in fees) to the Second Fiduciary of each of the Plans invested in a Fund which is adding a service or increasing fees. Such notice shall be accompanied by the Termination Form, as defined in paragraph (i) of Section III below.

(l) The Second Fiduciary is supplied with a Termination Form at the times specified in paragraphs (j), (k) and (m) of this Section II with instructions regarding the use of such Termination Form including the following information—

(1) The authorization is terminable at will by any of the Plans, without penalty to such Plans. Such termination will be effected by Wells Fargo redeeming shares of the Fund held by the Plans requesting termination within one business day following the date of receipt by Wells Fargo, either by mail, hand delivery, facsimile, or other available means at the option of the Second Fiduciary, of the Termination Form or any other written notice of termination; provided that if, due to circumstances beyond the control of Wells Fargo, the redemption of shares of such Plans cannot be executed within one business day, Wells Fargo shall have one additional business day to complete such redemption; and

(2) Failure by the Second Fiduciary to return the Termination Form on behalf of a Plan will be deemed to be an approval of the additional Secondary Service for which a fee is charged or increase in the rate of any fees, if such Termination Form is supplied pursuant to paragraphs (j) and (k) of this Section II, and will result in the continuation of the authorization, as described in paragraph (h) of this Section II, of Wells Fargo to engage in the transactions on behalf of such Plan.

(m) The Second Fiduciary is supplied with a Termination Form, annually during the first quarter of each calendar year, beginning with the first quarter of the calendar year that begins after the date the notice granting this proposed exemption is published in the **Federal Register** and continuing for each calendar year thereafter; provided that the Termination Form need not be supplied to the Second Fiduciary, pursuant to paragraph (m) of this Section II, sooner than six months after such Termination Form is supplied pursuant to paragraphs (j) and (k) of this Section II, except to the extent required by said paragraphs (j) and (k) of this Section II to disclose an additional Secondary Service for which a fee is charged or an increase in fees.

(n)(1) With respect to each of the Funds in which a Plan invests, Wells Fargo will provide the Second Fiduciary of such Plan:

(A) At least annually with a copy of an updated prospectus of such Fund;

(B) Upon the request of such Second Fiduciary, with a report or statement (which may take the form of the most recent financial report, the current statement of additional information, or some other written statement) which contains a description of all fees paid by the Fund to Wells Fargo; and

(2) With respect to each of the Funds in which a Plan invests, in the event such Fund places brokerage transactions with Wells Fargo, Wells Fargo will provide the Second Fiduciary of such Plan at least annually with a statement specifying:

(A) The total, expressed in dollars, brokerage commissions of each Fund's investment portfolio that are paid to Wells Fargo by such Fund;

(B) The total, expressed in dollars, of brokerage commissions of each Fund's investment portfolio that are paid by such Fund to brokerage firms unrelated to Wells Fargo;

(C) The average brokerage commissions per share, expressed as cents per share, paid to Wells Fargo by each portfolio of a Fund; and

(D) The average brokerage commissions per share, expressed as cents per share, paid by each portfolio of a Fund to brokerage firms unrelated to Wells Fargo.

(o) All dealings between the Plans and any of the Funds are on a basis no less favorable to such Plans than dealings between the Funds and other shareholders holding the same class of shares as the Plans.

(p) Wells Fargo maintains, for a period of six years, in a manner that is convenient and accessible for audit and examination, the records necessary to enable the persons, described in paragraph (q) of Section II below, to determine whether the conditions of this proposed exemption have been met, except that—

(1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Wells Fargo, the records are lost or destroyed prior to the end of the 6 year period; and

(2) No party in interest, other than Wells Fargo, shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (q) of Section II below;

(q)(1) Except as provided in paragraph (q)(2) of this Section II and notwithstanding any provisions of subsection (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (p) of Section II above are unconditionally available at their customary location for examination during normal business hours by——

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service or the Securities and Exchange Commission (the SEC);

(B) Any fiduciary of each of the Plans who has authority to acquire or dispose of shares of any of the Funds owned by such a Plan, or any duly authorized employee or representative of such fiduciary; and

(C) Any participant or beneficiary of the Plans or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described in paragraph (q)(1)(B) and (q)(1)(C) of Section II shall be authorized to examine trade secrets of Wells Fargo, or commercial or financial information which is privileged or confidential.

Section III. Definitions

For purposes of this proposed exemption,

(a) The term ''Wells Fargo'' means Wells Fargo Bank, N.A. and any of its affiliates, as defined in paragraph (b) of this Section III.

(b) An ''affiliate'' of a person includes:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person.

(2) Any officer, director, employee, relative, or partner in any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(c) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term ''Fund'' or ''Funds'' means any diversified open-end investment company or companies registered under the 1940 Act for which Wells Fargo serves as investment adviser (including sub-adviser), and may also provide custodial or other services as approved by such Funds.

(e) The term ''net asset value'' means the amount for purposes of pricing all purchases and redemptions through the Conversion Transactions, calculated by dividing the value of all securities, determined by a method adopted by the Fund's board of directors in accordance with the 1940 Act, and other assets belonging to each of the portfolios in such Fund, less the liabilities charged to each portfolio, by the number of outstanding shares.

(f) The term ''relative'' means a ''relative'' as that term is defined in section 3(15) of the Act (or a ''member of the family'' as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(g) The term ''Second Fiduciary'' means a fiduciary of a plan who is independent of and unrelated to Wells Fargo. For purposes of this exemption, the Second Fiduciary will not be deemed to be independent of and unrelated to Wells Fargo if——

(1) Such Second Fiduciary directly or indirectly controls, is controlled by, or is under common control with Wells Fargo;

(2) Such Second Fiduciary, or any officer, director, partner, employee, or relative of such Second Fiduciary is an officer, director, partner, or employee of Wells Fargo (or is a relative of such persons);

(3) Such Second Fiduciary directly or indirectly receives any compensation or other consideration from Wells Fargo for his or her own personal account in connection with any transaction described in this proposed exemption.

If an officer, director, partner, or employee of Wells Fargo (or a relative of such persons), is a director of such Second Fiduciary, and if he or she abstains from participation in (A) the choice of the Plan's investment manager/adviser, (B) the approval of any purchase or redemption by the Plan of shares of the Funds through a Conversion Transaction, and (C) the approval of any change of fees charged to or paid by the Plan, in connection with any of the transactions described in Sections I and II above, then

paragraph (g)(2) of Section III above, shall not apply.

(h) The term ''Secondary Service'' means a service, other than an investment management, investment advisory, or similar service, which is provided by Wells Fargo to the Funds, including but not limited to custodial, accounting, brokerage, administrative, or any other service.

(i) The term ''Termination Form'' means the form supplied to the Second Fiduciary, at the times specified in paragraphs (j), (k) and (m) of Section II above, which expressly provides an election to the Second Fiduciary to terminate on behalf of the Plans the authorization, described in paragraph (g) of Section II. Such Termination Form may be used at will by the Second Fiduciary to terminate such authorization without penalty to the Plans and to notify Wells Fargo in writing to effect such termination by redeeming the shares of the Fund held by the Plans requesting termination by the close of the business day following the date of receipt by Wells Fargo, either by mail, hand delivery, facsimile, or other available means at the option of the Second Fiduciary, of written notice of such request for termination; provided that if, due to circumstances beyond the control of Wells Fargo, the redemption cannot be executed within one business day, Wells Fargo shall have one additional business day to complete such redemption.

EFFECTIVE DATE: If granted, this proposed exemption will be effective September 16, 1996 with respect to the Conversion Transactions described in Section I and effective as of the date of the grant with respect to Transactions Involving the Receipt of Fees, as described in Section II.

Preamble

On April 4, 1996, the Department granted PTE 96–54 at 61 FR 37933. PTE 96–54 permitted, effective July 2, 1993 until October 1, 1993, the in-kind transfer of all or a *pro rata* portion of assets of Plans that were held in certain CIFs maintained by Wells Fargo to certain Funds advised by Wells Fargo, in exchange for shares of the Funds, in connection with the partial termination of the CIFs. The assets transferred consisted of stock, U.S. Treasury obligations, other government and agency obligations, certain fixed income obligations, asset-backed securities and other securities. The Department made a decision to bifurcate the original exemption request thereby exempting the transaction described in PTE 96–54. The Department also provided no exemptive relief in PTE 96–54 for transactions involving the receipt of fees by Wells Fargo from the Funds beyond that provided under PTE 77–4.[2]

In its amended exemption request, Wells Fargo has agreed to modify the original application so that it will apply to current and future Conversion Transactions and to implement a ''negative consent'' procedure with respect to fees paid to Wells Fargo by the Funds (i.e., Transactions Involving the Receipt of Fees). If granted, the proposed exemption will be effective as of September 16, 1996 with respect to the Conversion Transactions and effective on the date the grant notice is published in the **Federal Register** for Transactions Involving the Receipt of Fees.

Summary of Facts and Representations

Description of the Parties

1. Wells Fargo, which is located in San Francisco, California, is a wholly owned subsidiary of Wells Fargo & Company (WFC) and the seventh largest commercial bank in the United States. Wells Fargo currently serves as a fiduciary with respect to the assets of certain Plans. As of January 15, 1999, Wells Fargo had approximately $15 billion under management. Wells Fargo also serves as a trustee of certain CIFs and as the investment adviser or sub-adviser with respect to the Funds that are described below.

Effective December 31, 1995, WFC and its affiliates sold certain elements of their institutional trust business, including interests in other entities to Barclays Bank PLC (Barclays). These entities were subsequently reorganized primarily into Barclays Global Fund Advisors. In addition to the Barclays' transaction, effective January 23, 1996, First Interstate Bancorp, a bank holding company (First Interstate), merged into WFC, with the latter as the surviving entity. Effective April 1, 1996, First Interstate's wholly owned subsidiary, First Interstate Bank of California, N.A., was merged into Wells Fargo. Although First Interstate's bank subsidiaries in six other states also merged into Wells Fargo in June 1996, several former First Interstate bank subsidiaries in other states currently remain as separate subsidiaries of WFC. These First Interstate entities have also been made parties to this exemption request.

2. The Plans, as well as those that may invest in the future, consist of various pension plans as defined in section 3(2) of the Act, independently-sponsored pension and profit sharing plans, qualified plans of owner-employees and welfare plans, as defined in section 3(1) of the Act. The Plans do not include any plans sponsored by Wells Fargo.[3]

3. The CIFs are various portfolios of the Wells Fargo Bank Collective Investment Funds for Business Retirement Programs and the Wells Fargo Bank Collective Investment Funds for BRP Retirement Plans[4] and similar CIFs that may be formed in the future for which Wells Fargo serves as trustee and manager. (Any CIFs acquired as part of the First Interstate transaction have been and will be merged into the Wells Fargo CIFs.)

The CIFs were formed effective April 1, 1995 with the assets spun off from the Wells Fargo Investment Funds for Employee Retirement Plans in anticipation of the Barclays transaction. Many of the CIFs invest as ''feeder'' funds in counterpart to Wells Fargo ''master'' funds. Under this arrangement, the master fund holds all of the investment assets while the feeder fund invests in the master fund and does not hold the actual investment property but instead holds interests in the master fund. Plans have the option of investing either directly in the master fund or indirectly, by investing in the feeder fund which will then invest in the master fund.[5]

The CIFs described herein relate only to those CIFs for which a Wells Fargo affiliate serves as trustee/manager and/or investment adviser. These CIFs are identified as follows:

Wells Fargo Bank Collective Investment Funds for Business Retirement Programs (BRP)

- *''Feeder'' CIFs for BRP Employee Retirement Plans—*

[2] In relevant part, PTE 77–4 permits, under certain conditions, the purchase and sale by an employee benefit plan of shares of a registered open-end investment company when a fiduciary with respect to such plan is also the investment adviser for the investment company.

[3] The Department herein is not proposing relief for any transaction afforded relief by Section 404(c) of the Act.

[4] The applicant represents that the Wells Fargo Bank Collective Investment Funds for Business Retirement Plans do not charge a fee whereas the Wells Fargo Bank Collective Investment Funds for BRP Retirement Plans charges a management fee of 75 basis points.

[5] It is represented that the primary benefit of the master-feeder arrangement is the flexibility it offers clients of Wells Fargo with respect to the payment of investment management fees while allowing a pooling of a larger group of assets. A master-feeder arrangement gives a plan the option of having the plan, or the plan sponsor, pay the investment management fee directly to the investment manager if Plan assets are invested in the master fund (in which case the investment management fee would be paid at the plan-level) or having the investment management fee paid out of the Plan's assets invested in the fund assuming plan assets are invested in the feeder fund (in which case the investment management fee would be paid at the feeder fund-level).

Asset Allocation Fund,
Bond Index Fund,
U.S. Treasury Allocation Fund,
S&P 500 Stock Fund,
S&P MidCap Stock Fund,
Equity Value Fund,
Money Market Fund,
Extended Market Fund,
International Equity Fund,
Income Accumulation Fund,
Core Bond Fund,
Growth Stock Fund,
Short-Intermediate Term Fund,
Small Capitalization Growth Fund.

The 14 foregoing CIFs, other than the Money Market Fund, are ''shadow'' or ''feeder'' funds that are managed by Wells Fargo. These CIFs invest in counterpart ''master'' collective investment trusts that are also managed by Wells Fargo.

- ''Master'' CIFs for BRP Retirement Plans—

Core Bond Fund for BRP Retirement Plans,
Growth Stock Fund,
Short-Intermediate Term Fund,
Small Capitalization Growth Fund.

The aforementioned 4 CIFs are ''master'' funds that are managed by Wells Fargo. These CIFs invest directly in portfolio securities. Wells Fargo BRP Plan clients invest directly in these CIFs.

Wells Fargo Bank Collective Investment Funds for BRP Retirement Plans

- ''Feeder CIFs'' for BRP Retirement Plans—

Asset Allocation,
Bond Index Fund,
U.S. Treasury Allocation Fund,
S&P 500 Stock Fund,
International Equity Fund.

The above-mentioned 5 CIFs are ''shadow'' or ''feeder'' funds that are managed by Wells Fargo. These CIFs invest in counterpart ''master'' collective investment trusts that are managed by Wells Fargo. The CIFs are distinct from the parallel, but similarly-named counterpart Funds for BRP Employee Retirement Plans (also listed above) and, as also noted previously, have different fee arrangements.

4. The Mutual Funds to which the requested exemption will apply are certain investment portfolios of the Stagecoach Funds, Inc. (the Stagecoach Funds), the Overland Express Funds, Inc. (the Overland Funds), certain corresponding master funds in which these Funds may invest (e.g., the MasterWorks Funds), and to any similar Funds for which Wells Fargo or any of its affiliates may provide investment advisory and other services. The Funds are being offered to Plan investors at no load.

(a) The Stagecoach Funds constitute an open-end management investment company that was organized as a Maryland corporation on September 9, 1991 and registered under the 1940 Act. Currently, the Stagecoach Funds comprise 25 portfolios, some of which are ''feeder'' portfolios that invest in the Master Investment Trust, an open-end investment company organized as a Delaware business trust on August 15, 1991 and registered under the 1940 Act. Wells Fargo serves as investment adviser to all of the Stagecoach Funds. For those Fund portfolios that operate under the master-feeder structure, all advisory services are performed at the master fund-level by Wells Fargo. Under such circumstances, the feeder funds have no investment adviser.

The portfolios of the Stagecoach Funds are presented below. As noted, some of the feeder Funds may invest in the Master Investment Trust through a series of master portfolios (the Master Portfolios) having objectives similar to the affected Funds. Other Funds may not be used by Plans as investment vehicles.

Portfolios for the Stagecoach Funds

Money Market Mutual Fund*
Aggressive Growth Fund
Balanced Fund*
Corporate Stock Fund
Diversified Income Fund
Equity Value Fund*
Growth & Income Fund*
Small Cap Fund*
Asset Allocation Fund*
U.S. Government Allocation Fund
California Tax-Free Money Market Fund**
Government Money Market Fund
National Tax-Free Money Market Fund**
Treasury Money Market Mutual Fund*
Prime Money Market Mutual Fund*
Arizona Tax-Free Bond Fund
California Tax-Free Bond Fund**
California Tax-Free Income Fund**
Ginnie Mae Fund*
Intermediate Bond Fund
Short-Intermediate U.S. Government Income Fund*
Money Market Trust*
National Tax-Free Fund
Oregon Tax-Free Fund
California Tax-Free Money Market Trust

*Feeder Fund investing in the Master Investment Trust through a comparable Master Portfolio.

**Fund generally not used by a Plan as an investment vehicle.

For investment advisory services rendered to the Stagecoach Funds, Wells Fargo is paid an annualized investment advisory fee ranging from 0.20 percent of the average daily net assets of the National Tax-Free Money Market Fund to 0.60 percent of the average daily net assets of the Small Cap Master Portfolio which holds the assets of the Small Cap Fund.

(b) The Overland Funds constitute an open-end management investment company that has been organized as a Maryland corporation on April 27, 1987 and registered under the 1940 Act. At present, the Overland Funds consist of 15 portfolios, some of which are feeder portfolios that also invest in the Master Investment Trust. Wells Fargo serves as investment adviser to all of the Overland Funds. For those portfolios of the Overland Funds that operate under the master-feeder structure, all advisory services are performed at the master-fund level through comparable Master Portfolios. Again, under such circumstances, the feeder Funds would have no investment adviser.

Portfolios for the Overland Funds

Asset Allocation Fund
California Tax-Free Bond Fund**
California Tax-Free Money Market Fund**
Money Market Fund
Municipal Income Fund*
National Tax-Free Institutional Money Market Fund**
Overland Sweep Fund**
Short-Term Government-Corporate Income Fund*
Short-Term Municipal Income Fund*
Strategic Growth Fund*
U.S. Government Income Fund
U.S. Treasury Money Market Fund
Variable Rate Government Funds
Index Allocation Fund*
Small Cap Strategy Fund*

*Feeder Fund investing in the Master Investment Trust through a comparable Master Portfolio.

**Fund generally not used by a Plan as an investment vehicle.

For investment advisory services provided to those Overland Funds that are available to Plan investors, Wells Fargo is paid an annualized investment advisory fee ranging from 0.25 percent of the average daily net assets of the U.S. Treasury Money Market Fund to 0.70 percent of the average daily net assets of the Asset Allocation Fund.

In addition, to investment advisory services, Wells Fargo may provide certain non-advisory or Secondary Services to the Stagecoach Funds and Overland Funds for which it is separately compensated at the ''Fund'' or ''feeder'' Fund level, in the case of a master-feeder arrangement.[6] Currently,

[6] Because of the manner in which fees are structured under the aforementioned master-feeder

Continued

these annualized fees and their respective ranges can be summarized as follows:

- *Custodial Services*, 0.0167 percent plus certain transaction charges according to published schedules (e.g., wire transfers).
- *Portfolio Accounting*, 0.070 percent of the first $50 million, 0.045 percent of the next $50 million and 0.2 percent of any excess.
- *Transfer Agency Services*, 0 percent or 0.02 percent (Overland Funds and Stagecoach Money Market Funds) to 0.06 percent (other Stagecoach Funds).
- *Shareholder Servicing*, 0 percent (Overland and certain Stagecoach Funds) to 0.25 percent (certain Stagecoach Funds).
- *Subadministration*, 0.04 percent of the 0.06 percent fee paid to Stephens, Inc. as administrator. Some of the subadministration services performed by Wells Fargo include maintaining and preserving the records of the Funds, tracking authorized versus issued shares, furnishing statistical and research data, and coordinating (or assisting in) the preparation and filing with the SEC of registration statements, notices, reports and other materials required to be filed under applicable laws.

The Conversion Transactions

5. Besides the Conversion Transactions that were described in PTE 96–54, on September 16, 1996, Wells Fargo began offering Plans shares of the Funds as an investment vehicle alternative to units in the CIFs. Although Wells Fargo intends that the CIFs and their corresponding Funds will be identical from the standpoint of their investment objectives, it anticipates that the Fund option will be selected by Plans that desire to obtain daily price quotations and ease of trading. Therefore, Wells Fargo is providing each Plan the opportunity to designate one or more Funds in lieu of the parallel CIFs for investment purposes with respect to part or all of the assets of the Plan. The decision to engage in a Conversion Transaction is subject to the review and approval of a Second Fiduciary.

In addition, Wells Fargo represents that it may choose to terminate one or more CIFs if the CIF does not have a sufficient number of investors to make it economically viable. Further, Wells Fargo proposes that from time to time it may be appropriate for an individual Plan for which Wells Fargo serves as a fiduciary to transfer all or a *pro rata* share of its assets that are held in a custodial Account with Wells Fargo, in-kind, to any of the Funds in exchange for shares of such Funds. In this regard, in the case of an in-kind exchange between an individual Plan whose portfolio consists of common stock, money market securities and real estate and a Fund that invests only in common stock and money market securities, the Conversion Transaction would involve all or a *pro rata* share of the common stock and money market securities held by the Plan, if the stock and securities are eligible for purchase by the Fund and would not involve the transfer or exchange of the real estate holdings of the Plan. No brokerage commissions or other fees or expenses (other than customary transfer charges paid to parties other than Wells Fargo or its affiliates) have been or will be charged to the Plans in connection with any of the Conversion Transactions and the acquisition of shares of the Funds by the investing Plans.

Finally, to avoid potentially large brokerage expenses that would otherwise be incurred, Wells Fargo proposes that an exchange of Plan interests in a CIF for shares in a corresponding Fund (or a direct exchange of securities between a Plan and a Fund as previously described) may be effected by means of a direct transfer to the Fund of the Plan's proportionate interest in the CIF (or of the securities), in exchange for the issuance of Fund shares. In this regard, the Plan's proportionate interest in certain securities investments of the CIF would be transferred directly.[7]

6. Wells Fargo represents that the Conversion Transactions are ministerial transactions performed in accordance with pre-established objective procedures which are approved by the board of trustees of each Fund. Such procedures require that assets transferred to a Fund (a) be consistent with the investment objectives, policies and restrictions of the corresponding portfolios of the Fund, (b) satisfy the applicable requirements of the 1940 Act and the Code and, (c) have a readily ascertainable market value. In addition, any assets that are transferred will be marketable and will not be subject to restrictions on resale. Assets which do not meet these requirements will be sold in the open market through an unaffiliated brokerage firm prior to any Conversion Transaction. Further, prior to entering into a Conversion Transaction, each affected Plan will receive certain disclosures from Wells Fargo and approve such transaction in writing.

Prior to a Conversion Transaction, the assets of a transferring CIF will be reviewed to confirm that they are appropriate investments for the receiving Fund. If any of the assets of a CIF are not appropriate for its corresponding Fund, Wells Fargo intends to sell such assets in the open market through an unaffiliated brokerage firm.

7. As noted above, on September 16, 1996, Wells Fargo exchanged all interests in the Small Capitalization Growth ''shadow'' or feeder CIF for mutual fund shares of the Stagecoach Small Capitalization Fund. The feeder CIF held interests in the Small Capitalization Growth Fund, which was managed by Wells Fargo and invested in portfolio securities. The Small Capitalization Growth Fund consisted of a master CIF and the subject feeder CIF.

The transaction involved an in-kind transfer by the Plans of their interests in the feeder CIF to the Fund and a simultaneous transfer of such interests to the master CIF in exchange for all of its underlying assets. Wells Fargo represents that the Small Capitalization CIF assets were valued for purposes of the Conversion Transaction in accordance with Rule 17a-7 (see Representation 9) such that the value of the Fund shares received by the CIF interest-holders on the conversion date was equal to the value of the CIF interests as so calculated. All interests in the Small Capitalization CIF (both master and feeder) were transferred in-kind and the CIF was subsequently terminated. Wells Fargo further represents that Plans participating in the Small Capitalization CIF were provided notice of the Conversion Transaction and every Plan affirmatively elected to participate in such Conversion Transaction.

Following the Conversion Transaction, Wells Fargo states that it provided Second Fiduciaries with written confirmations of the transaction. In this regard, approximately 38 business days after the Conversion Transaction, Wells Fargo sent each affected Second Fiduciary written confirmation of the identity of the assets that were valued for purposes of the in-kind transfer in accordance with Rule

arrangements, Wells Fargo has confirmed that it does not receive any double fees for the services it renders to the Funds.

[7] In certain cases, a Conversion Transaction will not take place to the extent that it will result in the creation of fractional shares. In this situation, the number of shares to be transferred will be automatically (mechanically) rounded up or down to the next nearest whole number. For this purpose, Wells Fargo states that fractional dollar amounts ending below $0.005 and fractional share amounts ending below 0.5 will be rounded downward to the next lower cent or whole share, respectively. Amounts at or above these figures will be rounded upward to the next higher cent or whole share.

17a-7(b)(4), the price determined for such assets and the identity of each pricing service or market maker consulted in determining their value.[8] In addition, no later than 90 days after the Conversion Transaction, Well Fargo sent each affected Second Fiduciary written confirmation of (a) the number of CIF units held by the Plan before the Conversion Transaction (and the related per unit value and the aggregate dollar value of the units transferred); and (b) the number of Fund shares received by the Plan as the result of the Conversion Transaction (and the related per share net asset value and the aggregate dollar value of the shares received).

Wells Fargo requests that the exemption apply retroactively for the Conversion Transaction that took place on September 16, 1996 and prospectively with respect to any similar Fund in which a Plan invests and with respect to which Wells Fargo or any of its affiliates may provide investment advisory and other services. For this purpose, Wells Fargo represents that all other future Funds to which Wells Fargo will serve as investment adviser and that utilize the exemption will assume similar investment structures and Plan investments therein will be subject to the terms and conditions of the exemption.

Advance Disclosure/Approval

8. With respect to each Conversion Transaction, Wells Fargo will provide the Second Fiduciary of each affected Plan with the disclosures required by PTE 77–4. In this regard, such information will include, but is not limited to, (a) a current prospectus for the Fund in which the Plan is considering investing; (b) a statement describing the fees that are to be paid to Wells Fargo and its affiliates and to unrelated parties, including the nature and extent of any differential between the rates of the fees; and (c) the reasons why Wells Fargo considers such investment to be appropriate for the Plan. In addition, upon the request of the Second Fiduciary, Wells Fargo will provide a copy of the proposed exemption and/or a copy of the final exemption, if granted. Based on the required disclosures, the Second Fiduciary will approve, in writing, the Conversion Transaction, including the fees to be paid by the Funds to Wells Fargo.

Valuation Procedures

9. The assets transferred in connection with a Conversion Transaction will consist entirely of cash and marketable securities. For this purpose, the value of the securities in the CIF will be determined based on market value as of the close of business on the last business date prior to the transfer (the Valuation Date). The values on the Valuation Date will be determined in a single valuation using the valuation procedures described in Rule 17a–7 under the 1940 Act. In this regard, the ''current market price'' for specific types of CIF securities will be determined as follows:

(a) If the security is a ''reported security'' as the term is defined in Rule 11Aa3–1 under the Securities Exchange Act of 1934 (1934 Act), the last sale price with respect to such security reported in the consolidated transaction reporting system (the Consolidated System) for the Valuation Date; or if there are no reported transactions in the Consolidated System that day, the average of the highest current independent bid and the lowest current independent offer for such security (reported pursuant to Rule 11Ac1–1 under the 1934 Act), as of the close of business on the Valuation Date; or

(b) If the security is not a reported security, and the principal market for such security is an exchange, then the last sale on such exchange on the Valuation Date; or if there is no reported transaction on such exchange that day, the average of the highest current independent bid and lowest current independent offer on such exchange as of the close of business on the Valuation Date; or

(c) If the security is not a reported security and is quoted in the NASDAQ system, then the average of the highest current independent bid and lowest current independent offer reported on Level 1 of NASDAQ as of the close of business on the Valuation Date; or

(d) For all other securities, the average of the highest current independent bid and lowest current independent offer as of the close of business on the Valuation Date, determined on the basis of reasonable inquiry. For securities in this category, Wells Fargo intends to obtain quotations from at least three sources that are either broker-dealers or pricing services independent of and unrelated to Wells Fargo and, where more than one valid quotation is available, use the average of the quotations to value the securities, in conformance with interpretations by the SEC and practice under Rule 17a–7.

The securities received by a transferee Fund portfolio will be valued by such portfolio for purposes of the transfer in the same manner and as of the same day as such securities will be valued by the corresponding transferor CIF. The per share value of the shares of each portfolio of each Fund portfolio issued to the CIFs will be based on the corresponding portfolio's then-current net asset value. Wells Fargo represents that the value of a Plan's investment in shares of each Fund as of the opening of business on the date of the Conversion Transaction will be not less than the value of such Plan's investment in the CIF as of the close of business on the last business day prior to the Conversion Transaction.

Not later than 30 business days after completion of a Conversion Transaction, Wells Fargo will send by regular mail a written confirmation of the transaction to each affected Plan. Such confirmation will contain: (a) The identity of each security that is valued in accordance with Rule 17a–7(b)(4), as described above; (b) the price of each such security for purposes of the transaction; and (c) the identity of each pricing service or market maker consulted in determining the value of such securities.

No later than 90 days after completion of each Conversion Transaction, Wells Fargo will mail to the Plan a written confirmation of the fair market value (i.e., the Rule 17a–7 value) of the securities held by the Plan immediately before the Conversion Transaction and the number of shares in each Fund that are held by the Plan following the Conversion Transaction (and the related per share net asset value and the aggregate dollar value of the shares received).

Transactions Involving the Receipt of Fees

10. In connection with the Plans' investment in the Funds, Wells Fargo represents that PTE 77–4 permits it to receive fees from the Funds under either of two circumstances: (a) Where a Plan does not pay any investment management, investment advisory, or similar fees with respect to the assets of such Plan invested in shares of a Fund for the entire period of such investment; or (b) where a Plan pays investment management, investment advisory, or similar fees to Wells Fargo based on the total assets of such Plan from which a credit has been subtracted representing such Plan's *pro rata* share of such investment advisory fees paid to Wells Fargo by the Fund. As such, Wells Fargo notes that there may be two levels of fees—those fees which a Wells Fargo affiliate could charge to the Plans for serving as trustee with investment discretion or as investment manager (the Plan-level fees); and those fees a Wells Fargo affiliate could charge to the Funds (the Fund-level fees) for serving as investment adviser, custodian, or service provider.

In this regard, Wells Fargo states that its client Plans are typically subject to standard Plan-level fee schedules

[8] The securities subject to valuation under Rule 17(a)-7(b)(4) include all securities other than ''reported securities'' as the term is defined in Rule 11Aa3–1 under the Securities Exchange Act of 1934, or those quoted on the NASDAQ system or for which the principal market is an exchange.

covering various services provided by it and/or its affiliates. These fees are subject to negotiation with the individual Plans. Wells Fargo represents that it also receives investment management fees with respect to the CIFs. All fees are disclosed and approved in advance as part of the Plan's fee schedule and vary from CIF to CIF. Wells Fargo further represents that it may be reimbursed by the CIFs for certain direct expenses (e.g., charges of outside auditors).

With respect to Fund-level fees, Wells Fargo represents that all such fees are described in prospectuses and include investment advisory fees that are paid to Wells Fargo as well as certain fees for Secondary Services provided by Wells Fargo entities (see Representation 4). Wells Fargo states that it does not receive any 12b–1 Fees in connection with the transactions. In addition, Wells Fargo represents that the Funds' service providers may be reimbursed for certain third-party expenses.

11. Depending upon the nature of its fiduciary relationship with a Plan, Wells Fargo currently utilizes the following fee structures:

(a) With respect to Plans for which Wells Fargo serves as a nondiscretionary trustee, such Plans pay a Plan-level fee to Wells Fargo for basic administrative services. The administrative services include, among others, Wells Fargo's acting as custodian of the assets of a Plan, maintaining the records of a Plan, preparing periodic reports concerning the status of the Plan and its assets, and accounting for contributions, benefit distributions, and other receipts and disbursements.[9] Wells Fargo represents that these Plan-level functions are separate and distinct from those it performs at the Fund-level. At the Fund-level, the Wells Fargo is receiving compensation for investment advisory services rendered to the Funds. In addition, Wells Fargo is retaining fees for providing Secondary Services to the Funds.

(b) For Plans for which it serves as a discretionary fiduciary (i.e., trustee or investment adviser), Wells Fargo presently charges an overall Plan-level management fee that includes investment management/investment advisory services in addition to Plan-level administrative services. Currently, the standard fee is 95 basis points. For such managed accounts, Wells Fargo is utilizing the ''credit'' or ''offset'' approach of PTE 77–4, i.e., it charges a Plan-level investment management fee based on total assets under management from which an advance credit is subtracted representing the Plan's *pro rata* share of the Fund-level investment advisory fees paid to Wells Fargo. In addition, Wells Fargo proposes to retain fees for Secondary Services provided to the Funds.

12. Wells Fargo believes that the foregoing fee arrangements comply with PTE 77–4 and that as to each Plan, the combined total of all Plan-level and Fund-level fees received by it for the provision of services to the Plans and to the Funds (with respect to the Plan's assets invested in the Funds), respectively, are not in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.[10] However, Wells Fargo notes that there is one difference from PTE 77–4 for which it has requested exemptive relief from the Department. In this regard, one of the requirements of PTE 77–4 has been that any future change in any of the rates of fees would require prior written approval by the Second Fiduciary of the Plans participating in the Funds. Wells Fargo maintains that where many Plans participate in a Fund, the addition of a service or any good faith increase in fees cannot be implemented until written approval of such change is obtained from every Second Fiduciary. Therefore, Wells Fargo proposes to follow an alternative ''negative consent'' procedure set out in other similar exemptions granted by the Department. Wells Fargo believes the negative consent procedure will provide the basic safeguards for the Plans and is more efficient, cost effective, and administratively feasible than those contained in PTE 77–4.

Specifically, in the event of an increase in the rate of any investment management fees, investment advisory fees, or similar fees, the addition of a Secondary Service for which a fee is charged, or an increase in the fees for Secondary Services paid by the Funds to Wells Fargo over an existing rate that had been authorized by the Second Fiduciary, Wells Fargo will provide, at least 30 days in advance of the implementation of such additional service or fee increase, to the Second Fiduciary of the Plans invested in such Fund a written notice of such additional service or fee increase, (which may take the form of a proxy statement, letter, or similar communication that is separate from the prospectus of the Fund and which explains the nature and amount of the additional service or the nature and amount of the increase in fees). In this regard, such increase in fees for Secondary Services can result either from an increase in the rate of such fee or from the decrease in the number or kind of services performed by Wells Fargo for such fee over that which had been authorized by the Second Fiduciary of a Plan. Wells Fargo believes that notice provided in this way will give the Second Fiduciary of each of the Plan adequate opportunity to decide whether or not to continue the authorization of a Plan's investment in any of the portfolios of the Funds in light of the increase in investment management fees, investment advisory fees, or similar fees, the addition of a Secondary Service for which a fee is charged, or the increase in fees for any Secondary Services. In addition, Wells Fargo represents that such fee increase will be disclosed to the Second Fiduciaries in an amendment of or supplement to the Fund's prospectus or in the Funds' Statement of Additional Information, to the extent necessary to comply with SEC disclosure requirements.[11]

Authorization Requirements for the Second Fiduciary

13. The written notice of an additional service for which a fee is charged or a fee increase, as described in Representation 12, will be accompanied by a Termination Form, as defined in paragraph (i) of Section III, and by instructions on the use of such

[9] For Plan-level trustee services, Wells Fargo may be paid a quarterly fee of up to 0.30 percent on the first $1 million of Account assets, 0.15 percent based on the next $9 million of Account assets and 0.05 percent on the balance.

[10] The fact that certain transactions and fee arrangements are the subject of an administrative exemption does not relieve the fiduciaries of the Plans from the general fiduciary responsibility provisions of section 404 of the Act. Thus, the Department cautions the fiduciaries of the Plans investing in the Funds that they have an ongoing duty under section 404 of the Act to monitor the services provided to the Plans to assure that the fees paid by the Plans for such services are reasonable in relation to the value of the services provided. Such responsibilities would include determinations that the services provided are not duplicative and that the fees are reasonable in light of the level of services provided.

[11] An increase in the amount of a fee for an existing Secondary Service (other than through an increase in the value of the underlying assets in the Funds) or the imposition of a fee for a newly-established Secondary Service shall be considered an increase in the rate of such Secondary Fee. However, in the event a Secondary Fee has already been described in writing to the Second Fiduciary and the Second Fiduciary has provided authorization for the amount of such Secondary Fee, and such fee was waived, no further action by Wells Fargo would be required in order for Wells Fargo to receive such fee in the same amount at a later time. Thus, for example, no further disclosure would be necessary if Wells Fargo had received authorization for a fee for custodial services from Plan investors and subsequently determined to waive the fee for a period of time in order to attract new investors but later charged the fee. However, reinstituting the fee at an amount greater than previously disclosed would necessitate Wells Fargo providing notice of the fee increase and a Termination Form.

form, as described in paragraph (l) of Section II, which expressly provide an election to the Second Fiduciaries to terminate at will any prior authorizations without penalty to the Plans. The Second Fiduciary will be supplied with a Termination Form annually during the first quarter of each calendar year, beginning with the first quarter of the calendar year that begins after the date the grant of this proposed exemption is published in the **Federal Register** and continuing for each calendar year thereafter, regardless of whether there have been any changes in the fees payable to Wells Fargo or changes in other matters in connection with services rendered to the Funds. However, if the Termination Form has been provided to the Second Fiduciary in the event of an increase in the rate of any investment management fees, investment advisory fees, or similar fees, an addition of a Secondary Service for which a fee is charged, or an increase in any fees for Secondary Services paid by the Fund to Wells Fargo, then such Termination Form need not be provided again to the Second Fiduciary until at least six months have elapsed, unless such Termination Form is required to be sent sooner as a result of another increase in any investment management fees, investment advisory fees, or similar fees, the addition of a Secondary Service for which a fee is charged, or an increase in any fees for Secondary Services.

The Termination Form will contain instructions regarding its use which will state expressly that the authorization is terminable at will by a Second Fiduciary, without penalty to any Plan, and that failure to return the form will be deemed to be an approval of the additional Secondary Service or the increase in the rate of any fees and will result in the continuation of all authorizations previously given by such Second Fiduciary. Termination by any Plan of authorization to invest in the Funds will be effected by Wells Fargo redeeming the shares of the Fund held by the affected Plan by the close of business on the day following receipt by Wells Fargo, either by mail, hand delivery, facsimile, or other available means at the option of the Second Fiduciary, of the Termination Form or any other written notice of termination. If, due to circumstances beyond the control of Wells Fargo, the redemption cannot be executed within one business day, Wells Fargo shall have one additional business day to complete such redemption.

Conditions for Exemption

14. If granted, this proposed exemption will be subject to the satisfaction of certain general conditions that will further protect the interests of the Plans. For example, the proposed transactions are subject to the prior authorization of a Second Fiduciary, acting on behalf of each of the Plans, who has been provided with full written disclosure by Wells Fargo. The Second Fiduciary will generally be the administrator, sponsor, or a committee appointed by the sponsor to act as a named fiduciary for a Plan.

With respect to disclosure, the Second Fiduciary of each Plan will receive advance written notice of the in-kind transfer of assets of the Plan or the CIF upon termination of a CIF (with respect to any Conversion Transaction) and full written disclosure of information concerning the Funds (including a current prospectus for each of the Funds and a statement describing the fee structure), consistent with the requirements of PTE 77–4, as well as information regarding the terms and conditions of the requested exemption.

On the basis of the information disclosed, the Second Fiduciary will authorize in writing the investment of assets of the Plans in shares of the Fund in connection with the transactions set forth herein and the compensation received by Wells Fargo in connection with its services to the Funds. For any Conversion Transaction, the Second Fiduciary's written authorization will extend to only those investment portfolios of the Funds with respect to which the Plan has received the written disclosures referred to above. For other investments, written authorization may be set out in the Plan documents or the Plan's investment management agreement as contemplated by PTE 77–4, provided again that investment in any Fund may be made only with respect to those investment portfolios of the Funds with respect to which the Plan has received the written disclosures. Having obtained the authorization of the Second Fiduciary, Wells Fargo will invest the assets of a Plan among the portfolios and in the manner covered by the authorization, subject to satisfaction of the other terms and conditions of this proposed exemption.

In addition to the disclosures provided to the Plan prior to investment in any of the Funds, Wells Fargo represents that it will routinely provide at least annually to the Second Fiduciary updated prospectuses of the Funds in accordance with the requirements of the 1940 Act and the SEC rules promulgated thereunder. Further, the Second Fiduciary will be supplied, upon request, with a report or statement (which may take the form of the most recent financial report of such Funds, the current statement of additional information, or some other written statement) which contains a description of all fees paid by the Fund. Depending upon the type of relationship (e.g., discretionary or non-discretionary) Wells Fargo has with the Plan, each Plan will be advised that it may or may not be required to pay a Plan-level investment management or advisory fee with respect to Plan assets invested in the Funds and that Wells Fargo will receive and retain fees for Secondary Services.

Wells Fargo and its affiliates currently do not execute securities brokerage transactions for the investment portfolios of the Funds. To the extent that it proposes to do so in the future, Wells Fargo will, at least 30 days in advance of the implementation of such additional service, provide a written notice to the Plan's Second Fiduciary which explains the nature of such additional brokerage service and the amount of the fees. Further, with respect to any Fund for which Wells Fargo will provide such brokerage services, Wells Fargo will provide at least annually to the Second Fiduciary of any Plan that invests in such Funds with a written disclosure indicating (a) the total, expressed in dollars, of brokerage commissions of each Fund's investment portfolio that are paid to Wells Fargo by such Fund; (b) the total, expressed in dollars, of brokerage commissions of each Fund's investment portfolio that are paid by such Fund to brokerage firms unrelated to Wells Fargo; (c) the average brokerage commissions per share, expressed as cents per share, paid to Wells Fargo by each portfolio of a Fund; and (d) the average brokerage commissions per share, expressed as cents per share, paid by each portfolio of a Fund to brokerage firms unrelated to Wells Fargo.

In addition to the foregoing, Wells Fargo represents that (a) Plans and other investors will purchase or redeem shares in the Funds in accordance with standard procedures adopted by each Fund's board of directors; (b) the Plans will pay no sales commissions or redemption fees in connection with purchase or redemption of shares in the Funds by the Plans; (c) Wells Fargo will not purchase from or sell to any of the Plans shares of any of the Funds; and (d) the price paid or received by the Plans for shares of the Funds will be the net asset value per share at the time of such purchase or redemption and will be the same price as any other investor would

have paid or received at that time. The value of the Funds' shares and the value of each Funds' portfolios are determined on a daily basis. Assets are valued at fair or market value, as required by Rule 17a–7. Net asset value per share for purposes of pricing purchases and redemptions is determined by dividing the value of all securities and other assets of each portfolio, less the liabilities charged to each portfolio, by the number of each portfolio's outstanding shares.

15. In summary, it is represented that the transactions have satisfied or will satisfy the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The Plans or the CIFs have not and will not pay sales commissions or redemption fees in connection with a Conversion Transaction or in connection with purchases or redemptions by the Plans or the CIFs of shares of the Funds.

(b) The Plans have received or will receive shares of the Funds that are equal in value to the assets of the Plans or the CIFs exchanged for such shares, with the value of such Plan or CIF asset determined in a single valuation performed in the same manner and as of the close of business on the same day in accordance with the procedures set forth in Rule 17a–7 under the 1940 Act, as amended from time to time or any successor rule, regulation or similar pronouncement.

(c) Within 38 business days of the initial Conversion Transaction involving the Small Capitalization CIF and not later than 30 business days after completion of a subsequent Conversion Transaction, each affected Plan has received or will receive written confirmation of the assets involved in the exchange which were valued in accordance with Rule 17a–7(b)(4), the price of such assets and the identity of the pricing service or market maker consulted.

(d) No later than 90 days after completion of a Conversion Transaction, Wells Fargo has mailed or will mail to the Second Fiduciary of each Plan, a written confirmation containing (1) the aggregate dollar value of the assets held by the Plan immediately before a Conversion Transaction, (2) the number of CIF units held by a Plan prior to the Conversion Transaction (and the related per unit value or the aggregate dollar value of the assets transferred), and (3) the number of shares of the Funds that are held by such Plan following the conversion (and the related per share net asset value and the aggregate dollar value of the shares received).

(e) The price that has been or will be paid or received by the Plans for shares in the Funds is the net asset value per share at the time of the transaction and will be the same price for the shares which would have been paid or received by any other investor for shares of the same class at that time.

(f) Neither Wells Fargo nor an affiliate, including any officer or director have not and will not purchase from or sell to any of the Plans shares of any of the Funds.

(g) As to each individual Plan, the combined total of all fees received by Wells Fargo for the provision of services to a Plan, and in connection with the provision of services to any of the Funds in which the Plan may invest, will not be in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.

(h) Wells Fargo will not receive any 12b–1 Fees in connection with the transactions.

(i) Depending on the nature of its relationship with Wells Fargo, a Plan either (i) will not pay any Plan-level investment management, investment advisory or similar fees to Wells Fargo with respect to any of the assets of such Plans which are invested in shares of the Funds; or (ii) will pay a Plan-level investment advisory fee based on total Plan assets from which a credit has been subtracted representing the Plan's *pro rata* share of investment advisory fees paid by the Funds.

(j) Prior to investment by a Plan in any of the Funds, the Second Fiduciary has received or will receive a full and detailed written disclosure of information concerning such Fund.

(k) On the basis of the disclosures, the Second Fiduciary has authorized or will authorize the Conversion Transaction, as applicable, and investment of the Plan's assets in the Funds.

(l) Subsequent to the investment by a Plan in any of the Funds, Wells Fargo has provided or will provide the Plan, among other information, at least annually with an updated copy of the prospectus for each of the Funds in which the Plan invests.

(m) The authorization by the Second Fiduciary will be terminable at will without penalty to such Plans, and any such termination will be effected by the close of the business day following the date of receipt by Wells Fargo, either by mail, hand delivery, facsimile or other available means of written communication at the option of the Second Fiduciary, of the Termination Form or any other written notice of termination, unless due to circumstances beyond the control of Wells Fargo delay execution for no more than one additional business day.

(n) With respect to each Plan, the Second Fiduciary will receive a written notice accompanied by the Termination Form with instructions regarding the use of such form, at least 30 days in advance of the implementation of any increase in the rate of any fees for investment management, investment advisory or similar fees, any addition of a Secondary Service for which a fee is charged, or any increase in fees for Secondary Services that Wells Fargo provides to the Funds.

(o) In the event such Fund places brokerage transactions with Wells Fargo, Wells Fargo will provide the Second Fiduciary of such Plan at least annually with a statement specifying the total, expressed in dollars, of brokerage commissions of each Fund's investment portfolio that are paid by such Fund to Wells Fargo and to unrelated brokerage firms and the average brokerage commissions per share, expressed as cents per share, by each portfolio of a Fund paid to Wells Fargo and to brokerage firms unrelated to Wells Fargo.

(p) All dealings between the Plans and any of the Funds have been and will remain on a basis that is no less favorable to such Plans than dealings between the Funds and other shareholders holding the same shares of the same class as the Plans.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Plumbers and Pipefitters National Pension Fund (the Pension Plan) and Pipefitters Local No. 211 Joint Educational Trust (the Welfare Plan) (Collectively, the Plans) Located in Alexandria, VA and Houston, TX, Respectively

[Application Nos. D–10700 and L–10709]

Proposed Exemption

The Department of Labor is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the sale (the Sale) of certain real property (the Property) by the Pension Plan to the Welfare Plan, a party in interest with respect to the

Pension Plan; provided the following conditions are satisfied:

(A) The terms and conditions of the transaction are no less favorable to the Pension Plan and the Welfare Plan than those which either the Pension Plan or the Welfare Plan would receive in an arm's-length transaction with an unrelated party;

(B) The Sale is a one-time transaction for cash;

(C) The Pension Plan and the Welfare Plan incur no expenses, fees, or commissions from the Sale other than their own respective appraisal, recording, and legal expenses;

(D) The Welfare Plan pays as consideration for the Property no more than the fair market value of the Property as determined by a qualified, independent appraiser on the date of the Sale;

(E) The Pension Plan sells the Property for a price that is not less than the fair market value of the Property as determined by a qualified, independent appraiser on the date of the Sale; and

(F) The fiduciaries for the Pension Plan and the Welfare Plan, respectively, will enforce the terms of the proposed exemption, if granted.

Summary of Facts and Representations

1. The Pension Plan is a jointly administered Taft-Hartley trust fund established pursuant to section 302(c)(5) of the Labor Management Relations Act which is intended to qualify under section 401(a) of the Code. The Pension Plan's participants are employees covered by collective bargaining agreements between sponsoring employers of the Pension Plan and the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada (the United Association), including seven employees of the Welfare Plan. The United Association and its local affiliates are the sole collective bargaining agencies for employees covered by applicable collective bargaining agreements who are employed by the sponsoring employers of the Pension Plan.

The Pension Plan is administered by a six member Board of Trustees (the Trustees) of whom three members are appointed by the sponsoring employers, and three members are appointed by the United Association. The Trustees of the Pension Plan are represented by the applicant to have investment discretion over the assets of the Pension Plan. Currently the Trustees are Messrs. Charles H. Carlson, Fred G. Christman, and James A. House, who were appointed by the employers; and Messrs. Martin J. Maddaloni, Chairman, General President of the Union Association, Thomas H. Patchell, General Secretary-Treasurer of the Union Association, and Patrick R. Perno, Admin. Asst. to the General President for the Union, who were appointed by the United Association.

The applicant represents that, as of June 30, 1997, the Pension Plan had total assets of approximately $3,166,000,000; and as of September 23, 1998, the Pension Plan had approximately 97,988 participants and beneficiaries.

2. The Welfare Plan is a jointly administered Taft-Hartley trust fund established pursuant to section 302(c)(5) of the Labor Management Relations Act, which provides training for apprentices and journeymen pipe fitters located in the Houston, Texas area, who are members of the United Association Local Union No. 211 (Local 211). The Welfare Plan has four trustees (the Trustees) who are represented by the applicant to have investment discretion over the assets of the Welfare Plan. Currently the Trustees include Messrs. William A. Gregory and John Morrow, who were appointed by the sponsoring employers of the Welfare Plan; and Messrs. Lynn Williams, Business Manager of Local 211 and Richard Seeton, who were appointed by Local 211.

The applicant represents that as of July 31, 1997, the Welfare Plan had total assets of $1,147,297. Presently there are 137 participants in the apprenticeship program given by the Welfare Plan.

The applicant further represents that none of the Trustees of the Pension Plan serves as a Trustee of the Welfare Plan, and none of the Trustees of the Welfare Plan serves as a Trustee of the Pension Plan. However, the applicant represents that the Sale is a prohibited transaction because seven employees of the Welfare Plan are participants of the Pension Plan; and as such, the Welfare Plan is an employer as defined under section 3(14) of the Act and is a party in interest with respect to the Pension Plan.

3. The Property is described by the applicant as 1.5863 acres of land, being Tract 10, out of the J. R. Harris Survey, Abstract 27, Houston, Harris County, Texas, with improvements consisting of asphalt paving and a chain link fence. It is located at the southeast corner of Old Galveston Road and Loop 610. The Property was appraised by an independent appraiser, Randy L. Seale, MAI, with Allen, Williford & Seale, located in Houston, Texas, who determined that the Property had a fair market value of $69,100, as of June 30, 1998.

4. The Pension Plan proposes to sell the Property to the Welfare Plan for cash in a one-time transaction with no expenses, fees, or commissions incurred from the Sale by either the Pension Plan or the Welfare Plan other than their own respective appraisal, recording, and legal expenses. The applicant represents that the Pension Plan will receive, as consideration from the Sale, no less than the fair market value of the Property as determined on the date of the Sale by a qualified, independent appraiser.

The applicant represents that the Pension Plan is prompted to take this action because the Property does not fit within the investment strategy of the Pension Plan. The applicant further represents that the continued possession of the Property will increase costs and expenses to the Pension Plan without generating a reasonable return on the investment. Title to the Property was obtained by the Pension Plan in June 1990 as a result of Local 211's pension plan being merged into the Pension Plan. During 1992, consideration was given to having the Property sold to the Welfare Plan and then abandoned. In 1994 the Pension Plan listed the Property with a commercial real estate agent in Houston, Texas in an attempt to sell it to an unrelated party. After one year, when no offers to purchase the Property were received, the Pension Plan did not renew the listing agreement. During June 1997, the Pension Plan agreed to sell the Property to the Welfare Plan upon obtaining from the Department an exemption from the prohibited transaction provisions of the Act.

The applicant represents that the Trustees for both Plans have determined that the proposed Sale of the Property will be in the best interests of their respective Plans and the rights of their participants and beneficiaries will be protected because the Property will provide each of the Plans with desirable improvements in their respective investments. The Pension Plan will sell an illiquid and superfluous asset, and the Welfare Plan will acquire an asset that has a proximity to its present facilities which will provide increased on-site parking space and increased security in a changing neighborhood, and thus, minimizing inconveniences to participants and beneficiaries and personnel of the Welfare Plan, enhancing its administrative efficiencies.

The applicant also represents that compliance with the terms and conditions of the requested exemption will be monitored and enforced by the independent fiduciaries of the

respective Plans. The respective fiduciaries of both Plans represent that the proposed Sale is in the best interests of the Plans and is protective of the rights of the participants and beneficiaries of the Plans; and that they have the power, authority, and responsibility to take the necessary action in the proposed transaction so that the Welfare Plan will not pay more and the Pension Plan will not receive less than the fair market value as determined by the independent appraiser on the date of the Sale.

5. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because (a) the Sale is a one-time transaction for cash; (b) the Plans will not incur any expenses from the transaction other than their own respective expenses; (c) the Pension Plan will receive no less than the fair market value of the Property as determined on the date of the Sale by a qualified, independent appraiser; (d) the Welfare Plan will pay no more than the fair market value of the Property as determined on the date of the Sale by a qualified, independent appraiser; and (e) the proposed transaction will be enforced by the Plans respective independent fiduciaries.

FOR FURTHER INFORMATION CONTACT: Mr. C. E. Beaver of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

State Street Bank and Trust Company (State Street), Located in Boston, Massachusetts

[Application Number D–10701]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990).

Section I. Transactions

If the exemption is granted, the restrictions of section 406(a)(1)(A) through (D) and section 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale (the Sale) of fractional amounts of certain fixed-income instruments (Fractional Amounts) to State Street and its affiliates by plans for which State Street or its affiliates provide fiduciary or other services (Client Plans), as well as employee benefit plans established and maintained by State Street or its affiliates (State Street Plans; collectively, the Plans), provided that the following conditions are met:

(a) Each Sale involves a one time transaction for cash;

(b) The terms of each Sale are at least as favorable to the Plan as those terms which would be available in an arm's-length transaction with an unrelated party;

(c) The Plans receive an amount which is not less than the par value for each of the Fractional Amounts;

(d) In the case of single Client Plans:

(1) Each Sale is subject to the prior consent of an independent plan fiduciary;

(2) The independent fiduciary of each Plan is furnished with notice within 90 days of the proposed Sale, providing information necessary for the independent fiduciary to determine whether to approve the Sale transaction. If the fixed-income instruments are not redenominated within a year of provision of this notice, additional notice will be provided to the independent fiduciaries of each Plan each year notifying them of their right not to participate in this program of Sales; and

(3) Each independent fiduciary who determines to participate in the Sale receives written confirmation of the decision to participate and written confirmation of the transaction and its terms.

(e) In the case of Client Plans participating in collective funds for which State Street serves as trustee or investment manager,

(1) Each Sale engaged in by the collective fund is subject to the prior approval of each independent plan fiduciary of Plans participating in the fund;

(2) The independent fiduciary of each Plan is furnished notice within 90 days of the proposed Sale, containing information necessary for the independent fiduciary to determine whether to approve the Sale transaction or withdraw from the collective fund prior to the Sale. If the fixed-income instruments are not redenominated within a year of provision of this notice, additional notice will be provided to the independent fiduciaries each year notifying them of their right to withdraw from the collective fund;

(3) Each independent fiduciary of a plan participating in a collective fund who determines to participate in the Sale receives written confirmation of the decision to participate and written confirmation of the transaction and its terms;

(f) In the case of the Plans, State Street must engage in the Sale within 30 days of the date that the Fractional Amounts are received by State Street as custodian or trustee for the Plans from the issuers of the fixed-income security;

(g) The Plans do not incur any commissions or other expenses in connection with the Sales; and

(h)(1) State Street or an affiliate maintains or causes to be maintained within the United States, for a period of six years from the date of such transaction, the records necessary to enable the persons described in this section to determine whether the conditions of this exemption have been met; except that a party in interest with respect to an employee benefit plan, other than State Street or its affiliates, shall not be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975(a) or (b) of the Code, if such records are not maintained, or are not available for examination, as required by this section, and a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of State Street or its affiliates, such records are lost or destroyed prior to the end of such six year period;

(2) The records referred to in subsection (1) above are unconditionally available for examination during normal business hours by duly authorized employees of (a) the Department, (b) the Internal Revenue Service, (c) plan participants and beneficiaries, (d) any employer of plan participants and beneficiaries, and (e) any employee organization whose members are covered by such plan; except that none of the persons described in (c) through (e) of this subsection shall be authorized to examine trade secrets of State Street or its affiliates or any commercial or financial information which is privileged or confidential.

Section II. Definitions

(a) The term ''affiliate'' of State Street means any other bank or similar financial institution directly or indirectly controlling, controlled by, or under common control with State Street.

(b) The term ''Euro'' means the single European currency introduced on January 1, 1999 in eleven Member States of the European Union.[12]

(c) The term ''Fractional Amount'' means, with respect to any fixed-income instrument, an amount less than one Euro.

(d) The term ''independent plan fiduciary'' means a plan fiduciary

[12] For purposes of reference, on January 6, 1999, 1 Euro equaled approximately 1.16 U.S. dollars.

independent of State Street and any of its affiliates.

(e) The term ''par value'' means the face value of the fixed-income instrument.

(f) The term ''Plan'' includes all employee benefit plans to which State Street or an affiliate acts as a service provider, including a fiduciary, and all plans established and maintained by State Street and its affiliates, which have net assets of at least $25,000,000.

EFFECTIVE DATE: This exemption is effective for the period beginning on January 1, 1999 and ending three years from the date on which each country joining the European Economic and Monetary Union converts to the Euro.

Summary of Facts and Representations

1. State Street, a Massachusetts banking corporation, is a commercial bank which provides a wide range of banking, fiduciary, record keeping, custodial, brokerage and investment services to corporations, institutions, governments, employee benefit plans, governmental retirement plans and private investors worldwide. State Street is a wholly-owned subsidiary of State Street Corporation, a bank holding company organized in 1970 under the laws of the Commonwealth of Massachusetts. As a Massachusetts trust company and a member bank of the Federal Reserve System, State Street is a bank, as defined in section 202(a)(2) of the Investment Advisers Act of 1940 and section 581 of the Code. As of December 31, 1997, State Street Corporation's total assets were $37.975 billion with shareholders' equity of $1.995 billion.

2. Among the assets of the Client Plans and the State Street Plans are corporate and government-issued fixed-income instruments denominated in the currencies of the following eleven European nations: Austria, Belgium, Finland, France, Germany, Ireland, Italy, Luxembourg, Netherlands, Portugal and Spain. In May 1998, these eleven nations agreed to join the Economic and Monetary Union (EMU) and to cooperate in the creation of a European Central Bank and the development of a central currency (the Euro), in lieu of the individual currencies of the eleven members (Legacy Currencies). Beginning on January 1, 1999, these Legacy Currencies will be converted into the Euro,[13] although the Legacy Currencies will continue to coexist with the Euro for a limited time as denominations of the Euro.[14]

During the initial transition weekend that included January 1, 1999, nine of the eleven securities markets (Austria, Belgium, Finland, France, Germany, Italy, Luxembourg, Portugal and Spain) in the EMU underwent a conversion in which: (1) All stock exchanges and depositories commenced pricing, trading and settling only in the Euro, (2) approximately 1500 government securities were redenominated, (3) currency balances were converted to the Euro, and (4) all securities transactions pending over that weekend were converted to settle in the Euro. Since January 1, 1999 forward, the stock exchanges, depositories and national or central banks in these nine countries operate only in the Euro. Ireland permitted Legacy Currency or Euro currency instructions until January 8, 1999, and the Netherlands is permitting Legacy Currency or Euro currency instructions throughout the entire three-year transition period.

With regard to fixed-income instruments, the process of conversion is scheduled to take place over a three-year period. The applicant states that the other European nations not currently part of the EMU may decide to follow these eleven nations and start their own conversion process after January 1, 1999. In that event, these other nations may take approximately three years from their commencement of the conversion process to redenominate fixed-income securities. State Street represents that in the process of this redenomination, Fractional Amounts (as defined in paragraph (c) of Section II) will be created as a result of the relationship between the former currency values and the Euro.[15]

4. State Street seeks exemptive relief permitting it and its affiliates to purchase the Fractional Amounts resulting from the conversion to the Euro of certain fixed-income instruments denominated in the Legacy Currencies that are held by its Client Plans and the State Street Plans. State Street represents that while its custody systems currently support Fractional Amounts, it is widely predicted that there will be little or no market for Fractional Amounts resulting from the conversion to the Euro. In addition, State Street represents that the Fractional Amounts will need to be disposed of as soon as possible after the Euro conversion because these Fractional Amounts will likely trade at a discount in any potential secondary market. In addition, when transaction costs and other costs are considered, the cost of selling the Fractional Amounts may exceed their value. Accordingly, State Street proposes purchasing the Fractional Amounts for 120% of par value from its clients, including Client Plans, and the State Street Plans to ensure that no losses are sustained by such investors in the Sale of the Fractional Amounts.

5. State Street represents that it contacted the independent fiduciaries of each of its Client Plans within 90 days of December 31, 1998 to provide notice of the subject transaction. In notifying the independent fiduciaries of the Client Plans, State Street provided several items of important information. First, State Street informed the Client Plans regarding the conversion of certain European currencies into the Euro. In doing so, State Street advised the Client Plans of the background and timing of the conversion, including the fact that Fractional Amounts would result from the process of conversion. Second, State Street advised the Client Plans that such Fractional Amounts were not being traded on the open market. Also, as an accommodation to its customers, State Street informed the Client Plans that it would purchase the Fractional Amounts for 120% of the par value of such shares, and clients would see a confirmation of that transaction and future activity regarding the Fractional Amounts on their quarterly statements as the issuers of the fixed-income

[13] On December 31, 1998, the Council of the European Union adopted the irrevocably fixed conversion rates between the Euro and the currencies of the Member States adopting the Euro. *See* Council Regulation (EC) No. 2866/98. The Council of the European Union mandated the following conversion rates: 1 Eur=40.3399 BEF, 1 Eur=1.95583 DEM, 1 Eur=166.386 ESP, 1 Eur=6.55957 FRF, 1 Eur=.787564 IEP, 1 Eur=1936.27 ITL, 1 Eur=40.3399 LUF, 1 Eur=2.20371 NLG, 1 Eur=13.7603 ATS, 1 Eur=200.482 PTE, 1 Eur=5.94573 FIM.

[14] For example, a French Franc will be treated as a sub-unit of a Euro in the same way as a centime is treated as a subunit of the Franc. The applicant represents that because the conversion rate will be irrevocably fixed throughout a three-year transitional period, all existing banknotes and coins will continue in circulation as legal tender but will be treated as referring to the Euro at the fixed conversion rate.

[15] In the case of Austria, Belgium, Finland, Germany, Ireland, Italy, Luxembourg, Portugal, and Spain, fixed-income instruments are being reissued in whole Euros. These securities markets are dealing with the resulting Fractional Amounts by issuing fractional shares of the fixed-income securities. Instead of issuing fractional shares, France and the Netherlands have directed that their sovereign debt instruments are to be redenominated in whole Euros, with the value of the fractional share compensated with cash. As for corporate issuers in France and the Netherlands, State Street represents that it is unclear how they will redenominate. Regardless, State Street represents that it is treating each transaction as the Sale by the plan of a Fractional Amount of the underlying security, regardless of the treatment by France and the Netherlands, and is paying to each Plan an amount equal to 120% of the par value of such Fractional Amount.

instruments converted their fixed-income securities. Third, Client Plans were informed that if they opt not to have their Fractional Amounts purchased by State Street, State Street would accommodate such request and permit the Client Plans to deal with the Fractional Amounts as they so choose. In this regard, State Street represents that every Client Plan was given an adequate amount of time prior to December 31, 1998 to opt out of the program. In the case of Client Plans participating in collective funds, such Plans were given the opportunity to withdraw from the fund if they objected to participation in the program of Sales.

State Street represents that every independent fiduciary of the single Client Plans and Client Plans participating in collective funds has agreed to participate in the program of Sales. State Street provided each independent fiduciary with written confirmation of their decision to participate in the program of Sales. Furthermore, State Street represents that its quarterly statements will continue to provide the Client Plans with an indication of the activity in the accounts with respect to Fractional Amounts as issuers redenominate the fixed-income securities.

6. State Street represents that the subject transactions are administratively feasible in that each Sale is for cash at an amount equal to 120% the par value of the Fractional Amounts and that all transaction records will be maintained. Furthermore, State Street states that each transaction should be viewed as being in the best interest of the Plans and their participants and beneficiaries because such transactions provide for more efficient administration of the currency conversion process for such assets and increased value to the Plan's investments. Finally, State Street represents that the subject transactions are protective of the Plans' participants and beneficiaries because each Plan receives 120% of the par value for the Fractional Amounts during a time when any market that may develop for these interests could result in them being sold at a discount.

7. In summary, State Street represents that the transactions satisfy the statutory criteria of section 408(a) of the Act and section 4975 of the Code because:

(a) Each Sale involves a one time transaction for cash;

(b) The terms of each Sale are at least as favorable to the Plan as those terms which would be available in an arm's-length transaction with an unrelated party;

(c) The Plans receive an amount which is not less than the par value for each of the Fractional Amounts;

(d) In the case of Single Client Plans:

(1) Each Sale is subject to the prior consent of an independent plan fiduciary;

(2) The independent fiduciary of each Plan is furnished with notice within 90 days of the proposed Sale, providing information necessary for the independent fiduciary to determine whether to approve the Sale transaction. If the fixed-income instruments are not redenominated within a year of provision of this notice, additional notice will be provided to the independent fiduciaries each year notifying them of their right not to participate in this program of Sales; and

(3) each independent fiduciary who determines to participate in the Sale receives written confirmation of its decision to participate and written confirmation of the transaction and its terms.

(e) In the case of Client Plans participating in collective funds for which State Street serves as trustee or investment manager,

(1) Each Sale engaged in by the collective fund is subject to the prior approval of each independent plan fiduciary of Plans participating in the fund;

(2) The independent fiduciary of each Plan is furnished notice within 90 days of the proposed Sale, containing information necessary for the independent fiduciary to determine whether to approve the Sale transaction or withdraw from the collective fund prior to the Sale. If the fixed-income instruments are not redenominated within a year of provision of this notice, additional notice will be provided to the independent fiduciaries each year notifying them of their right to withdraw from the collective fund;

(3) Each independent fiduciary of a plan participating in a collective fund who determines to participate in the Sale receives written confirmation of the decision to participate and written confirmation of the transaction and its terms;

(f) In the case of the Plans, State Street must engage in the Sale within 30 days of the date that the Fractional Amounts are received by State Street from the issuers of the fixed-income security; and

(g) The Plans do not incur any commissions or other expenses in connection with the Sales.

NOTICE TO INTERESTED PERSONS: Because of the large number of interested persons associated with the Plans, the Department and the applicant have agreed that notification through publication of the proposal in the **Federal Register** is sufficient.

FOR FURTHER INFORMATION: Contact James Scott Frazier of the Department, phone number (202) 219–8881 (this is not a toll-free number).

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new

exemption may be made to the Department.

Signed at Washington, DC, this 21st day of January, 1999.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 99–1848 Filed 1–26–99; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

National Endowment for the Arts; President's Committee on the Arts and the Humanities: Meeting XLIV

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 President's Committee on the Arts and the Humanities will be held on February 5, 1999 from 8:30 a.m. to 12:30 p.m. The Committee will convene to discuss a variety of reports and projects. The meeting will be held in the James W. McLamore Center at the University of Miami, 5250 University Drive, Coral Gables, Florida.

The Committee meeting will begin at 8:30 a.m. with a welcome from the University President and opening remarks by Dr. John Brademas, Chairman. This will be followed by the Director's Update from Harriet Mayor Fulbright. There also will be a report on International issues, including cultural policy meetings and international art exhibits, reports from the National Endowments for the Arts and the Humanities and the Institute of Museum & Library services, and a report on the Coming Up Taller project. There will be a discussion of ''Gaining the Arts Advantage,'' the Committee's new report on arts education. The meeting will conclude with general discussion about future plans.

The President's Committee on the Arts and the Humanities was created by Executive Order in 1982 to advise the President, the two Endowments, and the Institute of Museum and Library Services on measures to encourage private sector support for the nation's cultural institutions and to promote public understanding of the arts and the humanities.

If, in the course of discussion, it becomes necessary for the Committee to discuss non-public commercial or financial information of intrinsic value, the Committee will go into closed session pursuant to subsection (c) (4) of the Government in the Sunshine Act, 5 U.S.C. 552b.

Any interested persons may attend as observers, on a space available basis, but seating is limited. Therefore, for this meeting, individuals wishing to attend must contact Regina Syquia of the President's Committee in advance at (202) 682–5409 or write to the Committee at 1100 Pennsylvania Avenue, NW, Suite 526, Washington, DC 20506. Further information with reference to this meeting can also be obtained from Ms. Syquia.

If you need special accommodations due to a disability, please contact Ms. Syquia through 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.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 99–1824 Filed 1–26–99; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: Exercise of Discretion for an Operating Facility, NRC Enforcement Policy (NUREG–1600).

2. Current OMB approval number: 3150–0136.

3. How often the collection is required: On occasion.

4. Who is required or asked to report: Nuclear power reactor licensees.

5. The number of annual respondents: 36.

6. The number of hours needed annually to complete the requirement or request: 2,160.

7. Abstract: The NRC's revised Enforcement Policy includes the circumstances in which the NRC may exercise enforcement discretion. This enforcement discretion is designated as a Notice of Enforcement Discretion (NOED) and relates to circumstances which may arise where a licensee's compliance with a Technical Specification Limiting Condition for Operation or with other license conditions would involve an unnecessary plant transient or performance of testing, inspection, or system realignment that is inappropriate for the specific plant conditions, or unnecessary delays in plant startup without a corresponding health and safety benefit. A licensee seeking the issuance of a NOED must provide a written justification, which documents the safety basis for the request and provides whatever other information the NRC staff deems necessary to decide whether or not to exercise discretion.

Submit, by March 29, 1999, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/NRC/PUBLIC/OMB/index.html). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, by telephone at 301–415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 21st day of January 1999.

For the Nuclear Regulatory Commission.

Brenda Jo Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–1843 Filed 1–26–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: NRC Form 536, ''Operator Licensing Examination Data''.

2. OMB approval number: 3150–0131.

3. How often the collection is required: Annually.

4. Who is required or asked to report: All holders of operating licenses or construction permits for nuclear power reactors.

5. The number of annual respondents: 80.

6. The number of hours needed annually to complete the requirement or request: 80.

7. Abstract: NRC is requesting reinstatement of its clearance to annually request all commercial power reactor licensees and applicants for an operating license to voluntarily send to the NRC: (1) Their projected number of candidates for operator licensing initial examinations; (2) the estimated dates of the examinations; (3) if the examination will be facility developed or NRC developed, and (4) the estimated number of individuals that will participate in the Generic Fundamentals Examination (GFE) for that calendar year. Except for the GFE, this information is used to plan budgets and resources in regard to operator examination scheduling in order to meet the needs of the nuclear industry.

Submit, by March 29, 1999, comments that address the following questions:

1. Is the proposed collection information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/NRC/PUBLIC/OMB/index.html). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, by telephone at 301–415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 21st day of January 1999.

For the Nuclear Regulatory Commission.

Brenda Jo Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–1844 Filed 1–26–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–210]

Niagara Mohawk Power Corporation; Correction

The December 30, 1998, **Federal Register** contained a ''Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing,'' for Nine Mile Point Nuclear Power Station, Unit 1. The title inadvertently referred to Unit No. 2 rather than Unit No. 1. This notice corrects the notice published in the **Federal Register** on December 30, 1998 (63 FR 71968). The title should read:

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit 1 (NMP1), Oswego County, New York.

Dated at Rockville, Maryland, this 20th day of January 1999.

For the Nuclear Regulatory Commission.

Darl S. Hood,

Senior Project Manager, Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 99–1845 Filed 1–26–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–333]

Power Authority of the State of New York; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of the Power Authority of the State of New York (the licensee, also known as the New York Power Authority) to withdraw its February 6, 1998, application for proposed amendment to Facility Operating License No. DPR–59 for the James A. FitzPatrick Nuclear Power Plant, located in Oswego County, New York.

The proposed amendment would have revised Technical Specifications for inservice leak and hydrostatic testing operation.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on April 22, 1998 (63 FR 19976). However, by letter dated December 30, 1998, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated February 6, 1998, and the licensee's letter dated December 30, 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 Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Dated at Rockville, Maryland, this 21st day of January 1999.

For the Nuclear Regulatory Commission.

Joseph F. Williams,

Project Manager, Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 99–1846 Filed 1–26–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–445 and 50–446]

TU Electric; Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is

considering issuance of an amendment to Facility Operating License Nos. NPF–87 and 89, issued to the TU Electric (TUE or the licensee), for operation of the Comanche Peak Steam Electric Station, Units 1 and 2 (CPSES), located in Somervell County, Texas.

The initial notice of consideration of issuance of amendment to facility operating license and opportunity for hearing was originally published in the **Federal Register** (63 FR 58074) on October 29, 1998. The information included in the supplemental letters indicates the original notice, that included seven proposed beyond-scope issues (BSIs) to the Improved Technical Specifications (ITS) conversion, needs to be expanded (add fourteen new BSIs) and revised (delete two previous BSIs) to include a total of nineteen BSIs and requires re-notice in the **Federal Register**. This notice supercedes the previous notice.

The proposed amendment, requested by the licensee in a letter dated May 15, 1997, as supplemented by letters dated June 26, August 5, August 28, September 24, October 21, October 23, November 24, December 11, December 17 and December 18, 1998, would represent a full conversion from the current Technical Specifications (CTS) to a set of ITS based on NUREG–1431, ''Standard Technical Specifications, Westinghouse Plants,'' Revision 1, dated April 1995. NUREG–1431 has been developed by the Commission's staff through working groups composed of both NRC staff members and industry representatives, and has been endorsed by the staff as part of an industry-wide initiative to standardize and improve the Technical Specifications (TSs) for nuclear power plants. As part of this submittal, the licensee has applied the criteria contained in the Commission's ''Final Policy Statement on Technical Specification Improvements for Nuclear Power Reactors (Final Policy Statement),'' published in the **Federal Register** on July 22, 1993 (58 FR 39132), to the CTS, and, using NUREG–1431 as a basis, proposed an ITS for CPSES. The criteria in the Final Policy Statement were subsequently added to 10 CFR 50.36, ''Technical Specifications,'' in a rule change that was published in the **Federal Register** on July 19, 1995 (60 FR 36953) and became effective on August 18, 1995.

This conversion is a joint effort in concert with three other utilities: Pacific Gas & Electric Company for Diablo Canyon Power Plant, Units 1 and 2 (Docket Nos. 50–275 and 323); Union Electric Company for Callaway Plant (Docket No. 50–483); and Wolf Creek Nuclear Operating Corporation for Wolf Creek Generating Station (Docket No. 50–482). This joint effort includes a common methodology for the licensees in marking-up the CTS and NUREG–1431 Specifications, and the NUREG–1431 Bases, that has been accepted by the staff. This includes the convention that, if the words in a CTS specification are not the same as the words in the ITS specification but they mean the same or have the same requirements as the words in the ITS specification, the licensees do not indicate or describe a change to the CTS.

This common methodology is discussed at the end of Enclosure 2, ''Mark-Up of Current TS''; Enclosure 5a, ''Mark-Up of NUREG–1431 Specifications''; and Enclosure 5b, ''Mark-Up of NUREG–1431 Bases, for each of the 14 separate ITS sections that were submitted with the licensee's application. For each of the 14 ITS sections, there is also the following: Enclosure 1, the cross reference table, sorted by CTS and ITS Specifications; Enclosure 3, the description of the changes to the CTS section and the comparison table showing which plants (of the four licensees in the joint effort) that each change applies to; Enclosure 4, the no significant hazards consideration (NHSC) of 10 CFR 50.91 for the changes to the CTS with generic NHSCs for administrative, more restrictive, relocation, and moving-out-of-CTS changes, and individual NHSCs for less restrictive changes and with the organization of the NHSC evaluation discussed in the beginning of the enclosure; and Enclosure 6, the descriptions of the differences from NUREG–1431 Specifications and the comparison table showing which plants (of the four licensees in the joint effort) that each difference applies to. Another convention of the common methodology is that the technical justifications for the less restrictive changes are included in the NHSCs.

The licensee has categorized the proposed changes to the CTS into four general groupings. These groupings are characterized as administrative changes, relocated changes, more restrictive changes and less restrictive changes.

Administrative changes are those that involve restructuring, renumbering, rewording, interpretation and complex rearranging of requirements and other changes not affecting technical content or substantially revising an operating requirement. The reformatting, renumbering and rewording process reflects the attributes of NUREG–1431 and does not involve technical changes to the existing TSs. The proposed changes include: (a) providing the appropriate numbers, etc., for NUREG–1431 bracketed information (information that must be supplied on a plant-specific basis, and which may change from plant to plant), (b) identifying plant-specific wording for system names, etc., and (c) changing NUREG–1431 section wording to conform to existing licensee practices. Such changes are administrative in nature and do not impact initiators of analyzed events or assumed mitigation of accident or transient events.

Relocated changes are those involving relocation of requirements and surveillances for structures, systems, components, or variables that do not meet the criteria for inclusion in the TSs. Relocated changes are those current TSs requirements that do not satisfy or fall within any of the four criteria specified in the Commission's policy statement and may be relocated to appropriate licensee-controlled documents.

The licensee's application of the screening criteria is described in Attachment 2 to its May 15, 1997, submittal, which is entitled, ''General Description and Assessment.'' The affected structures, systems, components or variables are not assumed to be initiators of analyzed events and are not assumed to mitigate accident or transient events. The requirements and surveillances for these affected structures, systems, components, or variables will be relocated from the TS to administratively controlled documents such as the quality assurance program, the final safety analysis report (FSAR), the ITS BASES, the Technical Requirements Manual (TRM) that is incorporated by reference in the FSAR, the Core Operating Limits Report (COLR), the Offsite Dose Calculation Manual (ODCM), the Inservice Testing (IST) Program, or other licensee-controlled documents. Changes made to these documents will be made pursuant to 10 CFR 50.59 or other appropriate control mechanisms, and may be made without prior NRC review and approval. In addition the affected structures, systems, components, or variables are addressed in existing surveillance procedures that are also subject to 10 CFR 50.59. These proposed changes will not impose or eliminate any requirements.

More restrictive changes are those involving more stringent requirements compared to the CTS for operation of the facility. These more stringent requirements do not result in operation that will alter assumptions relative to the mitigation of an accident or transient event. The more restrictive requirements will not alter the operation

of process variables, structures, systems, and components described in the safety analyses. For each requirement in the CTS that is more restrictive than the corresponding requirement in NUREG–1431 that the licensee proposes to retain in the ITS, they have provided an explanation of why they have concluded that retaining the more restrictive requirement is desirable to ensure safe operation of the facility because of specific design features of the plant.

Less restrictive changes are those where CTS requirements are relaxed or eliminated, or new plant operational flexibility is provided. The more significant ''less restrictive'' requirements are justified on a case-by-case basis. When requirements have been shown to provide little or no safety benefit, their removal from the TSs may be appropriate. In most cases, relaxations previously granted to individual plants on a plant-specific basis were the result of (a) generic NRC actions, (b) new NRC staff positions that have evolved from technological advancements and operating experience, or (c) resolution of the Owners Groups' comments on the Improved Standard Technical Specifications. Generic relaxations contained in NUREG–1431 were reviewed by the staff and found to be acceptable because they are consistent with current licensing practices and NRC regulations. The licensee's design will be reviewed to determine if the specific design basis and licensing basis are consistent with the technical basis for the model requirements in NUREG–1431, thus providing a basis for these revised TS, or if relaxation of the requirements in the current TS is warranted based on the justification provided by the licensee.

These administrative, relocated, more restrictive, and less restrictive changes to the requirements of the CTS do not result in operations that will alter assumptions relative to mitigation of an analyzed accident or transient event.

In addition to the proposed changes solely involving the conversion, there are also changes proposed that are differences to the requirements in both the CTS and the Improved Standard Technical Specifications (NUREG–1431). The first five BSIs were included in the previous (superceded notice) and still apply to the conversion, however there are fourteen additional BSIs. The additional beyond-scope issues (BSIs) are discussed in the licensee's response to requests for additional information (RAIs) from the NRC staff. These proposed BSIs to the ITS conversion are as follows:

1. ITS 3.1.7, a new action added for more than one digital rod position indicator per group inoperable.

2. ITS surveillance requirement (SR) 3.2.1.2, frequency, within 24 hours for verifying the axial heat flux hot channel factor is within limit after achieving equilibrium conditions.

3. ITS SR 3.6.3.7, note added to not require leak rate test of containment purge valves with resilient seals when penetration flow path is isolated by leak-tested blank flange.

4. ITS LCO 3.7.15, changes reference for the spent fuel pool level from that above top of fuel stored in racks to that above the top of racks.

5. ITS 5.6.5a.8, adds refueling boron concentration limits to the core operating limits report.

The fourteen additional BSIs are listed below with the associated change number, RAI number, RAI response submittal date, and description of the change.

6. Change 10–3–LS–37 (ITS 3/4.4), question Q5.5–2, response letter dated September 24, 1998, the change added an allowance to CTS SR 4.4.9 for the reactor coolant pump flywheel inspection program (ITS 5.5.7) to provide an exception to the examination requirements specified in the CTS SR (i.e., regulatory position C.4.b of NRC Regulatory Guide (RG) 1.14, Revision 1).

7. Change 1–22–M (ITS 3/4.3), question Q3.3–49, response letter dated November 24, 1998, the change is given in the application. Quarterly channel operational tests (COTs) would be added to CTS Table 4.3–1 for the power range neutron flux-low, intermediate range neutron flux, and source range flux trip functions. The CTS only require a COT prior to startup for these functions. New Note 17 would be added to require that the new quarterly COT be performed within 12 hours after reducing power below P–10 for the power range and intermediate range instrumentation (P–10 is the dividing point marking the Applicability for these trip functions), if not performed within the previous 92 days. In addition, Note 9 is revised such that the P–6 and P–10 interlocks are verified to be in their required state during all COTs on the power range neutron flux-low and intermediate range neutron flux trip functions.

8. Change 1–7–LS–3 (ITS 3.4/3), question Q3.3–107, response letter dated November 24, 1998, the changes are given in the application and would (1) extend the completion time for CTS Action 3.b from no time specified to 24 hours for channel restoration or changing the power level to either below P–6 or above P–10, (2) reduce the applicability of the intermediate range neutron flux channels and deleted CTS Action 3.a as being outside the revised applicability, and (3) add a less restrictive new action that requires immediate suspension of operations involving positive reactivity additions and a power reduction below P–6 within 2 hours, but no longer requires a reduction to Mode 3. The changes would be to CTS Table 3.3–1 (Action 3 and New Action 3.1, and Function #5 and Footnote h to its applicable modes).

9. Change 1–9–A (ITS 5.0), question Q5.2–1, response letter dated September 24, 1998, a new administrative change added to the application. The CTS 6.2.2.e requirements concerning overtime would be replaced by a reference to administrative procedures for the control of working hours.

10. Change 1–15–A (ITS 5.0), question Q5.2–1, response letter dated September 24, 1998, a new administrative change added to the application. The proposed change would revise CTS 6.2.2.G to eliminate the title of Shift Technical Advisor. The engineering expertise is maintained on shift, but a separate individual would not be required as allowed by a Commission Policy Statement.

11. Change 2–18–A (ITS 5.0), question Q5.2–1, response letter dated September 24, 1998, a new administrative change added to the application. The dose rate limits in the Radioactive Effluent Controls Program for releases to areas beyond the site boundary would be revised to reflect 10 CFR Part 20 requirements.

12. Change 2–22–A (ITS 5.0), question Q5.2–1, response letter dated September 24, 1998, a new administrative change added to the application. The Radioactive Effluents Controls Program would be revised to include clarification statements denoting that the provisions of CTS 4.0.2 and 4.0.3, which allow extensions to surveillance frequencies, are applicable to these activities.

13. Change 3–11–A (ITS 5.0), question Q5.2–1, response letter dated September 24, 1998, the proposed change would revise the 3–11–A change submitted in the application. CTS 6.12, which provides high radiation area access control alternatives pursuant to 10 CFR 20.203(c)(2), would be revised to meet the current requirements in 10 CFR Part 20 and the guidance in NRC RG 8.3.8, on such access controls.

14. Change 3–18–LS–5(ITS 5.0), question Q5.2–1, response letter dated September 24, 1998, a new less restrictive change added to the application. The CTS 6.9.1.5 requirement to provide documentation of all challenges to the power operated

relief valves (PORVs) and safety valves on the reactor coolant system would be deleted. This is based on NRC Generic Letter 97–02 which reduced requirements for submitting such information to the NRC and did not include these valves for information to be submitted.

15. Change 3.19–A (ITS 5.0), question Q5.2–1, response letter dated September 24, 1998, the administrative change is being withdrawn with the licensee submitting change 3–11–A above.

16. Change 10–20–LS–39 (ITS 3/4.7), question Q3.7.10–14, response letter dated October 21, 1998, the change is given in the application and would revise and add an action to CTS LCO 3.7.7.1, for ventilation system pressure envelope degradation, that allows 24 hours to restore the CR pressure envelope through repairs before requiring the unit to perform an orderly shutdown. The new action has a longer allowed outage time than LCO 3.0.4 which the CTS would require to be entered immediately. This change recognizes that the ventilation trains associated the pressure envelope would still be operable.

17. Change 4–8–LS–34 (ITS 3/4.4), question Q3.4.11–2, response letter dated September 24, 1998, the change is given in the application and would limit the CTS SR 4.4.4.2 requirement to perform the 92 day surveillance of the pressurizer PORV block valves and the 18 month surveillance of the pressurizer PORVs (i.e., perform one complete cycle of each valve) to only Modes 1 and 2.

18. Change 4–9–LS–36 (ITS 3/4.4), question Q3.4.11–4, response letter dated September 24, 1998, the Change 4–9–LS–4 is revised to add a note to Action d for CTS LCO 3.4.4 that would state that the action does not apply when the PORV block valves are inoperable as a result of power being removed from the valves in accordance Action b or c for an inoperable PORV.

19. Change 1–60–A (ITS 3/4.3), question TR 3.3–007, followup items letter dated December 18, 1998, a new administrative change is being added to the application. The change would revise the frequency for performing the trip actuating device operational test (TADOT) in CTS Table 4.3–1 for the turbine trip (functional units 16.a and 16.b) to be consistent with the modes for which the surveillance is required. This would be adding a footnote to the TADOT that states ''Prior to exceeding the P–9 interlock whenever the unit has been in Mode 3.''

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.

By February 28, 1999, 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 University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, TX 76019. 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 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.

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 Mr. George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M 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)(I)–(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated March 27, 1997, 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 University of Texas at Arlington Library, Government Publications/ Maps, 702 College, P.O. Box 19497, Arlington, TX 76019.

Dated at Rockville, Maryland, this 21st day of January 1999.

For the Nuclear Regulatory Commission.

Timothy J. Polich,

Project Manager, Project Directorate IV–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 99–1847 Filed 1–26–99; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Pub. L. 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Pub. L. 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 January 4, 1999, through January 14, 1999. The last biweekly notice was published on January 13, 1999.

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 February 26, 1999, 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.

Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois.

Date of application for amendment request: December 17, 1998.

Description of amendment request: The amendments would revise the respective facility Technical Specifications (TS) by adding a new Limiting Conditions for Operations which provides an administrative enhancement by allowing testing required to return equipment to service to be conducted under administrative controls.

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 has no impact on the design basis of the plant. The change has no impact on the response of the plant during normal or transient conditions. Incorporation of ISTS [improved Standard Technical Specification] 3.0.5 provides the necessary administrative controls that allow the return of equipment to service to complete testing required to demonstrate operability. Without this allowance, certain components could not be restored to operable status and a plant shutdown would ensue. It is not the intent of the TS to preclude the return to service of a component in order to confirm its operability or the operability of other equipment. This allowance is deemed to be a safer operation than requiring a plant shutdown to complete necessary testing. This allowance is considered acceptable because it: (1) is temporary; (2) accompanied by appropriate administrative controls, and; (3) provides a safety enhancement by restoring the plant status to, or confirming the existing plant status is in, a condition that is expected to provide for safe operation.

ISTS 3.0.5 was adopted to address the ambiguity that ACTION requirements do not strictly allow the restoration of equipment to its normal configuration to perform functional testing required to demonstrate operability. The components involved will have completed maintenance and or testing that will demonstrate, with reasonable assurance, that the component can perform its intended safety function.

Therefore, the proposed changes do not involve a significant increase in the probability or 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 introduce new features or modify plant structures, systems or components that may impact station operations under normal or abnormal conditions. The proposed changes will allow the necessary testing to ensure safety related equipment will perform its design basis safety function.

Therefore, the proposed 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 the margin of safety for the following reasons:

The proposed changes have no impact on any of the Safety Limits provided in the Technical Specifications, nor does the change impact the operation of structures, systems and components import to plant safety. The purpose of the proposed change is to return equipment to service, under administrative controls, to complete operability testing. Therefore, allowing the return of equipment to service will promote timely restoration of, or confirmation of, equipment operability thereby increasing the margin of safety from that existing with this equipment remaining out of service. Temporarily returning inoperable equipment to service for the purpose of confirming operability places the plant in a condition which has been previously evaluated and determined to be acceptable for short periods. Therefore, the proposed change does not involve a significant reduction in safety.

Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments requested involve 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; for LaSalle, Jacobs Memorial Library, 815 North Orlando Smith Avenue, Illinois Valley Community College, Oglesby, Illinois 61348–9692.

Attorney for licensee: Ms. Pamela B. Stroebel, Senior Vice President and General Counsel, Commonwealth Edison Company, P.O. Box 767, Chicago, Illinois 60690–0767.

NRC Project Director: Stuart A. Richards.

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 amendment request: December 24, 1998.

Description of amendment request: These amendment requests change the Beaver Valley Power Station, Unit Nos. 1 and 2 (BVPS–1 and BVPS–2) Technical Specifications (TSs) to ensure that Emergency Diesel Generator (EDG) requirements contained in Technical Specification 3/4.8.1 for both units are consistent with assumptions contained in design analyses and requirements of plant procedures. Revisions to TS 3/4.8.1 ''A.C. Sources,'' contained in this amendment provide more conservative limiting conditions for operation (LCO) and surveillance requirements that affect EDG fuel oil storage volume, EDG load rejection and overspeed testing, and EDG operating frequency requirements. The applicable bases for each unit are also refined, as necessary, to strengthen the explanations regarding EDG fuel oil storage systems and provide the EDG overspeed in terms of frequency (Hertz) and speed (Revolutions Per Minute).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The addition of the term ''usable'' to LCO 3.8.1.1 and 3.8.1.2 for both Units will assure that the required quantity of fuel oil will be available to operate the diesel during emergency conditions. This revision including the discussion contained in the Technical Specification Bases has no physical impact on the diesels or their setpoints. These revisions also do not delete any function previously provided by the diesels. There are no design bases accidents for which failure of the diesel is considered an initiating event. Therefore, the probability of an accident previously evaluated in the safety analysis is not increased by this change. The proposed changes do not involve an increase in the consequences of an accident previously analyzed, as they make the limiting condition for operation and associated bases more conservative and involve no physical changes to the diesels.

The revised EDG single largest load rejection and overspeed criteria do not involve an increase in the probability or the consequences of accidents previously analyzed. The surveillance tests impacted by the proposed revision are performed only during shutdown when the opposite train EDG and its connected AC power system are relied upon as the emergency AC power source. Further, there are no design basis accidents for which changes to EDG load rejection test acceptance criteria can be an initiating event. The proposed changes affect the diesel testing requirements but do not affect the operating or design parameters. The changes also do not affect the diesels' ability to mitigate the consequences of an accident. They serve to ensure the ability of the diesel to reject the largest load. The overspeed criteria ensures that diesel frequency does not exceed a certain value subsequent to a load rejection. This criteria also ensures compliance with the guidance of Safety Guide 9 for Unit 1 and Regulatory Guide 1.9 for Unit 2. It does not involve an increase in the consequences of an accident previously analyzed. The revision does not impact accidents previously analyzed and would not, therefore, affect the consequences of accidents previously analyzed.

Revising the EDG operating frequency as discussed in the proposed amendment protects [engineered safety feature] ESF pumps from runout conditions and motors from operating in an unanalyzed condition. The narrower frequency limits are more restrictive and have no adverse effect on the diesel generator operability. The proposed revision to decrease the EDG operating frequency limit does not involve an increase in the probability of an accident as described in the [Updated Final Safety Analysis Report] UFSAR. There are no design basis accidents for which failure of the diesel is considered an initiating event. A narrower operating frequency does not increase the probability of a design basis accident; it ensures that equipment performs their intended function. This change is intended to prevent the diesel from being loaded beyond analyzed loading limits and protect ESF equipment. The more conservative surveillance requirements being applied to operating limits will provide greater assurance that the diesels will be operable and that greater performance requirements are not imposed on ESF equipment. This change, therefore, will not result in an increase in the consequences of an accident previously described.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed revisions do not create the possibility of a new or different kind of accident from any accident previously evaluated. They also will have no adverse impact on the design basis accidents previously evaluated in the UFSAR. The revisions contained in the proposed amendment are more restrictive to assure that diesel and ESF equipment are available and fully operable to perform their intended safety function following a design basis accident and a loss of offsite power. The proposed changes do not involve physical changes to plant equipment or the AC power system configuration. New failure modes are not introduced as a result of the proposed revisions. A revision of the diesel frequency will prevent motors and pumps from being subjected to over-frequency conditions which could reduce the life of the equipment. Increasing the load rejection criteria for Unit 1 and including overspeed criteria for both units revises surveillance test criteria for verifying load rejection capability. This does not affect the probability of malfunction of a diesel or its connected emergency AC power system. Further, it does not create a new failure mode. Revising diesel fuel oil storage requirements to include the term ''usable'' reduces the potential for misinterpretation of this specification; it does not create a new kind of accident from any accident previously evaluated.

The revisions contained in this license amendment have the effect of making the BVPS Technical Specifications more conservative than previously. This license amendment request will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

The margin of safety is not reduced as a result of the proposed revisions. The margin of safety depends on the maintenance of specific operating parameters within design limits. The margin of safety derived from limiting condition for operation 3.8.1.1 and 3.8.1.2 for both Units is enhanced by adding ''usable'' in these requirements. This revision reduces the possibility of misinterpreting Technical Specification requirements. The addition of diesel overspeed criteria (both units) and increasing load rejection criteria for Unit 1 does not reduce the margin of safety. Diesel reliability and performance during a loss of offsite power and a design basis accident are enhanced by this more conservative surveillance test requirement. Revision of diesel operating frequency limits protects engineered safety features equipment from overfrequency conditions; this would not be a significant reduction in the margin of safety. Though the temporary Unit 1 EDG loading limit of 2791.51 exceeds the Safety Guide 9 value of 2745, it still is below the EDG 2000 hour rating limit of 2850 kW contained in Surveillance Requirement 4.8.1.1.2.b.6. Further, the loading value of 2791.51 kW does not exceed the design

loading capability of the EDG. Based on engineering analyses, the revisions contained in the proposed amendment will not significantly reduce the margin of safety. Engineered safety features equipment will continue to function, as assumed in the safety analysis, to ensure that fuel, reactor coolant system and containment design limits are not exceeded.

Therefore, this change will not involve a significant reduction in a margin of safety due to the continued availability and reliability of the A.C. electrical power sources.

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: B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Attorney for Licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: S. Singh Bajwa.

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 amendment request: December 24, 1998.

Description of amendment request: The proposed amendments would revise the Technical Specification (TS) requirements for the axial flux difference [AFD] monitor, quadrant power tilt ratio [QPTR] monitor, rod position deviation monitor, and rod insertion limit (RIL) monitor. The changes would (1) relocate requirements for the AFD monitor and the QPTR monitor to the Licensing Requirements Manual (LRM); (2) delete requirements for the rod position deviation monitor and RIL monitor from the TSs; (3) modify Unit 1 surveillance requirements (SR) 4.1.3.5 and 4.1.3.6 by incorporating the Unit 2 wording to provide surveillances more consistent with the Limiting Condition for Operation (LCO); (4) change Unit 1 SR 4.1.3.2.2, SR 4.1.3.5, SR 4.1.3.6 and Unit 2 SR 4.1.3.5 from 24 hour surveillance frequencies to 12 hour frequencies; and (5) delete Unit 1 SR 4.1.3.2.3.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed amendment would modify applicable Technical Specifications (TS) by deleting requirements associated with the rod position deviation monitor and rod insertion limit (RIL) monitor and relocating the requirements associated with the axial flux difference (AFD) monitor and quadrant power tilt ratio (QPTR) monitor from the following specifications and Bases:

Unit 1: 4.1.3.1.2, 3.1.3.2, 4.1.3.2.2, 4.1.3.2.3, 4.1.3.6, 4.2.1.1, 4.2.4;

Unit 2: 4.1.3.1.2, 4.1.3.2, 4.1.3.6, 4.2.1.1, 4.2.4.

The TS contains requirements where a reduced surveillance interval is required in the event the monitors referenced in the above specifications, surveillance requirements (SR) and associated Bases are inoperable. Removing the requirements associated with these monitors from the TS will not affect the ability of any system to perform its design function.

Nuclear Electric Institute (NEI) Technical Specification Task Force (TSTF) 110 Revision 2 provides the basis for these changes and recommends relocating the requirements for these monitors to ''plant administrative practices.'' The AFD monitor and the QPTR monitor requirements will be relocated to the LRM and changes to these requirements will be controlled in accordance with the 10 CFR 50.59 process which will require NRC approval if the change constitutes an unreviewed safety question. However, based on the smaller change in surveillance intervals, deletion and not relocation of the rod position deviation monitor and the RIL monitor requirements can be justified and is proposed.

Although these monitors are being removed from the TSs, they will continue to be maintained as described in the [Updated Final Safety Analysis Report] UFSAR (subject to revisions via the 10 CFR 50.59 process). Removing the rod deviation monitor requirements from Unit 1 SR 4.1.3.2.3 makes the remaining portion of SR 4.1.3.2.3 redundant to SR 4.1.3.2.2.a; therefore, SR 4.1.3.2.3 has been deleted. In addition, the 24-hour surveillance frequency in Unit 1 SR 4.1.3.2.2, 4.1.3.5 and 4.1.3.6 as well as in Unit 2 SR 4.1.3.5 is being changed to 12 hours to assure the required parameters are adequately monitored and to provide consistency between the units and related requirements as well as the Improved Standard Technical Specifications (ISTS).

Removing these monitors from the TS is consistent with the NRC approved changes to the ISTS identified in TSTF–110, Revision 2. Verification that plant conditions are within specified limits at the frequency specified in the normal SR provides sufficient information that allows the operator to detect a parameter that is beginning to deviate from its expected limits. The specified frequency takes into account other information (i.e., rod position indication system, rod bottom alarm and excore neutron detectors) that is continuously available to the operator in the control room, so that during changes in plant conditions, deviation from the limits can be readily detected.

The proposed changes do not affect the operation of the system or the accident analyses and are consistent with the NRC approved changes to the surveillances identified for the ISTS of NUREG–1431 identified in TSTF–110, Revision 2. These changes do not involve a change to plant equipment and do not affect the performance of plant equipment used to mitigate an accident. Although the deletion of these monitor requirements from the TS results in elimination of the reduced surveillance interval when the alarm is inoperable (for those requirements not being relocated to the LRM) the change in frequency is not significant considering the indications available to the operator and the relatively slow changes in the parameters being monitored during steady state operation. Therefore, based on the above, these changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Unit 1 SRs 4.1.3.5 and 4.1.3.6 have been additionally modified by incorporating the Unit 2 wording which more closely provides a surveillance appropriate for the LCO. The LCO requires the shutdown rods/control banks to be within the insertion limits and the revised SR requires a determination that each shutdown rod/control bank is within the insertion limits on a 12-hour frequency. Therefore, the revised SRs are consistent with the LCO requirements and more clearly provide verification that the LCO is met. This change does not affect the operation of the rod position indication system or any other system and is consistent with the Unit 2 and ISTS wording. This change will not affect the ability of any system to perform its design function; therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Changing the surveillance frequency from 24 to 12 hours is more conservative and assures the affected parameters are adequately monitored. In addition, the change removes monitors from the TSs and provides consistency between the SRs, the units and the ISTS. Changing the surveillance frequency, correcting the Unit 1 SRs and removing reference to the identified monitors from the TS will not cause a significant reduction in system reliability nor affect the ability of any system to perform its design function. There are no hardware changes associated with this license amendment nor are there any changes in the method by which any safety-related plant system performs its safety function. No new accident scenarios, transient precursors, failure mechanisms or limiting single failures are introduced as a result of these changes. These changes do not introduce any adverse effects or challenges to any safety-related systems. No change is required to any system configurations, plant equipment or analyses. Therefore, these changes will not create the possibility of any new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

The proposed changes do not affect the acceptance criteria for any analyzed event nor impact any plant safety analyses since the assumptions used will remain unchanged. The safety limits assumed in the accident analyses and the design function of the equipment required to mitigate the consequences of any postulated accidents will not be changed since the proposed changes do not affect the accident analyses assumptions or equipment required to mitigate design basis accidents described in the UFSAR. Although the deletion of these monitor requirements from the TSs results in elimination of the reduced surveillance interval when the alarm is inoperable (for those requirements not being relocated to the LRM) the effect is not significant considering the indications available to the operator and the relatively slow changes in the parameters being monitored during steady state operation. The TSs continue to assure the applicable operating parameters are maintained within the required limits. Based on engineering judgement, incorporating these changes will not involve a significant reduction in the margin of safety.

The margin of safety depends upon maintenance of specific operating parameters within design limits. The TSs continue to require that these limits be maintained and provide appropriate remedial actions if a limit is exceeded. The maintenance of these limits continues to be assured through performance of the normal surveillance at the proposed frequency and the requirements for increased monitoring that are relocated to the LRM. Additional assurance that the required parameters are adequately monitored is provided through other information readily available (i.e., rod position indication system, rod bottom alarm and excore neutron detectors) that allows the operator to detect a parameter that is beginning to deviate from its expected limits and through the proposed changes which reduce the normal surveillance interval from 24 hours to 12 hours to assure the affected parameters are adequately monitored. Although these monitors are being removed from the TSs, they will continue to be maintained as described in the UFSAR (subject to revisions via the 10 CFR 50.59 process). Therefore, the plant will be maintained within the analyzed limits and the proposed changes will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Project Director: S. Singh Bajwa.

Entergy Operations, Inc., Docket Nos. 50–313 and 50–368, Arkansas Nuclear One, Units 1 and 2 (ANO–1&2), Pope County, Arkansas.

Date of amendment request: November 24, 1998.

Description of amendment request: The proposed changes implement the consolidated Entergy Operations Quality Assurance Plan Manual approved by the NRC on November 6, 1998. The proposed changes also clarify the responsibilities of the shift technical advisor position on shift, simplify the contents of the monthly operating report description in accordance with Generic Letter (GL) 97–02, complete the relocation of fire protection requirements from the TS to the fire protection program in accordance with GL 88–12, and replace position titles with descriptions of functional responsibility in accordance with GL 88–06.

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:

Criterion 1—Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed changes only affect the administrative controls contained in Section 6.0 of the Arkansas Nuclear One—Unit 1 (ANO–1) and Unit 2 (ANO–2) Technical Specifications (TSs). The proposed changes either add additional administrative controls, reduce regulatory duplication of requirements consistent with NUREG–1430 ''Standard Technical Specifications—Babcock and Wilcox Plants'' dated April 1995, and NUREG–1432 ''Standard Technical Specifications—Combustion Engineering Plants'' dated April 1995, or revise or relocate administrative controls in accordance with NRC guidance. The proposed changes do not affect the operation of any structure, system, or component or the assumptions of any accident analysis. The details relocated from the ANO–1 and ANO–2 TSs, and changes to these details, are controlled under the ANO 10 CFR 50.59 or 10 CFR 50.54 processes as appropriate.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

Criterion 2—Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The proposed changes to the ANO–1 and ANO–2 Section 6.0 administrative controls do not involve a change in the plant design or affect the configuration or operation of any structure, system, or component.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—Does Not Involve a Significant Reduction in the Margin of Safety.

The proposed changes to the ANO–1 and ANO–2 TSs affect only administrative requirements and do not involve changes to safety limits, limiting conditions for operation, or surveillance requirements on equipment required to operate the station.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW, Washington, DC 20005–3502.

NRC Project Director: John N. Hannon.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Nuclear Generating Plant, Unit No. 3 (CR–3), Citrus County, Florida

Date of amendment request: November 30, 1998.

Description of amendment request: The proposed amendment would change the CR–3 Improved Technical Specifications (ITS) Section 3.9.3, Containment Penetrations. The proposed changes recognize the use of an outage equipment hatch (OEH) during refueling operations. The proposed changes would also allow both doors in the personnel air locks, and the single door in the OEH, to be open during core alterations or movement of irradiated fuel assemblies within containment provided certain specified conditions are met.

The licensee stated that the ability to open these doors under administrative controls would assist in the maintenance of cleanliness and housekeeping, and would provide a safer work environment inside containment. In addition, the licensee stated that evacuation of personnel could be quickly achieved in the unlikely event of a fuel handling accident or other radiological event inside containment, reducing the potential for exposures.

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 would allow both doors in the personnel air locks and the door in the outage equipment hatch (OEH) to remain open during core alterations or the movement of irradiated fuel inside containment. These doors are normally closed during this period in order to prevent the escape of radioactive materials in case of a fuel handling accident.

Operations involving the personnel air locks during refueling operations cannot be an initiator of a fuel handling accident or other radiological event inside containment. Similarly, operations involving the OEH during refueling operations cannot be an initiator of a fuel handling accident or other radiological event inside containment. The personnel air locks and the OEH are remotely located to the fuel handling equipment and cannot affect the function of this equipment. The personnel air locks and the OEH are not in the immediate vicinity of the reactor vessel and the contained irradiated fuel, or any of the paths used for movement of irradiated fuel. Additionally, allowing both doors in the personnel air locks and the door in the OEH to be open during core alterations or the movement of irradiated fuel inside containment cannot create the possibility of a fuel handling accident or other radiological event inside containment. Therefore, the probability of occurrence of any accident previously evaluated is unaffected.

The approved fuel handling accident analysis does not take credit for containment closure. This analysis results in a maximum calculated offsite dose well within the limits of 10 CFR 100, and the existing analysis as presented in the CR–3 Final Safety Analysis Report does not require revision as a result of this proposed change. By providing a designated individual readily available to close at least one door in the personnel air locks and the door in the OEH, containment closure is assured following any required evacuation of containment terminating any release of radioactive materials outside of the containment. Therefore, the consequences of accidents will not be greater than that previously evaluated.

2. Create the possibility of a new or different kind of accident from previously evaluated accidents?

The operations involving the personnel air locks and the OEH cannot be an initiator of any type of accident during refueling operations. The personnel air locks and the OEH are passive structural features designed to retain structural integrity under the expected environmental conditions when installed. Operation of the personnel air lock doors and the door in the OEH does not affect any safety-related component or structure. Additionally, allowing both doors in the personnel air locks and the door in the OEH to be open during core alterations or the movement of irradiated fuel inside containment cannot initiate any type of accident. Therefore, the possibility of a new or different kind of accident occurring as a result of this change is not created.

3. Involve a significant reduction in a margin of safety?

The margin of safety as defined by 10 CFR 100 has not been reduced. The existing approved fuel handling accident analysis does not credit containment closure, and remains bounding with both doors in the personnel air locks and the door in the OEH open. Closing at least one door in the personnel air locks and the door in the OEH after evacuation of containment further reduces the offsite doses in case of a fuel handling accident, and provides additional margin to the calculated offsite doses. Therefore, the existing margin of safety will not be reduced.

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: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 34428.

Attorney for licensee: R. Alexander Glenn, General Counsel, Florida Power Corporation, MAC—A5A, P. O. Box 14042, St. Petersburg, Florida 33733–4042.

NRC Project Director: Cecil O. Thomas

North Atlantic Energy Service Corporation, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: November 4, 1998.

Description of amendment request: The proposed change would revise Technical Specifications Surveillance Requirement 4.5.2b.1 to delete the prescribed method of venting the Emergency Core Cooling System (ECCS) which would allow alternate methods to verify that the ECCS piping is full of water. In addition, the associated Bases would be expanded to reflect the intent of the surveillance requirement.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change does not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, configuration of the facility or the manner in which the plant is operated. The proposed change does not alter or prevent the ability of structures, systems and components (SSCs) to perform their intended function to mitigate the consequences of an initiating event within the acceptance limits assumed in the Updated Final Safety Analysis Report (UFSAR).

Removal of the prescriptive requirements will not subject the ECCS system to conditions adverse to nuclear safety. The proposed change does not affect the source term, containment isolation or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated in the Seabrook Station UFSAR. The use of proven alternative techniques to verify that the ECCS piping is full of water will continue to ensure that the ECCS system is capable of performing its intended designed safety function. Therefore, the proposed change does not involve a significant increase in the probability or 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 change does not alter the design assumptions, conditions, configuration of the facility or the manner in which the plant is operated and maintained in a state of readiness. Existing system and component redundancy is not being changed by the proposed change. The proposed change has no adverse affect on component or system interactions. The use of proven alternative techniques to verify that the ECCS piping is full of water will continue to ensure that the ECCS system is capable of performing its intended designed safety function. Therefore, since there are no changes to the design assumptions, conditions, configuration of the facility, or the manner in which the plant is operated and maintained in a state of readiness, the proposed change does not create the possibility of a new or different kind of accident from any previously analyzed.

3. Involve a significant reduction in a margin of safety.

The proposed change does not adversely affect equipment design or operation and there are no changes being made to the Technical Specification required safety limits or safety system settings that would adversely affect plant safety. The proposed change does not change the intent of the surveillance requirement of ensuring that the system will perform properly, injecting its full capacity into the RCS upon demand without subjecting the system to hydraulic transients, pump cavitation, and pumping of non-condensable gas (e.g., air, nitrogen, or hydrogen) into the reactor vessel following a safety injection (SI) signal or during shutdown cooling.

Thus, it is concluded that the ECCS will continue to be available upon demand to mitigate the consequences of an accident and, 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 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: Exeter Public Library, Founders Park, Exeter, NH 03833.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270.

NRC Project Director: William M. Dean.

Northeast Nuclear Energy Company (NNECO), et al., Docket Nos. 50–245, 50–336, and 50–423, Millstone Nuclear Power Station, Unit Nos. 1, 2, and 3, New London County, Connecticut

Date of amendment request: December 22, 1998.

Description of amendment request: The proposed amendment would replace specific titles in Section 6.0 of the Technical Specifications of all three Millstone units with generic titles.

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:

In accordance with 10 CFR 50.92, NNECO has reviewed the attached proposed changes and ha[s] concluded that they do not involve a Significant Hazard Consideration (SHC). The basis for this conclusion is that the three criterion of 10 CFR 50.92 are not compromised. The proposed change is not a[n] SHC because the proposed change will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

No design basis accidents are affected by these proposed changes. The proposed changes are administrative in nature and are being proposed to eliminate the need for a Technical Specification change each time there is a change in the organization.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

There are no changes in the way the plant is operated due to these administrative changes. The potential for an unanalyzed accident is not created. There is no impact on plant response, and no new failure modes are introduced. The proposed administrative and editorial changes have no impact on safety limits or design basis accidents, and have no potential to create a new or unanalyzed event.

3. Involve a significant reduction in a margin of safety.

These changes do not directly affect any protective boundaries nor do they impact the safety limits for the protective boundaries. These proposed changes are administrative and editorial in nature. Therefore there is no reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

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 Project Director: William M. Dean.

Northeast Nuclear Energy Company (NNECO), et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: November 13, 1998.

Description of amendment request: NNECO has determined that the increase in radiological consequences, due to changes in the assumptions used in the updated dose consequence analysis of the Steam Generator Tube Rupture (SGTR) event in the Millstone Unit No. 2 Final Safety Analysis Report (FSAR), involves an unreviewed safety question (USQ). The changes include a change in High Pressure Safety Injection (HPSI) pump runout flowrate, a change in Auxiliary Feedwater Pump (AFW) flowrate, a change in the iodine partition factor for the air ejector, inclusion of the potential of flashing of the primary-to-secondary leakage, and a change in the atmospheric release point assumed following actuation of the Enclosure Building Filtration Actuation Signal (EBFAS). Therefore, per 10CFR50.59(c), NNECO requested that the NRC review and approve the changes to the FSAR through an amendment to Operating License DPR–65, pursuant to 10CFR50.90.

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:

In accordance with 10CFR50.92, NNECO has reviewed the proposed changes and has concluded that they do not involve a Significant Hazards Consideration (SHC). The basis for this conclusion is that the three criteria of 10CFR50.92(c) are not compromised. The proposed changes do not involve an SHC because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The FSAR changes reflect changes in the updated SGTR analysis. The analysis was updated because of changes in the assumptions used in the dose consequence analysis of the SGTR event in Millstone Unit No. 2 FSAR. These changes include a change in the iodine partition factor for the air ejector, inclusion of the potential of flashing of the primary-to-secondary leakage, and a change in the atmospheric release point assumed following actuation of the EBFAS. In addition, the operator actions associated with Reactor Coolant System (RCS) cooldown that are specified in the Emergency Operating Procedures have been incorporated, mass releases assuming an RCS cooldown to Shutdown Cooling Entry conditions have been used in the dose consequence analysis, thyroid doses were calculated using ICRP–30 dose conversion factors, Iodine releases account for potential flashing of the primary-to-secondary leakage, and the Reactor Coolant pumps are assumed to be tripped following actuation of a safety injection actuation signal. The revised HPSI flowrate is higher than that used in the previous analysis. Higher HPSI flowrates would increase the primary-to-secondary break flow and, thereby, increase the dose consequences. A more conservative iodine partition factor for the air ejector has been used along with more limiting atmospheric dispersion coefficients as a result of manual realignment of the air ejector discharge path to the atmosphere. These changes in radiological assumptions are the major reason for the increase in calculated dose. The revised AFW flowrate is lower than that used in the previous analysis. Lower AFW flowrate would tend to increase the steaming required and, thereby, increase the dose consequences. The probability that an accident could occur due to these changes is not increased since changing the analysis and its description can not cause a steam generator tube rupture. Therefore, these changes will not significantly increase the probability of an accident previously evaluated.

The dose consequences for the updated SGTR analysis are higher than the dose consequences for the previous analysis. However, the dose consequences are within the acceptance criteria of SRP [Standard Review Plan] 15.6.3 and GDC [General Design Criterion] 19. Therefore, these changes will not significantly increase 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 FSAR changes reflect changes in the updated SGTR analysis. The updated analysis does not introduce any new or unanalyzed failure modes of equipment or systems, and does not change the configuration of the plant. While the updated analysis incorporates operator actions that are in accordance with the Emergency Operating Procedures, it does not alter the way any structure, system, or component functions, and does not alter the manner in which the plant is operated. Therefore, there are no new or different types of failures of systems or equipment important to safety

which could cause a new or different type of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The FSAR changes reflect changes in the updated SGTR analysis. The updated analysis shows that the dose consequence acceptance criteria are met. The updated analysis incorporates operator actions that are in accordance with the Emergency Operating Procedures, and credits equipment consistent with its capabilities. Therefore, the updated analysis does not reduce the margin of safety. The FSAR changes do not alter the acceptance limits of the safety parameters of the accident analyses stated in the FSAR. Therefore, these changes do not significantly reduce the margin of safety.

The NRC has provided guidance concerning the application of standards in 10CFR50.92 by providing certain examples (March 6, 1986, 51 FR 7751) of amendments that are considered not likely to involve an SHC. The changes proposed herein are covered by example (vi) in that the consequences for the updated SGTR analysis are higher than dose consequences for the previous analysis. However, the dose consequences are within the acceptance criteria of SRP 15.6.3 and GDC 19.

As described above, this License Amendment Request does not involve a significant increase in the probability of an accident previously evaluated, does not involve a significant increase in the consequences of an accident previously evaluated, does not create the possibility of a new or different kind of accident from any accident previously evaluated, and does not result in a significant reduction in a margin of safety. Therefore, NNECO has concluded that the proposed changes do not involve an SHC.

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 Project Director: William M. Dean.

PP&L, Inc., Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: November 20, 1998.

Description of amendment request: This amendment request updates the Emergency Diesel Generator (EDG) day tank volume Surveillance Requirement (SR) 3.8.1.4.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This proposal does not involve an increase in the probability or consequences of an accident previously evaluated. The proposed amendment changes EDG day tank volume requirements to reflect the [Susquehanna Steam Electric Station] SSES design.

The safety function of the EDG day tanks is to supply the EDG's with enough fuel to ensure the availability of necessary power to [engineered safety feature] ESF systems so that fuel, reactor coolant and containment system design limits are not exceeded. The proposed change increases the minimum diesel fuel oil day tank volume for Unit 1 and Unit 2 SR 3.8.1.4 from 325 gallons to 420 gallons for EDG A–D and 425 gallons for EDG E.

This volume corresponds to the tank volume at which automatic refill occurs. This volume provides for 55 minutes of EDG A–D and 62 minutes for EDG E operation at continuous rated load conditions.

Currently, the bases for SR 3.8.1.4 identifies that ''administrative controls ensure a useable volume of the fuel oil in the day tank adequate for approximately 60 minutes of DG operation plus 10% at the continuous rated load.'' These administrative controls ensure compliance with the Regulatory Guide 1.137 requirements. Regulatory Guide 1.137 revision 1 endorses American National Standards Institute (ANSI) N195–1976. The ANSI N195–1976 requires each diesel to be equipped with a day tank whose capacity is sufficient to maintain at least 60 minutes of operation. This capacity is to be based on the fuel consumption at a load of 100% of the continuous rating of the diesel plus a minimum margin of 10%.

These administrative controls on day tank level ensure that the required initial fuel oil supply is available to meet the intent of the Standard as it applies to the Technical Specification surveillance. This Technical Specification change eliminates these unnecessary controls needed to conform to the ANSI standard.

An assessment of the proposed change based on the guidance provided in Regulatory Guide 1.174, July 1998, ''An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant Specific Changes to the Licensing Basis'' concludes that the increase in risk is insignificant. It is therefore concluded that the proposed changes to SSES Unit 1 and Unit 2 Technical Specification SR 3.8.1.4 day tank volume requirements ensures the volume is adequate to support the EDG's post accident design basis safety function to ensure the availability of necessary power to ESF systems so that fuel, reactor coolant system, and containment design limits are not exceeded.

Based upon the above, PP&L concludes that the proposed action does not involve an increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes does not create the possibility of a new or different kind of accident from any accident previously evaluated.

This proposal does not create the probability of a new or different type of accident from any accident previously evaluated. The change to the day tank required minimum volume does not change any plant systems, structures, or components, nor does the change affect any existing or create any new or different kind of accident.

An assessment of the proposed change based on the guidance provided in Regulatory Guide 1.174, July 1998, ''An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant Specific Changes to the Licensing Basis'' concludes that the increase in risk is insignificant. Based on this, it is concluded that the proposed changes to SSES Unit 1 and Unit 2 Technical Specification SR 3.8.1.4 day tank volume requirements ensures the volume is adequate to support the EDG's post accident design basis safety function to ensure the availability of necessary power to ESF systems so that fuel, reactor coolant system, and containment design limits are not exceeded.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in the margin of safety.

An assessment of the proposed change based on the guidance provided in Regulatory Guide 1.174, July 1998, ''An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant Specific Changes to the Licensing Basis'' concludes that the increase in risk is insignificant.

It is concluded that the proposed changes to SSES Unit 1 and Unit 2 Technical Specification SR 3.8.1.4 day tank volume requirements ensures the volume is adequate to support the EDG's post accident design basis safety function to ensure the availability of necessary power to ESF systems so that fuel, reactor coolant system, and containment design limits are not exceeded.

Based on this, the proposed changes do not involve a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: S. Singh Bajwa.

PP&L, Inc., Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: November 23, 1998.

Description of amendment request: These amendments would modify the Susquehanna Steam Electric Station, Units 1 and 2, Technical Specifications (TS) limiting condition for operation (LCO) 3.8.3 and surveillance requirement (SR) 3.8.3.1 to increase the minimum fuel oil storage tank (FOST) volume ranges. The Bases would be modified to reflect that the proposed volumes equal the 7-day fuel oil consumption at the continuous emergency diesel generator (EDG) ratings, which are greater than design basis analysis (DBA) loads, plus the unusable volume in the storage tanks.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This proposal does not involve an increase in the probability or consequences of an accident previously evaluated. The proposed amendment increases FOST volume requirements so to increase the margin of safety thus providing further assurance that the EDG FOST volume is adequate to support the EDG's post accident design basis safety function.

The safety function of the EDG FOST is to supply the emergency diesel generators with enough fuel to ensure the availability of necessary power to ESF systems so that fuel, reactor coolant and containment system design limits are not exceeded. The current Technical specification FOST specified volume is based on the EDG post DBA load profile. The proposed FOST volume is based on EDG continuos [sic] [continuous] rated load rating which is greater than the post DBA load profile providing margin and further assurance that the EDG FOST will support the EDG safety function. The proposed required FOST volumes are calculated in accordance with ANSI N195–1976.

Based upon the above, PP&L concludes that the proposed action does not involve an increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

This proposal does not create the probability of a new or different type of accident from any accident previously evaluated. The FOST required minimum values do not change any plant systems, structures, or components, nor do they change any existing or create any new or different kind of accident. The proposed amendment changes FOST volume requirements so to increase the margin of safety thus providing further assurance that the EDG FOST volume is adequate to support the EDG's post accident design basis safety function. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in the margin of safety.

The proposed change increases the margin of safety since the proposed FOST values are based on the EDG continuos [sic] [continuous] rated load ratings which bound the post DBA load profile.

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: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: S. Singh Bajwa.

Southern Nuclear Operating Company, Inc, Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendment request: November 6, 1998.

Description of amendment request: The proposed amendments would revise the Technical Specifications for the Nuclear Instrumentation System [NIS] Power Range daily surveillance requirement.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed surveillance change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed surveillance change does not significantly increase the probability or consequences of an accident previously evaluated in the FSAR [Final Safety Analysis Report]. This modification does not directly initiate an accident. The consequences of accidents previously evaluated in the FSAR are not adversely affected by this proposed change because the change to the NIS Power Range channel adjustment requirement ensures the conservative response of the channel even at part power levels.

2. Does the proposed surveillance change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed surveillance change does not create the possibility of a new or different kind of accident than any accident already evaluated in the FSAR. No new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of the proposed change. The proposed Technical Specifications change does not challenge the performance or integrity of any safety-related systems. Therefore, the possibility of a new or different kind of accident is not created.

3. Does the proposed surveillance change involve a significant reduction in a margin of safety?

The proposed surveillance change does not involve a significant reduction in a margin of safety. The proposed change does require a revision to the criterion for implementation of Power Range channel adjustment based on secondary power calorimetric calculation; however, the change does not eliminate any RTS [Reactor Trip Setpoint] surveillances or alter the frequency of surveillances required by the Technical Specifications. The revision to the criterion for implementation of the daily surveillance will have a conservative effect on the performance of the NIS Power Range channel, particularly at part power after normalization at 100% RTP [Rated Thermal Power] conditions. The nominal trip setpoints specified by the Technical Specifications and the safety analysis limits assumed in the transient and accident analysis are unchanged. The margin of safety associated with the acceptance criteria for any accident is unchanged. Therefore, the proposed change will not significantly reduce the margin of safety as defined in the Technical Specifications.

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: Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama 36302.

Attorney for licensee: M. Stanford Blanton, Esq., Balch and Bingham, Post Office Box 306, 1710 Sixth Avenue North, Birmingham, Alabama.

NRC Project Director: Herbert N. Berkow.

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 amendment request: December 4, 1998.

Description of amendment request: The proposed amendments would make two changes to the Technical Specifications (TSs). Change 1 would delete the footnote in Hatch Unit 1 TS Section 2.1.1.2 that ties the Safety Limit Minimum Critical Power Ratio to Cycle 18. Change 2 would delete TS Section 5.6.5.b.2 for Units 1 and 2, and incorporate TS Section 5.6.5.b.2 into TS Section 5.6.5.b.1 for both units.

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:

Basis for Proposed Change 1

The change does not involve a significant hazards consideration for the following reasons:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The footnote in Section 2.1.1.2 of the Hatch-1 Technical Specifications restricts the applicability of the Safety Limit for MCPR [minimum critical power ratio] (SLMCPR) [safety limit minimum critical power ratio] to Cycle 18 only. By applying the same NRC-approved methods used to calculate the Cycle 18 SLMCPR it has been determined that the current value is bounding for Cycle 19 as well. However, because of the footnote, it [cannot] be applied to Cycle 19 without a Technical Specifications amendment. In order to eliminate future Technical Specifications revisions that do not change the SLMCPRs values, SNC [Southern Nuclear Operating Company, Inc.] proposes to delete the footnote which ties those values to a specific operating cycle. Removing the footnote does not change the method of calculating SLMCPR for other cycles, nor does it eliminate the requirement to revise the Technical Specifications if a different value is used for future cycles. Deletion of the cycle-specific footnote does not change the operation of any plant structure, system or component; therefore, it has no affect on the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

Deleting the cycle-specific footnote in Section 2.1.1.2 of the Technical Specifications does not result in any new methods of operating the facility and does not involve any facility modifications. No new initiating events or transients result from this change.

Therefore, this proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed amendment does not involve a significant reduction in a margin of safety.

The purpose of the SLMCPR in the Technical Specifications is to ensure at least 99.9% of the fuel pins in the core are expected to avoid transition boiling during the worst anticipated operational occurrence (AOO) throughout an operating cycle. The footnote in Section 2.1.1.2 of the Hatch-1 Technical Specifications is intended to ensure the correct SLMCPR is used each cycle. Prior to the Spring of 1996, the Safety Limits had been calculated for each fuel type, independently of operating cycle. As long as the limiting fuel type in the core did not change from cycle to cycle, the Safety Limit did not change. It was discovered in 1996, however, that generic SLMCPRs based on fuel type alone may not be bounding for all cycles for all reactors. In response to this discovery GE committed to evaluating SLMCPRs based on cycle-unique information as a more accurate method of ensuring 99.9% of the fuel pins in the core are expected to avoid transition boiling during AOOs. The new methodology, which is now applied each cycle, is based on NRC-approved methods and incorporates implementing procedures that model cycle-specific parameters. This methodology was used to calculate the Cycle 18 value that is currently in the Technical Specifications. The same procedure was also employed to determine that the Hatch-1 Cycle 19 SLMCPR and it was determined the Cycle 19 value is bounded by the Cycle 18 value. Thus, except for the footnote in Section 2.1.1.2, there is no need to revise the Hatch-1 Technical Specifications in order to ensure the correct SLMCPR is implemented for Cycle 19. As a way of avoiding similar changes in the future, SNC proposes that the footnote be deleted. Since NRC-approved methodology will still be used to determine the cycle-specific SLMCPRs to ensure that [ ] 99.9% of the fuel rods are expected to avoid transition boiling during AOOs, there will be no reduction of margin of safety as a result of this change.

Basis for Proposed Change 2

The change does not involve a significant hazards consideration for the following reasons:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Section 5.6.5.b.2) no longer describes NRC-approved methods for analyzing fuel in the Unit 1 and Unit 2 reactors because the ANF [advanced nuclear fuel] LUAs [lead use assemblies] have been permanently discharged. Deleting Section 5.6.5.b.2) from the Administrative Controls portion of the Technical Specifications does not change the operation of any structure, system, or component in the facility. Therefore, this amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

Deleting Section 5.6.5.b.2), which describes the use of ANF methods for analyzing LUAs, from the Technical Specifications does not result in any new methods of operating the facility and does not involve any facility modifications. No new initiating events or transients result from this change. Therefore, this proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed amendment does not involve a significant reduction in a margin of safety.

ANF LUAs are no longer used as fuel in the Plant Hatch reactors, therefore, ANF NRC-approved methods described in Technical Specifications Section 5.6.5.b.2) are not used to determine power distribution limits which appear in the COLR [Core Operating Limit Report]. GE's [General Electric's] reload licensing methodology described in Section 5.6.5.b.1) will be incorporated into Section 5.6.5.b. and will continue to be used to analyze the GE fuel in both units. Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC.

NRC Project Director: Herbert N. Berkow.

Virginia Electric and Power Company, Docket Nos. 50–280 and 50–281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: November 4, 1998.

Description of amendment request: The proposed amendments would revise the Technical Specifications (TS) Sections 4.6.A.1.b and Basis 3.16 for Units 1 and 2 to revise the start/load time testing and ratings for emergency diesel generators (EDGs). The changes will bring the TS into conformance with the Updated Final Safety Analysis Report.

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:

Criterion 1—Operation of the Surry Units 1 and 2 in accordance with the proposed Technical Specification change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

The currently specified ''less than 30 seconds'' time to be replaced has no specific safety significance or design basis regarding EDG starting. The proposed time change to ''less than or equal to 10 seconds'' is more conservative and in agreement with current accident analysis and surveillance testing. These changes do not, in any way, affect the as-built conditions of the plant and do not affect the initiators of analyzed events or the assumed mitigation of accident or transient events. Analyzed events are initiated by the failure of plant structures, systems, or components. The proposed changes do not impact the condition or performance of these structures, systems or components. Consequences of analyzed events are the result of the plant being operated within assumed parameters at the onset of any event, and the successful functioning of at least one train or division of the equipment credited with mitigating the event. There is no impact on the capability of the credited equipment to perform, nor is there any change in the likelihood that credited equipment will fail to perform. As a result, there is no significant increase in the probability or consequences of any accident previously evaluated and Criterion 1 is, thereby, satisfied.

Criterion 2—The proposed Technical Specifications change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not involve a physical alteration of the plant, or a change in the methods used to operate the plant or to respond to plant transients. No new or different equipment is being installed and no installed equipment is being removed or operated in a different manner. There is no alteration to the parameters within which the plant is normally operated or in the setpoints, which initiate protective or mitigative actions. Consequently, no new failure modes are introduced and the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated and Criterion 2 is, thereby satisfied.

Criterion 3—The proposed Technical Specifications change does not involve a significant reduction in a margin of safety.

Margin of safety is established through the design of the plant structures, systems and components, the parameters within which the plant is operated, and the establishment of the setpoints for the actuation of equipment relied upon to respond to an event. The replacement of the ''less than 30 seconds'' requirement for loading the EDGs with the more stringent ''less than or equal to 10 seconds'' requirement makes no change to the condition or performance of equipment or system used in accident mitigation or assumed for any accident analysis that could reduce a margin of safety as described in the basis for any TS. Therefore, the proposed changes do not involve a significant reduction in any margin of safety described in the bases for the Technical Specifications and Criterion 3 is, thereby, satisfied.

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: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Donald P. Irwin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219.

NRC Project Director: Herbert N. Berkow.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: September 28, 1998 (TSCR 208).

Description of amendment request: The proposed amendments will clarify the notation definition of ''R'' in the Technical Specifications (TS) and add a new frequency of ''A.'' The revision of ''R'' would specify the refueling frequency as 18 months and ''A'' would be defined as an annual or 12-month frequency.

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 [PBNP] in accordance with the proposed amendments will not result in a significant increase in the probability or consequences of an accident previously evaluated.

These changes do not involve a significant increase in the probability of an accident previously evaluated because no such accidents are affected by the proposed revisions to clarify that the provisions of TS 15.4.0.2 apply to notation ''R'' in TS Table 15.4.1–1. The proposed TS changes do not introduce any new accident initiators since no accidents previously evaluated have as their initiators anything related to the change in the frequency of surveillance testing.

The increased time potential between surveillance frequencies does not significantly increase the probability [of] failure of the instrumentation contained in TS Table 15.4.1–1. As noted above, instrument drift studies concluded that the magnitude of the instrument drift (for instrumentation affected by drift) that could occur over a 22.5-month interval was bounded by the uncertainty allowances used in determining safety system setpoints, and the review of historical calibration data concluded that the as-found and as-left data has not exceeded acceptable limits for the calibration intervals reviewed, except on rare occasions.

In addition, initiating conditions and assumptions are unchanged and remain as previously analyzed for accidents in the PBNP Final Safety Analysis Report. The proposed TS changes do not involve any physical changes to systems or components, nor do they alter the typical manner in which the systems or components are operated. Therefore, these changes do not increase the probability of previously evaluated accidents.

These changes do not involve a significant increase in the consequences of an accident previously evaluated because the source term, containment isolation or radiological releases are not being changed by these proposed revisions. Existing system and component redundancy and operation is not being changed by these proposed changes. The assumptions used in evaluating the radiological consequences in the PBNP Final Safety Analysis Report are not invalidated; therefore, these changes do not affect the consequences of previously evaluated accidents.

2. Operation of the Point Beach Nuclear Plant in accordance with the proposed amendments will not create the possibility of a new or different kind of accident from any accident previously evaluated.

These changes do not introduce nor increase the number of failure mechanisms of a new or different type than those previously evaluated since there are no physical changes being made to the facility. The surveillance test requirements and the way they are performed will remain unchanged. The design and design basis of the facility remain unchanged. The plant safety analyses remain unchanged. 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 amendments does not involve a significant reduction in a margin of safety.

The proposed changes do not involve a significant reduction in the margin of safety because existing component redundancy is not being changed by these proposed changes. There are no new or significant changes to the initial conditions contributing to accident severity or consequences, and safety margins established through the design and facility license including the Technical Specifications remain unchanged. Therefore, there are no significant reductions in a margin of safety introduced by [these] proposed amendment[s].

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.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: October 5, 1998 (TSCR 200).

Description of amendment request: The proposed change modifies Technical Specifications Section 15.4.1, ''Operational Safety Review,'' by removing the requirement to check environmental monitors on a monthly basis.

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 [PBNP] in accordance with the proposed amendments does not result in a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change eliminates a surveillance requirement for environmental monitors. The environmental monitors referred to by this surveillance were eliminated from the Radiological Environmental Monitoring Program and from the Technical Specifications by previous amendments. Therefore, this change is administrative in nature in that it corrects a previous administrative oversight. The requirement is not related to any accident initiator or accident mitigation structures, systems or components for any previously evaluated accident. Therefore, no increase in the probability or consequences of a previously evaluated accident can result.

2. Operation of the Point Beach Nuclear Plant in accordance with the proposed amendment[s] does not create a new or different kind of accident from any accident previously evaluated.

The amendments remove a surveillance requirement from the Technical Specifications related to environmental monitors. The environmental monitors were removed from the environmental monitoring program by previously approved amendments. The surveillance requirement is not related to an existing design feature of PBNP. Therefore, elimination of the surveillance requirement cannot create a new or different kind of accident from any accident previously evaluated.

3. Operation of the Point Beach Nuclear Plant in accordance with the proposed amendment[s] does not result in a significant reduction in a margin of safety.

Margins of safety are defined by the safety limits and design limits for PBNP. The surveillance is not related to, nor does it affect, these limits. Monitoring of the environment continues under an approved Radiological Environmental Monitoring Program which ensures that any changes in radiation levels in the environs is detected, thus ensuring the impact of PBNP operation on the environment is minimized. Therefore, the proposed change cannot 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: 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.

Tennessee Valley Authority, Docket No. 50–390 Watts Bar Nuclear Plant, Unit 1 (WBN), Rhea County, Tennessee

Date of application for amendment: December 22 and revision dated December 23, 1998.

Brief description of amendment: In order to prevent a potential shutdown due to sporadic grounds encountered on an annunciator circuit used to confirm operability of an ice condenser inlet door position monitoring system, the proposed amendment would provide a temporary, optional method of satisfying the requirements for the channel check until the next operating Mode, planned in late February 1999, for the next refueling outage. Date of publication of individual notice in the **Federal Register**: December 31, 1998 (63 FR 72339).

Expiration date of individual notice: February 1, 1999.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, TN 37402.

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.

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: November 11, 1998.

Brief description of amendments: The amendments revise Technical Specification Surveillance Requirements (SRs) 3.6.11.6 AND 3.6.11.7, regarding the Containment Pressure Control System (CPCS), of the units' joint Technical Specifications. The revision brings the SRs into conformity with the current design of the CPCS.

Date of issuance: January 14, 1999.

Effective date: As of the date of issuance to be implemented concurrently with implementation of Amendment Nos. 173 (Unit 1) and 165 (Unit 2).

Amendment Nos.: 174—Unit 1; Unit 2—166.

Facility Operating License Nos. NPF–35 and NPF–52: Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register**: December 2, 1998 (63 FR 66591). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 14, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of amendment request: September 17, 1998.

Brief description of amendment: The amendment incorporates the use of a range rather then a specific setpoint for the automatic removal of the operating bypasses for the core power calculator (CPC) generated trips and the high logarithmic power level trip to accommodate the design of the plant protection system (PPS) which uses a single bistable to control both of these functions.

Date of issuance: December 31, 1998.

Effective date: December 31, 1998.

Amendment No.: 196.

Facility Operating License No. NPF–6: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 21, 1998 (63 FR 56247).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 31, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: June 29, 1998.

Brief description of amendment: The amendment modifies the TS surveillance requirements for SR 4.8.2.3.b.2, SR 4.8.2.3.c.4 and the Bases for TS 3.8.2.3 Action b. The licensee is planning to modify the 120 volt vital alternating current (ac) electrical distribution system by installing new inverters during the 2R13 refueling outage. Normally, the present inverters for ANO–2 are ac powered and automatically shift to direct current (dc) power on a loss of the ac source. The new inverters will be powered from the 125 dc system at all times.

Date of issuance: January 13, 1999.

Effective date: January 13, 1999, with implementation following completion of the required modifications but prior to restart from the 2R13 outage.

Amendment No.: 198.

Facility Operating License No. NPF–6: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 21, 1998 (63 FR 56244).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 13, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801.

Florida Power and Light Company, et al., Docket No. 50–335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of application for amendment: October 29, 1998.

Brief description of amendment: The amendment revised the terminology used in the St. Lucie Plant Technical Specifications (TS) relative to the implementation and automatic removal of certain protection system trip bypasses to ensure that the meaning of explicit terms used in the TS are consistent with the intent of the stated requirements.

Date of Issuance: January 5, 1999.

Effective Date: As of date of issuance and shall be implemented within 30 days of receipt.

Amendment No.: 159.

Facility Operating License No. DPR–67: Amendment revised the TS.

Date of initial notice in **Federal Register**: December 2, 1998 (63 FR 66594) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 5, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954–9003.

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: August 4, 1998.

Brief description of amendment: The amendment changes the Technical Specifications (TSs) relating to the condensate storage tank (CST) relating to the required minimum water volume and also adds a new TS which establishes requirements for the atmospheric steam dump valves (ASDVs) to assure their operability. The applicable TS Bases for the CST is updated to reflect the proposed changes and a new TS Bases section is added to discuss the new TS for the ASDVs.

Date of issuance: December 31, 1998.

Effective date: As of the date of issuance to be implemented within 60 days from the date of issuance.

Amendment No.: 223.

Facility Operating License No. DPR–65: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 26, 1998 (63 FR 45526).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 31, 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.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: March 26, 1997, as supplemented by letters dated March 18, 1998, and November 17, 1998.

Brief description of amendment: The amendment revises Technical

Specifications (TS) 2.1.6 and its associated Basis to restrict the number of inoperable main steam safety valves when the reactor is critical.

Date of issuance: December 31, 1998.

Effective date: December 31, 1998.

Amendment No.: 189.

Facility Operating License No. DPR–40: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 16, 1997 (62 FR 38137). The March 18, 1998, and November 17, 1998, supplemental letters provided additional clarifying information and did not change the original no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 31, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

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 application for amendment: April 14, 1997, as supplemented October 17, 1997, March 20, 1998, May 18, 1998, and August 17, 1998.

Brief description of amendment: The amendment changes the Technical Specifications to allow for a Safety Review Committee review of plant performance as opposed to an audit of plant performance and replaces the position title of Vice President Regulatory Affairs and Special Projects with Director Regulatory Affairs and Special Projects.

Date of issuance: December 30, 1998.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 186.

Facility Operating License No. DPR–64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 27, 1997 (62 FR 45460).

The October 17, 1997, March 20, 1998, May 18, 1998, and August 17, 1998, letters provided clarifying information that did not change the proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 30, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: March 22, 1996, as revised and supplemented on February 6, 1998, April 17, 1998, and October 30, 1998.

Brief description of amendment: The amendment provides function-specific actions and allowed outage times for certain instrumentation, and relocates some instrumentation requirements to licensee-controlled documents.

Date of issuance: January 12, 1999.

Effective date: As of the date of issuance to be implemented within 60 days.

Amendment No.: 250.

Facility Operating License No. DPR–59: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: May 8, 1996 (61 FR 20855).

The revision and supplemental information provided on February 6, 1998, April 17, 1998, and October 30, 1998, provided clarifying information that did not change the initial proposed no significant hazards consideration. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 12, 1999.

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.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of application for amendments: June 30, 1997.

Brief description of amendments: The amendments delete License Condition 2.C(19)b for San Onofre Nuclear Generating Station (SONGS) Unit 2 and revises TSs 3.3.1, 3.3.2, 3.3.5, 3.3.10, 3.3.11, 3.4.7, 3.4.12.1, 3.7.5, 5.5.2.10 and 5.5.2.11 for both SONGS units. These changes reinstate provisions of the SONGS Units 2 and 3 TS previously revised as part of NRC Amendment Nos. 127 and 116, respectively, make corrections to the TS, or remove information inadvertently added to the TS that are not applicable to the SONGS units design.

Date of issuance: December 22, 1998.

Effective date: December 22, 1998, to be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 2—147; Unit 3—139.

Facility Operating License Nos. NPF–10 and NPF–15: The amendments revised Facility Operating License No. NPF–10 and the technical specifications for both licenses.

Date of initial notice in **Federal Register**: March 11, 1998 (63 FR 11921). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 22, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Main Library, University of California, P. O. Box 19557, Irvine, California 92713.

Dated at Rockville, Maryland, this 20th day of January 1999.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Acting Director, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 99–1705 Filed 1–26–99; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23659; 812–11436]

CityFed Financial Corp.; Notice of Application

January 20, 1999.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an order under sections 6(c) and 6(e) of the Investment Company Act of 1940 (''Act'') for exemption from all provisions of the Act, except sections 9, 17(a) (modified as discussed in the application), 17(d) (modified as discussed in the application), 17(e), 17(f), 36 through 45, and 47 through 51 of the Act and the rules thereunder.

SUMMARY OF APPLICATION: The requested order would exempt the applicant, City Fed Financial Corp. (''CityFed''), from certain provisions of the Act until the earlier of one year from the date the requested order is issued or such time as CityFed would no longer be required to register as an investment company under the Act. The order would extend an exemption granted until February 12, 1999.[1]

FILING DATE: The application was filed on December 17, 1998. Applicant has agreed to file an amendment during the

[1] CityFed Financial Corp., Investment Company Act Release Nos. 22473 (January 17, 1997) (notice) and 22506 (February 12, 1997) (order).

notice period, the substance of which is reflected in the notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 11, 1999, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. CityFed, 35 Old South Road, P.O. Box 3126, Nantucket, MA 02584.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Staff Attorney, at (202) 942–0634 or Edward P. Macdonald, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. CityFed was a savings and loan holding company that conducted its savings and loan operations through its wholly-owned subsidiary, City Federal Savings Bank (''City Federal''). During the five year period ending December 31, 1988, City Federal was the source of substantially all of CityFed's revenues and income. As a result of substantial losses in its mortgage banking and real estate operations, City Federal was unable to meet its regulatory capital requirements. Accordingly, on December 7, 1989, the Office of Thrift Supervision (''OTS'') placed City Federal into receivership and appointed the Resolution Trust Corporation (''RTC'') as City Federal's receiver. City Federal's deposits and substantially all of its assets and liabilities were acquired by a newly created federal mutual savings bank, City Savings Bank, F.S.B. (''City Savings''). The OTS appointed the RTC as receiver of City Savings.

2. Once City Federal was placed into receivership, CityFed no longer conducted savings and loan operations through any subsidiary and substantially all of its assets consisted of cash that has been invested in money market instruments with a maturity of one year or less and money market mutual funds. As of September 30, 1998, CityFed held cash and securities of approximately $9.4 million.

3. While CityFed's Board of Directors has considered from time to time whether to engage in operating business, the board has determined not to engage in an operating business at the present time because of the claims filed against CityFed, whose liability thereunder cannot be reasonably estimated and may exceed its assets.

4. On June 2, 1994, the OTS issued a Notice of Charges and Hearing for Cease and Desist Order to Direct Restitution and Other Appropriate Relief and Notice of Assessment of Civil Money Penalties (''Notice of Charges'') against CityFed and certain current or former directors and, in some cases, officers of CityFed and City Federal. The Notice of Charges requests that an order be entered by the Director of the OTS requiring CityFed to make restitution, reimburse, indemnify or guarantee the OTS against loss in an amount not less than $118.4 million, which the OTS alleges represents the regulatory capital deficiency (''Net Worth Maintenance Claim'') reported by City Federal in the fall of 1989. On November 30, 1995, the OTS issued an Amended Notice of Charges and Hearing for Cease and Desist Order to Direct Restitution and Other Appropriate Relief and Notice of Assessment of Civil Money Penalties (''Amended Notice of Charges'') that is identical to the Notice of Charges, except that the Amended Notice of Charges includes a reference to a federal statutory provision not referred to in the Notice of Charges that the OTS asserts provides an additional basis for the issuance of a Cease and Desist Order against CityFed and certain current or former directors and, in some cases, officers of CityFed and of City Federal (''Respondents''). On February 1, 1996, an administrative law judge (''ALJ'') issued a prehearing order (''Prehearing Order'') granting the OTS's motion for partial summary disposition with respect to CityFed and denying both CityFed's motion for partial summary disposition of the OTS's assessment of civil money penalties and its cross-motion for summary adjudication. On June 12, 1996, CityFed moved for interlocutory review by the acting director of the OTS of the conclusions in the Prehearing Order and, if necessary, will seek appellate review of any adverse decision. On August 20, 1997, the OTS Director issued a decision and order granting CityFed's motion for interlocutory review. The Director concluded that the ALJ had erred in recommending summary disposition on the OTS Net Worth Maintenance Claim against CityFed and held that there were disputed issues of fact on that claim that precluded summary judgment, and he remanded the case to the ALJ for further proceedings consistent with his decision. The ALJ has lifted the stay of the proceedings, and CityFed and OTS have begun to engage in discovery on the Net Worth Maintenance Claim.

5. Also on June 2, 1994, the OTS issued a Temporary Order to Cease and Desist (''Temporary Order'') against CityFed. The Temporary Order required CityFed to post $9.0 million as security for the payment of the amount sought by the OTS in its Notice of Charges. CityFed unsuccessfully petitioned the district court for an injunction against the Temporary Order. CityFed and the Respondents filed notices of appeal from the D.C. Court's Order to the United States Court of Appeals for the District of Columbia Circuit (''D.C. Circuit''), and the Respondents filed a motion in the D.C. Circuit for an expedited appeal and an order enjoining the enforcement of the Temporary Order during the pendency of the appeal. The D.C. Circuit denied the Respondents' motion for injunction on October 21, 1994. On July 11, 1995, the D.C. Circuit affirmed the denial by the D.C. Court of the motions by CityFed and the Respondents for a temporary restraining order and an injunction against the Temporary Order. On October 26, 1994, CityFed and the OTS entered into an Escrow Agreement (''Escrow Agreement'') with CoreStates Bank, N.A. (''CoreStates'') pursuant to which CityFed transferred substantially all of its assets to CoreStates for deposit into an escrow account to be maintained by CoreStates. CityFed's assets in the escrow account continue to be invested in money market instruments with a maturity of one year or less and money market mutual funds. Withdrawals or disbursements from the escrow account are not permitted without the written authorization of the OTS, other than for (a) monthly transfers to CityFed in the amount of $15,000 for operating expenses, (b) the disbursement of funds on account of purchases of securities by CityFed, and (c) the payment of the escrow fee and expenses to CoreStates. The Escrow Agreement also provides that CoreStates will restrict the escrow account in such a manner as to implement the terms of the Escrow Agreement and to prevent a change in status or function of the escrow account

unless authorized by CityFed and the OTS in writing.

6. On December 7, 1992, the RTC filed suit against CityFed and two former officers of City Federal seeking damages of $12 million dollars for failure to maintain the net worth of City Federal (''First RTC Action''). In light of the filing by the OTS of the Notice of Charges on June 2, 1994, the RTC and CityFed agreed to dismiss without prejudice the RTC's claim against CityFed in the First RTC Action.

7. In addition, the RTC filed suit against several former directors and officers of City Federal alleging gross negligence and breach of fiduciary duty with respect to certain loans (''Second RTC Action''). The RTC seeks in excess of $200 million in damages. Under its bylaws, CityFed may be obligated to indemnify these former officers and directors and advance their legal expenses. On the advice of counsel to a special committee of CityFed's Board of Directors, comprised of directors who have not been named in the First or Second RTC Action, CityFed advanced reasonable defense costs to such former directors and officers in such Actions. CityFed is unable to determine with any accuracy the extent of its liability with respect to these indemnification claims, although the amount may be material.

8. On August 7, 1995, CityFed, acting in its own right and as shareholder of City Federal, filed a civil action in the United States Court of Federal Claims seeking damages for loss of ''supervisory goodwill.'' CityFed's goodwill suit is presently pending in that court. The United States Court of Federal Claims has established a procedure for deciding supervisory goodwill claims that may affect CityFed's right to assert a claim for the loss of supervisory goodwill on the books of City Federal.

9. Currently, CityFed's stock is traded sporadically in the over-the-counter market. CityFed has one employee who is president, chief executive officer, and treasurer. CityFed's secretary does not received any compensation for her service.

Applicant's Legal Analysis

1. Section 3(a)(1) defines an investment company as any issuer who ''is or holds itself out as being engaged primarily * * * in the business of investing, reinvesting or trading in securities.'' Section 3(a)(3) further defines an investment company as an issuer who is engaged in the business of investing in securities that have a value in excess of 40% of the issuer's total assets (excluding government securities and cash).

2. Section 6(c) of the Act provides that the Commission may exempt any person from any provision of the Act ''if and to the extent that such exemption is necessary or appropriate in the public interest.'' Section 6(e) provides that in connection with any SEC order exempting an investment company from any provision of section 7, certain specified provisions of the Act shall be applicable to such company, and to other persons in their transactions and relations with such company, as though such company were registered under the Act, if the SEC deems it necessary or appropriate in the public interest or for the protection of investors.

3. CityFed acknowledges that it may be deemed to fall within one of the Act's definitions of an investment company. Accordingly, CityFed requests an exemption under sections 6(c) and 6(e) from all provisions of the Act, subject to certain exceptions described below. CityFed requests an exemption until the earlier of one year from the date of the requested order or such time as it would no longer be required to register as an investment company under the Act.

4. In determining whether to grant an exemption for a transient investment company, the SEC considers such factors as whether the failure of the company to become primarily engaged in a non-investment business or excepted business or liquidate within one year was due to factors beyond its control; whether the company's officers and employees during that period tried, in good faith, to effect the company's investment of its assets in a non-investment business or excepted business or to cause the liquidation of the company; and whether the company invested in securities solely to preserve the value of its assets. CityFed believes that it meets these criteria.

5. CityFed believes that its failure to become primarily engaged in a non-investment business by February 12, 1999 is due to factors beyond its control. CityFed asserts that the amount required to resolve its currently outstanding claims cannot be reasonably estimated and could exceed its assets. If CityFed is unable to resolve these claims successfully, it states that it may seek protection from the bankruptcy courts or liquidate. CityFed also asserts that it probably will not be in a position to determine what course of action to pursue until most, if not all, of its contingent liabilities are resolved. Additionally, CityFed states that its circumstances are unlikely to change over the requested one year period in light of the number of claims currently pending against it and because of the existence of the Escrow Agreement. Since the filing of its initial application for exemptive relief under sections 6(c) and 6(e) on October 19, 1990, CityFed has invested in money market instruments and money market mutual funds solely to preserve the value of its assets.

6. During the term of the proposed exemption, CityFed states that it will comply with sections 9, 17 (a) and (d) (subject to the exception below and the modifications described in condition 3, below), 17(e), 17(f), 36 through 45, and 47 through 51 of the Act and the rules thereunder. With respect to section 17(d), CityFed represents that it established a stock option plan when it was an operating company. Although the plan has been terminated, certain former employees of City Federal have existing rights under the plan. CityFed believes that the plan may be deemed a joint enterprise or other joint arrangement or profit-sharing plan within the meaning of section 17(d) and rule 17d–1 thereunder. Because the plan was adopted when CityFed was an operating company and to the extent there are existing rights under the plan, CityFed seeks an exemption to the extent necessary from section 17(d).

Applicant's Conditions

CityFed agrees that the requested exemption will be subject to the following conditions:

1. CityFed will not purchase or otherwise acquire any additional securities other than securities that are rated investment grade or higher by a nationally recognized statistical rating organization or, if unrated, deemed to be of comparable quality under guidelines approved by CityFed's Board of Directors, subject to two exceptions:

a. CityFed may make an equity investment in issuers that are not investment companies as defined in section 3(a) of the Act (including issuers that are not investment companies because they are covered by a specific exclusion from the definition of investment company under sections 3(c) of the Act other than sections 3(c)(1) and 3(c)(7)) in connection with the possible acquisition of an operating business as evidenced by a resolution approved by CityFed's Board of Directors; and

b. CityFed may invest in one or more money market mutual funds that limit their investments to ''Eligible Securities'' within the meaning of rule 2a–7(a)(10) promulgated under the Act.

2. CityFed's Form 10–KSB, Form 10–QSB and annual reports to shareholders will state that an exemptive order has been granted pursuant to sections 6(c) and 6(e) of the Act and that CityFed and

other persons, in their transactions and relations with CityFed, are subject to sections 9, 17(a), 17(d), 17(e), 17(f), 36 through 45, and 47 through 51 of the Act, and the rules thereunder, as if CityFed were a registered investment company, except as permitted by the requested order.

Notwithstanding sections 17(a) and 17(d) of the Act, an affiliated person (as defined in section 2(a)(3) of the Act) of CityFed may engage in a transaction that otherwise would be prohibited by these sections with CityFed:

a. if such proposed transaction is first approved by a bankruptcy court on the basis that (i) the terms thereof, including the consideration to be paid or received, are reasonable and fair to CityFed, and (ii) the participation of CityFed in the proposed transaction will not be on a basis less advantageous to CityFed than that of other participants; and

b. in connections with each such transaction, CityFed shall inform the bankruptcy court of (i) the identity of all of its affiliated persons who are parties to, or have a direct or indirect financial interest in, the transaction; (ii) the nature of the affiliation; and (iii) the financial interests of such persons in the transaction.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–1803 Filed 1–26–99; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Agency 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.

1. Government Pension Questionnaire—0960–0160. The Social Security Act and Regulations provide that an individual receiving spouse's benefits and concurrently receiving a Government pension, based on the individual's own earnings, may have the Social Security benefits amount reduced by two-thirds of the pension amount. The data collected on Form SSA–3885 is used by the Social Security Administration (SSA) to determine if the individual's Social Security benefit will be reduced, the amount of reduction, the effective date of the reduction and if one of the exceptions in 20 CFR404.408a applies. The respondents are individuals who are receiving (or will receive) Social Security spouse' benefits and also receive their own Government pension.

Number of Respondents: 30,000.

Frequency of Response: 1.

Average Burden Per Response: 12.5 minutes.

Estimated Average Burden: 6,250 hours.

2. Statement Regarding the Inferred Death of an Individual by Reason of Continued and Unexplained Absence—09060–0002. The information collected on form SSA–723 is used to determine if the Social Security Administration may infer that a missing person is deceased. The respondents are individual who know or are related to the missing person.

Number of Respondents: 30,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Average Burden: 1,500 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) 965–4145 or write to him at the address listed above.

Dated: January 21, 1999.

Frederick W. Brickenkamp,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 99–1871 Filed 1–26–99; 8:45 am]

BILLING CODE 4190–29–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP); Schedule for a Hearing and Deadlines for Submitting Comments on Soda Ash Petition for the GSP 1998 Country Practices Review

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Notice.

SUMMARY: The purpose of this notice is to set forth the timetable for a hearing, and for providing public comments on a petition requesting the modification in the status of a GSP beneficiary country in regard to its practices, as specified in 15 CFR 2007.0(b).

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW, Room 518, Washington, DC 20508 (Tel. 202/395–6971). Public versions of all documents relating to this review may be seen by appointment in the USTR public Reading Room between 9:30–12 a.m. and 1–4 p.m. (Tel. 202/395–6186).

SUPPLEMENTARY INFORMATION: The GSP program is authorized pursuant to Title V of the Trade Act of 1974, as amended (''the Trade Act'') (19 U.S.C. 2461 et seq.). The GSP program grants duty-free treatment to designated eligible articles that are imported from designated beneficiary developing countries. In 1998 USTR received three new petitions requesting that certain practices in certain beneficiary developing countries be reviewed to determine whether such countries are in compliance with the eligibility criteria set forth in sections 502(b) and 502(c) of the Trade Act (19 U.S.C. 2462(b) and 2462(c)).

I. Subject of Review

Pursuant to 15 CFR 2007.0(b), the Trade Policy Staff Committee has accepted a petition to review the GSP status of India for its alleged failure to provide equitable and reasonable access to its soda ash market. Petitions concerning the enforcement of internationally recognized worker rights in Guatemala and Cambodia were not accepted for review.

Any modifications to the list of beneficiary developing countries for purposes of the GSP program resulting from the Country Practices Review will take effect on such date as will be notified in a future **Federal Register** notice.

II. Opportunities for Public Comment and Inspection of Comments

The GSP Subcommittee of the TPSC invites comments in support of, or in opposition to, the petition which is the subject of this notice. Submissions should comply with 15 CFR Part 2007, including sections 2007.0 and 2007.1.

Comments should be submitted in fourteen (14) copies, in English, to the Chairman of the GSP Subcommittee of the Trade Policy Staff Committee, 600 17th Street, NW, Room 518, Washington, DC 20508. Information submitted will be subject to public inspection by appointment with the staff of the USTR public reading room, except for information granted ''business confidential'' status pursuant to 15 CFR 2003.6 and other qualifying information submitted in confidence pursuant to 15 CFR 2007.7. If the document contains business confidential information, an original and fourteen (14) copies of a nonconfidential version of the submission along with an original and fourteen (14) copies of the confidential version must be submitted. In addition, any document containing confidential information should be clearly marked ''confidential'' at the top and bottom of each page of the document. The version that does not contain confidential information (the public version) should be clearly marked at the top and bottom of every page (either ''public version'' or ''nonconfidential'').

III. Notice of Public Hearings

A hearing will be held on March 23, 1999 at 10:00 a.m. at 1724 F Street, NW, Washington, DC 20508. The hearing will be open to the public and a transcript of the hearing will be made available for public inspection or can be purchased from the reporting company. No electronic media coverage will be allowed.

All interested parties wishing to present oral testimony at the hearing must submit the name, address, and telephone number of the witness(es) representing their organization to the Chairman of the GSP Subcommittee. Such requests to present oral testimony at the public hearings should be accompanied by fourteen (14) copies, in English, of a written brief or statement, and should be received by 5 p.m. on March 15, 1999. Oral testimony before the GSP Subcommittee will be limited to ten minute presentations that summarize or supplement information contained in the briefs or statements or supplement information contained in the briefs or statements submitted for the record. Post-hearing and rebuttal briefs or statements should conform to the regulations cited above and be submitted in fourteen (14) copies, in English, no later than 5 p.m. April 8, 1999. Interested persons not wishing to appear at the public hearings may also submit pre-hearing written briefs or statements by 5:00 p.m. on March 15, 1999, and post-hearing and rebuttal written briefs or statements by April 8, 1999.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 99–1842 Filed 1–26–99; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1998–4272]

Annual Certification of Cook Inlet Regional Citizens' Advisory Council

AGENCY: Coast Guard, DOT.

ACTION: Notice of recertification.

SUMMARY: Under the Oil Terminal and Oil Tanker Environmental Oversight Act of 1990, the Coast Guard may certify on an annual basis, an alternative voluntary advisory group in lieu of a regional citizens' advisory council for Cook Inlet, Alaska. This certification allows the advisory group to monitor the activities of terminal facilities and crude oil tankers under the Cook Inlet Program established by the statute. The purpose of this notice is to inform the public that the Coast Guard has recertified the alternative voluntary advisory group for Cook Inlet, Alaska. The period of certification is being administratively adjusted to allow realignment of the recertification process with the annual budget year of the Cook Inlet Regional Citizens' Advisory Council (CIRCAC). The effective period of this recertification is from June 1, 1998 to July 31, 1999.

FOR FURTHER INFORMATION CONTACT: For general information regarding the CIRCAC contact LT Pittmen, Marine Safety and Environmental Protection Directorate, Office of Response, (G–MOR–1), (202) 267–0426. For questions on viewing material submitted to the docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION: As part of the Oil Pollution Act of 1990, Congress passed the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990 (the Act), section 5002, to foster the long-term partnership among industry, government, and local communities in overseeing compliance with the environmental concerns in the operation of terminal facilities and crude-oil tankers. Subsection 5002(o) permits an alternative voluntary advisory group to represent the communities and interests in the vicinity of the terminal facilities in the Cook Inlet, in lieu of a council of the type specified in subsection 5002(d), if certain conditions are met. The Act requires that the group enter into a contract to ensure annual funding, and that it receive annual certification by the President to the effect that it fosters the general goals and purposes of the Act and is broadly representative of the communities and interests in the vicinity of the terminal facilities and Cook Inlet. Accordingly, in 1991, the President granted certification to the CIRCAC. The authority to certify alternative voluntary advisory groups was subsequently delegated to the Commandant of the Coast Guard and redelegated to the Assistant Commandant for Marine Safety and Environmental Protection.

On August 7, 1998, in the **Federal Register**, the Coast Guard announced the availability of the application for recertification that it received from the CIRCAC and requested comments (63 FR 42475). It received 14 comments to the docket.

Discussion of Comments

One commenter indicates that the CIRCAC did not obtain adequate input from the city of Homer. In a meeting with the Executive Director the Coast Guard learned that the Mayor of Homer is now on the Board of the CIRCAC; in addition, the City of Homer offered no letter to the docket indicating any dissatisfaction with the CIRCAC. We believe the CIRCAC has successfully taken steps to resolve this potential difficulty.

One commenter believes the government should fund the CIRCAC. The statute does not authorize federal funding of the CIRCAC. Another commenter complains that the CIRCAC is underfunded. This comment does not pertain directly to the determination of recertification but rather to contractual provisions.

Two commenters complain that the CIRCAC has no vision, goals, and objectives. The CIRCAC indicated in a letter to the Coast Guard clarifying concerns and questions related to recertification that they use the goals and objectives of the Oil Pollution Act of 1990 (OPA 90) as identified in the context of the alternative voluntary advisory groups. Considering the fact

that Congress used the terms ''fostering the goals and purposes of'' referring to wording within the Act, the Coast Guard agrees that the Congressionally identified goals satisfy the requirement for vision goals and objectives.

Two commenters indicate a belief that the CIRCAC applies inadequate internal oversight. Based upon the bylaws of the CIRCAC and comments of all other submitters this comment appears unfounded. In the wording of the Act, regional citizens' advisory councils are allowed to be self-governing. The meaning of this is very clear. The Act with respect to the CIRCAC as an alternative voluntary advisory group is even less restrictive by allowing the CIRCAC to foster the goal of self-government.

Two commenters express concern regarding accountability of members to their constituents. Accountability exists in the annual ability of the area or interest group represented by the member to withhold their letter of endorsement.

Two commenters indicate general concerns regarding conflict of interest. The CIRCAC has a conflict of interest policy that is available to the public upon request. There is no specific allegation in either comment of conflict of interest.

Two commenters recommend the Coast Guard require a policy and controls audit. The CIRCAC is encouraged in its recertification letter to conduct an audit and make the results available as part of the next recertification application process.

One commenter indicates that members are sometimes uncooperative. The Coast Guard reminds members of the CIRCAC in its recertification letter of the importance of cooperation.

Twelve commenters recommend recertification. Two commenters suggest that the CIRCAC should not be certified as an alternative voluntary advisory group ''but rather as a ''Council'' under the statute. Since the commenters show numerous examples, and CIRCAC shows additional examples in their application, of fostering the goals and purposes of Section 5002, there is no basis to disallow certification for the purpose of assigning a ''Council''.

In light of the many positive comments received regarding CIRCAC's performance during the past year and the above analysis, the Coast Guard has determined that recertification in accordance with the Act is appropriate. The Coast Guard has requested the CIRCAC to conduct a policy and controls audit and include documentation in its application next year explaining how each of the issues raised in the comments has been addressed. Such documentation should include recent correspondence from the CIRCAC to the Coast Guard resolving concerns.

RECERTIFICATION: By letter dated November ____, 1998, the Assistant Commandant for Marine Safety and Environmental Protection certified that the CIRCAC qualifies as an alternative voluntary advisory group under 33 U.S.C. 2732(o). This recertification terminates on July 31, 1999.

Dated: January 13, 1999

R.C. North

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 99–1879 Filed 1–26–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1998–4271]

Annual Certification of Prince William Sound Regional Citizens' Advisory Council

AGENCY: Coast Guard, DOT.

ACTION: Notice of Recertification.

SUMMARY: Under the Oil Terminal and Oil Tanker Environmental Oversight Act of 1990, the Coast Guard may certify on an annual basis, an alternative voluntary advisory group in lieu of a regional citizens' advisory council for Prince William Sound, Alaska. This certification allows the advisory group to monitor the activities of terminal facilities and crude oil tankers under the Prince William Sound Program established by the statute. The purpose of this notice is to inform the public that the Coast Guard has recertified the alternative voluntary advisory group for Prince William Sound, Alaska. The period of certification is being administratively adjusted to allow realignment of the recertification process with the annual budget year of the Prince William Sound Regional Citizens' Advisory Council (PWSRCAC). The effective period of this recertification is from June 1, 1998 to January 30, 2000.

FOR FURTHER INFORMATION CONTACT: For general information regarding the PWSRCAC contact LT Pittman, Marine Safety and Environmental Protection Directorate, Office of Response, (G–MOR–1), (202 267–0426. For questions on viewing materials submitted to the docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION: As part of the Oil Pollution Act of 1990, Congress passed the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990 (the Act), Section 5002, to foster the long-term partnership among industry, government, and local communities in overseeing compliance with the environmental concerns in the operation of terminal facilities and crude-oil tankers. Subsection 5002(o) permits an alternative voluntary advisory group to represent the communities and interests in the vicinity of the terminal facilities in the Prince William Sound, in lieu of a council of the type specified in subsection 5002(d), if certain conditions are met.

The Act requires that the group enter into a contract to ensure annual funding, and that it receive annual certification by the President to the effect that it fosters the general goals and purposes of the Act, and is broadly representative of the communities and interests in the vicinity of the terminal facilities and Prince William Sound. Accordingly, in 1991, the President granted certification to the PWSRCAC. The authority to certify alternative advisory groups was subsequently delegated to the Commandant of the Coast Guard and redelegated to the Assistant Commandant for Marine Safety and Environmental Protection.

On August 7, 1998, the Coast Guard announced in the **Federal Register** the availability of the application for recertification that it received from the PWSRCAC and requested comments (63 FR 42475). It received twenty-one comments to the docket.

Discussion of Comments

One commenter expresses concern about the ''jurisdiction limits of the PWSRCAC''. Contrary to a ''Council'' that would have operating limits clearly delineated, the alternative voluntary advisory group is limited to certain regions or terminal facilities but not in the scope of its allowable actions. This stems from the wording of the statute itself. The Act does not preclude actions often termed ''outside of the intent'' of OPA 90 as long as the voluntary alternative group meets the recertification threshold for alternative voluntary advisory groups, as follows: ''fosters the general goals and purposes of this section and is broadly representative * * *.'' Due to the fact that the action in question (evaluation of a proposed pipeline) appears ''representative of the communities and

interests in the vicinity of the terminal facilities and Prince William Sound,'' the action is not outside of the scope of the Act.

Three commenters express concern regarding individual staff and board members representing their personal opinions as those of PWSRCAC during official meetings with other organizations. This is an internal issue for the PWSRCAC. The Coast Guard identified one specific instance of a member of the PWSRCAC presenting a personal position as that of the PWSRCAC. The Executive Director of the PWSRCAC personally visited the mayor of the city from which the representative came; the city appointed a different representative for the next term. After this conflict occurred, the PWSRCAC revised the code of conduct. This revised code of conduct was included in this year's recertification application. the Coast Guard agrees that corrective actions should be reported to the organizations that received a misrepresentation of the PWSRCAC's position in order to maintain trust and open communications. These commenters recommend the Coast Guard require a policy and controls audit. In the recertification letter, we have asked the PWSRCAC to conduct an internal audit based upon its rules for self-government. One commenter recommends the PWSRCAC continue to maintain offices in two cities. Presently, the Coast Guard is unaware of any plans to change this. One commenter suggests that the RCAC should not be certified as an alternative voluntary advisory group but rather as a ''Council'' under the statute. Since most commenters mention many examples how the PWSRCAC fosters the goals and purposes of the Act, there is no basis to disallow certification for the purpose of assigning a ''Council''. Several commenters indicate the PWSRCAC does not act like more rigidly structured organizations such as government agencies or oil companies. Congress did not intend to impose a highly structured organization on voluntary alternative groups.

Three commenters indicate a desire to have greater accountability of PWSRCAC members to their constituencies. Appointment of a representative to the PWSRCAC under its by-laws and membership provisions, together with subsequent endorsements of the localities or interest groups they represent, constitutes a de facto acknowledgement that they speak for a constituency. There is no mandate under OPA 90 to further limit the alternative voluntary advisory group through a detailed proscription of its functions.

Three commenters question the efficacy of alternative voluntary advisory groups as models for other United States ports. The input to the docket will be maintained for consideration during such a potential study in the future.

The commenter challenges the residency status of one PWSRCAC member representative. PWSRCAC indicates that the member representative in question meets the Alaska State minimum standards for residency; however, his residency status is under question by an Alaska court. PWSRCAC indicated in follow up discussion with the Coast Guard the intent to follow the decision by the Alaska court to set their future actions regarding citizenship standards. The Coast Guard also has concerns about the ability of a resident to adequately represent a constituency when the resident is only present two months of the year. The PWSRCAC has been asked to resolve this by the next recertification period in the recertification letter. Two commenters express concern that PWSRCAC members are sometimes uncooperative. The statute requires the PWSRCAC to foster the goal and purpose of cooperation. The majority of commenters underscored the cooperativeness and effectiveness of the RCAC at representing constituent views. There is nothing in the statute that requires the PWSRCAC to agree with industry or government positions. The PWSRCAC is advisory in nature. The Coast Guard determined that concern stems from the contrast between the way a voluntary organization builds consensus vice a structured chain of command. One commenter criticized the PWSRCAC's press conferences. The Act includes language that encourages cooperation but in no way precludes the use of press conference.

One commenter expresses concern regarding special interests of members and their representatives. The diverse interests of members are inherent in the process of obtaining appointed representatives.

One commenter states that advisory groups should not encroach on technical compliance with regulations. This comment is directed at comments, provided by PWSRCAC in their advisory role, related to the implementation of regulations by the state and federal governments. There is nothing in the Act that restricts advice provided under the Act from covering regulatory compliance, especially regarding the topic areas specifically identified under the Act. One commenter suggests difficulty in staff communications. The Coast Guard's discussions with commenters indicate that this problem pertains to one or two individuals. The Coast Guard encourages the PWSRCAC to take steps to resolve actions of specific individuals who may be undermining communications by appropriate use of its self-governing process.

One commenter indicates a concern about efforts aimed at long-term partnering. Based upon remarks of numerous commenters, overall actions of the PWSRCAC appear to foster goal of building long-term partnerships. The PWSRCAC clearly does not agree with all activities undertaken by industry or government; however, the actions of the PWSRCAC identified by virtually every commenter show a pattern of partnering. Two commenters direct complaints at a lack of management control over staff. Based upon Coast Guard calls to clarify this item there seem to be two underlying concerns: draft documents that were used in a litigation by a private citizen (the litigating citizen also happens to be a representative of a member of the PWSRCAC's Board). There is a circumstantial link but no direct evidence that the PWSRCAC Staff members passed these draft documents. There were others on the working group who could have also passed these draft documents. The other concern was that a specific staff member was being uncooperative. Therefore, encouragement of the PWSRCAC to conduct an internal audit is merited. The problem is not widespread, as such it should be resolved through the internal ''self-government'' process of the PWSRCAC.

One commenter expresses concern regarding alleged staff support of legal efforts without Board consideration or approval. The reference appears to refer to information provided to various parties involved in an action that ultimately became litigation. The PWSRCAC appears to have supported all parties requesting information, similar in nature to a Freedom of Information Act response by the government. The Executive Director indicated to the Coast Guard that such support actions were approved by the Board in the session immediately prior to provision of the information.

Two commenters complain of unfair or inadequate present funding. The statements were not supported and the level of funding is a contractual issue. One commenter indicates that RCAC should be held to legal and regulatory mandates. The Act requires voluntary alternative advisory groups to foster the goals and purposes of the Act. The Coast Guard holds the RCAC to this standard.

One commenter indicates that the advisory group process has not evolved into effective partnerships. There is not sufficient evidence to support such a claim; rather, the contrary is evidenced through the many items identified annually by commenters and in the recertification application that demonstrate efforts to enhance marine safety. In letters expressing concern to the contrary there was indication of sufficient partnering efforts to indicate the PWSRCAC fosters such a goal.

One commenter believes that individual members should obtain PWSRCAC approval before litigating. Based upon Coast Guard calls, the litigation in question was a private matter between a representative of a member of the PWSRCAC, not acting under the capacity of their PWSRCAC office. There is no requirement in the Act that precludes members of the PWSRCAC from initiating and conducting personal litigation against any entity. The Act merely precludes others from litigation against ''Councils''.

One comment criticizes the PWSRCAC for not accepting outcomes counter to those indicated in its advice. The Act does not preclude the PWSRCAC from continuing to pursue initiatives that it believes to be in its best interest. Two commenters offer specific examples for the previous comment. As an alternative voluntary advisory group, the PWSRCAC is not compelled to adopt a position that seems based only upon science. It is responsible to represent its regional interests.

Twenty commenters to the docket recommend recertification. One commenter does not oppose recertification but stops short of recommending recertification.

Three additional positive letters were received after the docket closed, two from members of Comgress and one from the Governor of Alaska.

As a result of the above analysis, the following recommendations were conveyed to the PWSRCAC in the recertification letter: that the PWSRCAC revisits the Alaska residency issue as part of the ''self-governing process''; that the PWSRCAC conducts an internal policy and controls audit; that the PWSRCAC makes results of the previous two items and any actions stemming from an audit available in the next recertification application; and, that the PWSRCAC includes a copy of the by-laws as part of the recertification package for the next recertification and in subsequent years following changes to the by-laws.

In light of the many positive comments received regarding the PWSRCAC's performance during the past year and the above analysis, the Coast Guard has determined that recertification in accordance with the Act is appropriate. The Coast Guard has requested the PWSRCAC to include documentation in its application next year indicating how each of the issues has been addressed. Such documentation should include recent correspondence from the PWSRCAC to the Coast Guard resolving concerns.

RECERTIFICATION: By letter dated November ____, 1998, the Assistant Commandant for Marine Safety and Environmental Protection certified that the PWSRCAC qualifies as an alternative voluntary advisory group under 33 U.S.C. 2732(o). This recertification terminates on January 30, 2000.

Dated: January 13, 1999.

R.C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 99–1880 Filed 1–26–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on PFC Application 99–06–C–00–PDX To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Portland International Airport; Submitted by the Port of Portland (Port), Portland, Oregon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use, and use only the revenue from a PFC at Portland International Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before February 26, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address:

J. Wade Bryant, Manager; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW, Suite 250; Renton, Washington 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Sue Haynes, Finance Manager I, at the following address; 7000 N.E. Airport Way, Portland, OR 97218.

Air carriers and foreign air carriers may submit copies of written comments previously provided to Portland International Airport under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Vargas, (425) 227–2660; Seattle Airports District Office, Federal Aviation Administration; 1601 Lind Avenue SW, Suite 250; Renton, Washington 98055–4056. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application 99–06–C–00–PDX to impose and use the revenue from a PFC at Portland International Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On January 19, 1999, the FAA determine that the application to impose and use the revenue from a PFC submitted by the Port of Portland, Portland, Oregon, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 16, 1999.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: November 1, 2006.

Proposed charge expiration date: March 1, 2014.

Total estimated net PFC revenue: $194,309,000.

Brief description of proposed project(s): Terminal Expansion South (TES)—Phase 2.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air taxi/commercial operators and is defined as ''the carriage in air commerce of persons for compensation or hire as a commercial operator, but not an air carrier, of aircraft having a maximum seating capacity of less than twenty passengers or a maximum payload capacity of less than 6,000 pounds. 'Air taxi/commercial operators' shall also include, without regard to number of passengers or payload capacity, revenue passengers transported for student instruction, nonstop sightseeing flights that begin and end at the same airport and are conducted within a 25 statute mile radius of the airport, ferry or

training flights, aerial photography or survey charters, and fire fighting charters.''

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Regional Office, Airports Division, ANM–600, 1601 Lind Avenue SW, Suite 315; Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Portland International Airport, Portland, Oregon.

Issued in Renton, Washington on January 19, 1999.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 99–1840 Filed 1–26–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–98–4839]

Transportation Equity Act for the 21st Century; Federal Highway Post-Accident Alcohol Testing Study

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice; request for comments.

SUMMARY: This notice invites public comments on issues relating to the legislative requirement to conduct a study and report to the Congress on the feasibility of utilizing law enforcement officers for conducting post-accident alcohol testing of commercial motor vehicle operators provided in section 4020 of the Transportation Equity Act for the 21st Century (TEA–21), Pub. L. 105–178, 112 Stat.107, 414. The FHWA is initiating the study and would like all comments to address the following issues:

(1) The impact of current post-accident alcohol testing requirements on commercial motor carrier employers, including any burden that they may encounter in attempting to perform an alcohol test within two hours of an accident; and

(2) The feasibility of utilizing law-enforcement officers for conducting post-accident alcohol testing of commercial motor vehicle operators as a method of obtaining more timely information.

DATES: This docket will remain open until the study is completed. However, in order for comments responding to issues raised by this notice to be considered during critical early stages of the study, they should be submitted no later than March 29, 1999.

ADDRESSES: Signed, written comments should refer to the docket number that appears at the top of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Dr. Alfred E. Barrington, DTS–34, Safety and Environmental Technology Division, (617) 494–2018, Volpe National Transportation Systems Center, 55 Broadway, Cambridge, MA 02142; or Mr. Michael Falk, Office of the Chief Counsel, (HCC–20), (202) 366–1384, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the **Federal Register's** home page at: http://www.nara.gov/fedreg and the Government Printing Office's database at: http://www.access.gpo.gov/nara.

Background

Section 4020 of TEA–21, Post-Accident Alcohol Testing, requires:

(a) STUDY. —The Secretary [of Transportation] shall conduct a study of the feasibility of utilizing law enforcement officers for conducting post-accident alcohol testing of commercial motor vehicle operators under section 31306 of title 49, United States Code, as a method of obtaining more timely information. The study shall also assess the impact of the current post-accident alcohol testing requirements on motor carrier employers, including any burden that employers may encounter in meeting the testing requirements of such section 31306.

(b) REPORT. —Not later than 18 months after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the study, together with such recommendation as the Secretary determines appropriate.

Under 49 CFR 382.303, commercial motor vehicle operators must be tested for alcohol and controlled substances as soon as practicable following an accident if:

(1) The accident involved the loss of human life, regardless of whether the operator was issued a citation for a moving traffic violation; or

(2) The operator was issued a citation under State or local law for a moving traffic violation arising from the accident and the accident involved:

(a) Bodily injury requiring medical treatment away from the accident scene; or

(b) Disabling damage to any motor vehicle requiring its removal from the accident scene by tow truck or other motor vehicle.

If the required post-accident alcohol test is not administered within two hours following the accident, the commercial motor carrier employer must prepare and maintain on file a record stating the reason the test was not promptly administered. If the test is not administered within eight hours following the accident, the employer must cease attempting to administer the test and shall prepare and maintain an appropriate record.

Comments and suggestions are invited concerning any aspects as to the feasibility of the post-accident alcohol test by police and the burden imposed on commercial motor carriers by the existing requirements. Of concern are operational, legal and financial factors, as well as equipment, human resources and training. Comments are requested specifically on the following questions that arise from the above requirements.

1. Are law-enforcement agencies and commercial motor carrier employers aware of the Federal regulation that requires motor carrier employers to test drivers for alcohol ''as soon as practicable'' if involved in an accident?

2. Do law-enforcement agencies/commercial motor carrier employers believe that this test is feasible?

3. Are commercial motor vehicle operators aware that they are required under certain circumstances to be tested for alcohol after being involved in an accident?

4. Are commercial motor carrier employers equipped to test a commercial motor vehicle operator for alcohol within two hours after an accident?

5. Are police equipped to test a commercial motor vehicle operator for alcohol within two hours of an accident?

6. If so equipped, can police be required to test a commercial motor vehicle operator for alcohol after an accident as an additional duty, regardless as to whether he or she was issued a citation?

Authority: 23 U.S.C. 315; 49 U.S.C. 31306; sec. 4020, Pub. L. 105–178, 112 Stat. 107, 414; and 49 CFR 1.48.

Issued on: January 21, 1999.

Kenneth R. Wykle,

Federal Highway Administrator.

[FR Doc. 99–1841 Filed 1–26–99; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–20943]

Coach USA, Inc. and Coach Canada, Inc.—Control—Autocar Connaisseur, Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice Tentatively Approving Finance Transaction.

SUMMARY: Coach USA, Inc. (Coach), a noncarrier that controls numerous motor passenger carriers, and its wholly owned noncarrier subsidiary, Coach Canada, Inc. (Coach Canada) (collectively, applicants), filed an application under 49 U.S.C. 14303 for control of Autocar Connaisseur, Inc. (Autocar II), an entity that intends to become a motor carrier of passengers. Persons wishing to oppose the application must follow the rules under 49 CFR 1182.5 and 1182.8.[1] The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by March 15, 1999. Applicants may file a reply by April 5, 1999. If no comments are filed by March 15, 1999, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC–F–20943 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, send one copy of comments to applicants' representatives: Betty Jo Christian and David H. Coburn, Steptoe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: Coach currently controls a number of motor passenger carriers. Coach Canada is a wholly owned Coach subsidiary established for the purpose of obtaining control of those motor passenger carriers that Coach currently controls that are based in Canada, as well as Canada-based motor passenger carriers that Coach and Coach Canada may in the future seek to control. In their application, Coach and Coach Canada state that Coach assumed control of Autocar Connaisseur, Inc. (Autocar I) by a stock transaction that was consummated on December 19, 1996. Applicants indicate that Coach did not until recently determine that Autocar I holds not only operating authority from Canadian agencies, but also authority issued by the Interstate Commerce Commission. Having discovered this unresolved control issue, Coach and Coach Canada sought Board authority in STB Docket No. MC–F–20938 to control this carrier.[2]

Applicants state that, under Canadian law, Autocar I is to be amalgamated (merged) with three other noncarrier entities with which it is affiliated by common ownership: Connaisseur Parts Distribution, Inc., Agencie de Vehicules Connaisseur, Inc., and 170861 Canada, Inc. Applicants aver that each of these four corporations now shares common ownership with Autocar I, and that the ultimate parent of each within the Connaisseur Group of companies is 3329003 Canada, Inc., a noncarrier owned by Coach. Applicants further contend that the product of the amalgamation transaction will be a new corporate entity also to be known as Autocar Connaisseur, Inc. (Autocar II). Applicants state that, following the amalgamation, Autocar II will carry on the same motor carrier business now conducted by Autocar I, under the same management that now operates Autocar I, and pursuant to the same operating authorities now held by Autocar I. Applicants aver that the amalgamation will in fact be ''invisible'' to Autocar's customers.

Applicants state that granting the application will not result in any changes to carrier operations that are now being conducted and will not reduce competitive options available to the traveling public. They assert that Autocar II is relatively small and will face substantial competition from other bus companies and modes of transportation.

Applicants also submit that granting the application will produce substantial benefits, including reduced fixed charges in the form of interest cost savings from the restructuring of debt and reduced operating costs from Coach's enhanced volume purchasing power. Specifically, applicants claim that Autocar II will benefit from the lower insurance premiums negotiated by Coach or Coach Canada and from volume discounts for equipment and fuel. Applicants indicate that Coach will provide Autocar II with centralized legal and accounting functions and coordinated purchasing services. In addition, applicants state that vehicle sharing arrangements will be facilitated through Coach or Coach Canada to ensure maximum use and efficient operation of equipment. Applicants aver that, with Coach's and Coach Canada's assistance, coordinated driver training services will be provided, enabling Autocar II to allocate driver resources in the most efficient manner possible. Applicants add that the proposed transaction will have no adverse impacts on the employees of Autocar II and that collectively bargained agreements will be recognized.

Applicants state that Coach Canada, like other management subsidiaries that Coach has established to assume control of, and manage the operations of, motor passenger carriers as to which control authority has previously been granted to Coach, will focus its efforts on those carriers that are based in Canada. Applicants also indicate that Coach Canada will be responsible for developing strategic business and growth plans for the Canadian based entities that it seeks to control, and for assessing opportunities for further Canadian acquisitions of passenger transportation entities. Applicants add that, over the long term, Coach and Coach Canada will provide centralized marketing and reservation services for the bus firms that they control, thereby further enhancing the benefits resulting from these control transactions.

Applicants certify that: (1) Autocar II does not hold an unsatisfactory safety rating from the U.S. Department of

[1] Revised procedures governing finance applications filed under 49 U.S.C. 14303 were adopted in *Revisions to Regulations Governing Finance Applications Involving Motor Passenger Carriers*, STB Ex Parte No. 559 (STB served Sept. 1, 1998).

[2] Autocar I is a Quebec corporation. It holds federally issued operating authority in Docket No. MC–166643, allowing it to conduct charter and special operations between certain U.S./Canada border crossings and points in the United States. Autocar I operates a fleet of approximately 180 buses and employs approximately 250 full and part time persons. Autocar I's annual revenues for the twelve month period ending June 1998 were approximately $12.1 million. Autocar II will undertake the same business operations now conducted by Autocar I.

Transportation;[3] (2) Autocar II will maintain sufficient liability insurance; (3) Autocar II is not domiciled in Mexico or owned or controlled by persons of that country; and (4) approval of the transaction will not significantly affect either the quality of the human environment or the conservation of energy resources. Additional information may be obtained from applicants' representatives.

Under 49 U.S.C. 14303, we must approve and authorize a transaction we find consistent with the public interest, taking into consideration at least: (1) the effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

On the basis of the application, we find that the proposed acquisition of control is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application.[4] If no opposing comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

[3] Autocar I holds a satisfactory rating from the U.S. Department of Transportation. Because it will be a new carrier following the amalgamation, Autocar II holds no safety rating.

[4] Under revised 49 CFR 1182.6(c), a procedural schedule will not be issued if we are able to dispose of opposition to the application on the basis of comments and the reply.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proposed acquisition of control is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this decision will be deemed as having been vacated.

3. This decision will be effective on March 15, 1999, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) the U.S. Department of Transportation, Office of Motor Carriers-HIA 30, 400 Virginia Avenue, S.W., Suite 600, Washington, DC 20024; and (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, N.W., Washington, DC 20530.

Decided: January 21, 1999.

By the Board, Chairman Morgan and Vice Chairman Clyburn.

Vernon A. Williams,

Secretary.

[FR Doc. 99–1886 Filed 1–26–99; 8:45 am]

BILLING CODE 4915–00–P

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determinations: ''The Treasury of St. Francis of Assisi''

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 F.R. 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 F.R. 27393, July 2, 1985). I hereby determine that the objects to be included in the exhibit ''The Treasury of St. Francis of Assisi,'' imported from abroad for temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at the Metropolitan Museum of Art, New York, from on or about March 15, 1999, to on or about June 27, 1999, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For a copy of the list of exhibit objects or for further information, contact Jacqueline Caldwell, Assistant General Counsel, Office of the General Counsel, United States Information Agency, at 202/619–6982, or USIA, 301 4th Street, S.W., Room 700, Washington, D.C. 20547–0001.

Dated: January 21, 1999.

Les Jin,

General Counsel.

[FR Doc. 99–1839 Filed 1–26–99; 8:45 am]

BILLING CODE 8230–01–M

federal register

Wednesday
January 27, 1999

Part II

Department of Education

Technological Innovation and Cooperation for Foreign Information Access Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1999

DEPARTMENT OF EDUCATION

[CFDA No. 84.337]

Technological Innovation and Cooperation for Foreign Information Access Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1999

Purpose of Program: The Technological Innovation and Cooperation for Foreign Information Access Program provides grants to develop innovative techniques or programs using new electronic technologies, to collect and distribute information on world regions and countries other than the United States. The techniques or programs the Secretary assists are those that address our Nation's teaching and research needs in international education and foreign languages.

Eligible Applicants: Institutions of higher education, public or nonprofit private libraries, or consortia of such institutions or libraries.

Applications Available: January 15, 1999.

Deadline for Transmittal of Applications: March 17, 1999.

Deadline for Intergovernmental Review: May 17, 1999.

Estimated Range of Awards: $95,000 to $225,000.

Estimated Average Size of Awards: $200,000.

Estimated Number of Awards: 5.

Project Period: 36 months.

Note: The Department is not bound by any estimates in this notice.

Supplementary Information: The techniques or projects this program supports are those designed to collect, organize, preserve, and widely disseminate information that addresses our Nation's teaching and research needs in International Education and Foreign Languages. Because the program has no specific regulations we encourage each potential applicant to read the authorizing statute (section 606 of part A, title VI, of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1998). The statute will be included in the application package.

The statute lists the following activities an applicant may apply to carry out. However, an applicant may propose to carry out other activities that are consistent with the legislation. The activities listed in the statute are:

(a) To facilitate access to or preserve foreign information resources in print or electronic forms;

(b) To develop new means of immediate, full-text document delivery for information and scholarship from abroad;

(c) To develop new means of shared electronic access to international data;

(d) To support collaborative projects of indexing, cataloging, and other means of bibliographic access for scholars to important research materials published or distributed outside the United States;

(e) To develop methods for the wide dissemination of resources written in non-Roman language alphabets;

(f) To assist teachers of less commonly taught languages in acquiring, via electronic and other means, materials suitable for classroom use; and

(g) To promote collaborative technology based projects in foreign languages, area studies, and international studies among grant recipients under this title.

Please note that the statute limits the Federal share of the total cost of carrying out a program supported by a grant under this section shall to no more than 66⅔ percent. A grantee may provide the non Federal share of this cost may be provided either in-kind or in cash and may include contributions from private sector corporations or foundations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 82, 85, and 86.

Selection Criteria: The Secretary uses the selection criteria published in 34 CFR 75.209 and 75.210 to evaluate applications for the Technological Innovation and Cooperation for Foreign Information Access Program. The application package includes selection criteria and the points assigned to the criteria.

For Applications or Information Contact: Susanna C. Easton, International Education and Graduate Program Service, U.S. Department of Education, 400 Maryland Avenue, SW., suite 600C, Portals Building, Washington, DC 20202–5332. Telephone (202) 401–9780. Internet: Susanna__Easton@ed.gov

If you use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FRS) 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 format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person for the respective program, as listed in the preceding paragraph. Individuals with disabilities may obtain a copy of the application package in an alternate format, also, by contacting that person. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Electronic Access To This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the Internet at either of the following sites:

http://ocfo.ed.gov/fedreg.htm

http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have any questions about using the pdf, call the U.S. Government Printing Office at (202) 512–1530 or, toll free, at 1–888–293–6498.

You may also view these 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**.

Program Authority: 20 U.S.C. 1121 *et. seq.*

Dated: January 21, 1999.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 99–1826 Filed 1–26–99; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Wednesday
January 27, 1999

Part III

Department of Education

Bilingual Education: Teachers and Personnel Grants; Inviting Applications for New Awards for Fiscal Year (FY) 1999; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.195A]

Bilingual Education: Teachers and Personnel Grants; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1999

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and the applicable regulations governing this program, including the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions needed to apply for an award under this program. The statutory authorization for this program, and the application requirements that apply to this competition, are set out in sections 7143 and 7146–7149 of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act of 1994 (Pub. L. 103–382, enacted October 20, 1994) (the Act)(20 U.S.C. 7473 and 7476–7479)).

Purpose of Program: This program provides grants for preservice and inservice professional development for bilingual education teachers, administrators, pupil services personnel, and other educational personnel who are either involved in, or preparing to be involved in, the provision of educational services for children and youth of limited English proficiency.

Eligible Applicants: (1) One or more institutions of higher education (IHEs) which have entered into consortia arrangements with local educational agencies (LEAs) or State educational agencies (SEAs), to achieve the purposes of this section. (2) SEAs and LEAs for inservice-professional development programs.

Deadline for Transmittal of Applications: February 27, 1999.

Deadline for Intergovernmental Review: April 26, 1999

Available Funds: $10 million.

Estimated Range of Awards: $150,000–$250,000.

Estimated Average Size of Awards: $200,000.

Estimated Number of Awards: 50.

Note: The Department of Education is not bound by any estimates in this notice.

Project Period: 60 months.

Applicable Regulations

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

(b) 34 CFR part 299.

Description of Program

Funds under this program are to provide for preservice and inservice professional development for bilingual education teachers and other educational personnel. Activities shall assist educational personnel in meeting State and local certification requirements for bilingual education and, wherever possible, shall lead to the awarding of college or university credit.

Priorities

Competitive Priority 1

The Secretary, under 34 CFR 75.105(c)(2)(i) and 299.3(b) gives preference to applications that meet the following competitive priority. The Secretary awards up to 3 points for an application that meets this competitive priority. These points are in addition to any points the application earns under the selection criteria for the program:

Projects that will contribute to a systemic educational reform in an Empowerment Zone, including a Supplemental Empowerment Zone, or an Enterprise Community designated by the United States Department of Housing and Urban Development or the United States Department of Agriculture, and are made an integral part of the Zone's or Community's comprehensive community revitalization strategies.

A list of areas that have been designated as Empowerment Zones and Enterprise Communities is provided at the end of this notice.

Competitive Priority 2

Under 34 CFR 75.105 (c)(2) (ii) and section 7143(b) of the Act, the Secretary gives a competitive preference to applications that meet the following priority:

Institutions of higher education, in consortia with local or State educational agencies, that offer degree programs that prepare new bilingual education teachers in order to increase the availability of educators to provide high-quality education to limited English proficient students.

The Secretary selects applications that meet this priority over applications of comparable merit which do not meet the priority.

Invitational Priorities

The Secretary is particularly interested in applications that meet one of the following the invitational priorities in the next paragraphs. However, an application that meets these invitational priorities receives no competitive or absolute preference over other applications (34 CFR.105(c)(1)).

(1) Applicants which propose to provide special support for new bilingual teachers during their initial teaching years.

(2) Applicants which propose to improve teacher preparation programs in institutions of higher education to better prepare all teachers to meet the needs of LEP students.

Selection Criteria

(a)(1) The Secretary uses the following selection criteria in 34 CFR 75.210 to evaluate applications for new grants under this competition.

(2) The maximum score for all of these criteria is 100 points.

(3) The maximum score for each criterion is indicated in parentheses.

(b) *Need for project*. (10 points) (1) The Secretary considers the need for the proposed project.

(2) In determining the need for the proposed project the Secretary considers the following factors:

(i) The magnitude or severity of the problem to be addressed by the proposed project.

(ii) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and the magnitude of those gaps or weaknesses.

(b) *Quality of the project design*. (55 points) (1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(iii) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance.

(iv) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice.

(v) The extent to which the proposed activities constitute a coherent, sustained program of training in the field.

(vi) The extent to which the proposed project will be coordinated with similar or related efforts, and with other appropriate community, State, and Federal resources.

(vii) The extent to which the proposed project is part of a comprehensive effort to improve teaching and learning and support rigorous academic standards for students.

(viii) The extent to which fellowship recipients or other project participants are to be selected on the basis of academic excellence.

(c) *Quality of project services.* (10 points) (1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been under represented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers (i) the extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(d) *Quality of project personnel.* (5 points) (1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the qualifications, including relevant training and experience, of key project personnel.

(e) *Quality of the management plan.* (5 points) (1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(f) Quality of the project evaluation. (15 points) (1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies.

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR Part 79.

The objective of the Executive Order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive Order. If you want to know the name and address of any State Single Point of Contact, see the list published in the **Federal Register** on November 3 1998 (63 FR 59452 through 59455).

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA #84.195A, U.S. Department of Education, Room 6213, 400 Maryland Avenue, SW., Washington, D.C. 20202–0124.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, D.C. time) on the date indicated in this notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. Do not send applications to the above address.

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.195A), Washington, D.C. 20202–4725

or

(2) Hand-deliver the original and two copies of the application by 4:30 p.m. (Washington, D.C. time) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.195A), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, D.C.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9495.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number and suffix letter, if any, of the competition under which the application is being submitted.

Application Instructions and Forms

The appendix to this application is divided into three parts, plus a statement regarding estimated public

reporting burden, a notice to applicants regarding compliance with Section 427 of the General Education Provisions Act, additional non-regulatory guidance, and various assurances, certifications, and required documentation. These parts and additional materials are organized in the same manner that the submitted application should be organized. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

Part II: Budget Information—Non-Construction Programs (ED Form No. 524) and instructions.

Part III: Application Narrative.

Additional Materials

a. Estimated Public Reporting Burden.
b. Group Application Certification.
c. Participant Data.
d. Project Documentation.
e. Program Assurances.
f. Assurances—Non-Construction Programs (Standard Form 424B) and instructions.
g. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and instructions.
h. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions. (NOTE: This form is intended for the use of grantees and should not be transmitted to the Department.)
i. Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions. The document has been marked to reflect statutory changes. See the notice published by the Office of Management and Budget in the **Federal Register** (61 FR 1413 on January 19, 1996).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. All applicants must submit one original signed application and two copies of the application. Please mark each application as ''original'' or ''copy''. No grant may be awarded unless a completed application has been received.

FOR FURTHER INFORMATION CONTACT: Mahal May (202) 205–8727 or Steve Van Pelt (202) 205–8732 U.S. Department of Education, 400 Maryland Avenue, SW., Room 5090, Switzer Building, Washington, D.C. 20202–6510.

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To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the preceding sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these 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 this document is the document published in the **Federal Register**.

Program Authority: 20 U.S.C. 7473.

Dated: January 22, 1999.

Art Love,

Acting Deputy Director, Office of Bilingual Education and Minority Languages Affairs.

Instructions for Estimated Public Reporting Burden

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB No. 1885–0536, Exp. Date: 12/31/00. The time required to complete this information collection is estimated to average 120 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: U.S. Department of Education, Washington, D.C. 20202–4651. If you have any comments or concerns regarding the status of your individual submission of this form, write directly to: Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 600 Independence Avenue, SW., Washington, D.C. 20202–6510.

The following forms and other items must be included in the application:

1. Application for Federal Assistance (SF 424)
2. Group Application Certification (Use this form to document participation of consortia members)
3. Budget Information (ED Form No. 524)
4. Itemized Budget for each year (Attached to Form No. 524)
5. Participant Data approximate number of participants to be served each year.
6. Project Documentation Transmittal Letter to SEA Documentation of Empowerment Zone or Enterprise Community (if applicable)
7. Program Assurances
8. Non-Construction Programs (SF 424B)
9. Certifications Regarding Lobbying; Debarment Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013)
10. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (ED 80–0014)
11. Disclosure of Lobbying Activities (SF–LLL)
12. Notice to All Applicants (See form provided below)
13. Table of Contents
14. One-page abstract (single-spaced)
15. Application Narrative (double-spaced not to exceed 30 pages, see instructions below)
16. One original and three copies of the application for transmittal to the Department's Application Control Center.

Mandatory Page Limits for the Application Narrative

The narrative is the section of the application where you address the selection criteria used by reviewers in evaluating the application. You must limit the narrative to the equivalent of no more than 30 pages, using the following standards:

A page is 8.5 × 11, on one side only with 1″ margins at the top, bottom, and both sides.

You must double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all

text in charts, tables, figures, and graphs.

If you use a proportional computer font, you may not use a font smaller than a 12-point font. If you use a non-proportional font or a typewriter, you may not use more than 12 characters per inch.

The page limit does not apply to the Application for Federal Education Assistance Form (ED 424); the Budget Information Form (ED 524) and attached itemization of costs; the other application forms and attachments to those forms; the assurances and certifications; or the one-page abstract and table of contents. The page limit applies only to item 15 in the checklist for applicants provided above.

If, in Order to meet the page limit, you use print size, spacing, or margins smaller than the standards specified in this notice, your application will not be considered for funding.

Application Narrative and Abstract

The narrative should address fully all aspects of the selection criteria in the order listed and should give detailed information regarding each criterion. *Do not simply paraphrase the criteria.* Provide position descriptions for key personnel. This package includes non-regulatory guidance (Questions and Answers) to assist you in preparing the narrative portion of the application. Prepare a one-page single-spaced abstract which summarizes the proposed project activities, the expected outcomes, and how the application addresses the announced invitational priorities, if applicable.

Budget

Budget line items must support the goals and objectives of the proposed project and be directly applicable to the program design and all other project components. Prepare an itemized budget for each year of requested funding. Indirect costs for institutions of higher education which are the fiscal agents for Teachers and Personnel Grants are limited to the lower of either 8% of the modified total direct cost base or the institution's indirect cost agreement. A modified direct cost is defined as total direct costs less stipends, tuition and related fees, and capital expenditures of $5,000 or more. In describing student support costs distinguish costs for tuition and fees from costs for stipends.

Final Application Preparation

Use the above checklist to verify that all items are addressed. Prepare one original with an original signature, and include three additional copies. Do not use elaborate bindings or covers. The application package must be mailed to the Application Control Center (ACC) and postmarked by the deadline date of February 23, 1999.

Submission of Application to State Educational Agency

Section 7146(a)(4) of the Act (Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act of 1994, Pub. L. 103–382) requires all applicants except schools funded by the Bureau of Indian Affairs to submit a copy of their application to their State educational agency (SEA) for review and comment (20 U.S.C. 7476(a) (4)). Section 75.156 of the Education Department General Administrative Regulations (EDGAR) requires these applicants to submit their application to the SEA on or before the deadline date for submitting their application to the Department of Education. This section of EDGAR also requires applicants to attach to their application a copy of their letter that requests the SEA to comment on the application (34 CFR 75.156). Applicants that do not submit a copy of their application to their SEA will not be considered for funding.

Questions and Answers

Does the Teachers and Personnel Grants Program Have Specific Evaluation Requirements?

Yes, the evaluation requirements are described in Section 7149 of Title VII of ESEA, 20 U.S.C. 7479

What Priorities Exist for the Teachers and Personnel Grants?

Fiscal Year 1999 the Department has announced an invitational priority for applicants proposing to improve teacher preparation programs in institutions of higher education to better prepare all teachers to meet the needs of LEP students. In addition, the Department has announced an invitational priority for applicants which propose to provide special support for new bilingual teachers during their initial teaching years. The competitive priorities for this program are (1) for applications from institutions of higher education, in consortia with local or State educational agencies, that offer degree programs that prepare new bilingual education teachers in order to increase the availability of educators to provide high-quality education to limited English proficient students, and, (2) for programs that will contribute to systemic educational reform in an Empowerment Zone, including a Supplemental Empowerment Zone, or an Enterprize Community, and are made an integral part of the Zones or Community's comprehensive revitalization strategies.

Applicants proposing to address invitational or competitive priorities may include in their abstracts a brief description of their plans to address the priorities.

What Requirements Must Grantees Meet Related to Teacher Certification?

The Title VII statute requires grantees to assist educational personnel in meeting State and local certification requirements. 20 U.S.C. 7477. However, because certification requirements vary among States, applicants are given flexibility in designing activities that lead to meeting State and local certification requirements.

What Activities Are Authorized Under Teachers and Personnel Grants?

Authorized activities are those which support the purpose of the development for teachers and other educational personnel. Such activities may include, but are not limited to, the development of program curricula; collaboration with local school districts in designing new teacher training activities; and reforming and improving teacher training programs to reflect high standards of professionalism. Only institutions of higher education, applying in consortia arrangements with one or more local educational agencies or State educational agencies, are eligible to apply for preservice programs. This means the institution of higher education would be the lead agency and the fiscal agent for the grant. State educational agencies and local educational agencies may, however apply for inservice training programs.

May Program Budgets Include Costs for Items Other Than Student Tuition and Fees?

Project budgets should reflect the proposed program activities. In addition to student support costs, budget items may include costs for personnel, supplies or equipment, and other costs to support developmental activities.

What Information May Be Helpful in Preparing Narrative for a Teachers and Personnel Grant?

In responding to the selection criteria, applicants may wish to consider the following questions as a guide for preparing application narrative.

- What are the specific responsibilities of districts, schools, institutions of higher education, and other partnership organizations in planning, implementing, and evaluating

the proposed program? What resources and support will be provided by each of the contributing partners?

- How does the training curricula reflect high standards for pedagogy, content, and proficiency in English and a second language to ensure that participants are effectively prepared to provide instruction and support to LEP students?
- How will the program assist in systemically reforming policies and practices in the target schools and in the HE related to the preparation of new teachers, the induction of new bilingual teachers, clinical experiences for new bilingual teachers and other educational personnel, or professional development opportunities for all teachers?
- What selection criteria will the applicant adopt to ensure that individuals selected to participate in the program hold promise for successfully completing program requirements?
- What support will be provided to new bilingual teachers by experienced bilingual teachers, higher education faculty, and school administrators to guide them during their period of induction?
- How will the instructional responsibilities of new teachers be balanced with appropriate professional development, support and planning time?
- How will clinical experiences for preservice participants be structured to ensure that they are well-supervised, of sufficient duration and in a setting which provides opportunities for participants to experience a variety of effective bilingual education instructional methods and approaches?
- How is the training curriculum based on current research related to effective teaching and learning? What evidence of effectiveness supports the training model?
- What performance indicators will the proposed program use to support the effectiveness of the program, participants, and graduates related to for example, improved teaching practices, performance on National or State benchmark tests; reduction in the number of new teachers leaving the profession in targeted districts; improvement in participant completion rates; decline in attrition, or other performance indicators.
- How will the program evaluation incorporate strategies for assessing progress and performance of participants; communicating meaningful, regular and timely feedback to participants; improving the quality of the training program; identifying exemplary program features; and reporting on specific data related to the number of participants completing the program and the number of graduates placed in the instructional setting?
- How will the proposed program improve teacher preparation curricula, clinical experiences and the skills and knowledge of higher education faculty to better prepare ALL teachers in content and pedagogy related to the needs of LEP students.

In Addition, Applicants May Wish To Consider the Department of Education Professional Development Principles in Planning a Teachers and Personnel Grant

The following are the professional development principles:

- Focuses on teachers as central to student learning, yet includes all other members of the school community;
- Focuses on individual, collegial and organizational improvement; Respects and nurtures the intellectual and leadership capacity of teachers, principals, and others in the school community;
- Reflects best available research and practice in teaching, learning, and leadership;
- Enables teachers to develop further expertise in subject content, teaching strategies, uses of technologies, and other essential elements in teaching to high standards;
- Promotes continuous inquiry and improvement embedded in the daily life of schools;
- Is planned collaboratively by those who will participate in and facilitate that development;
- Requires substantial time and other resources; is driven by a coherent long-term plan; is evaluated ultimately on the basis of its impact on teacher effectiveness and student learning; and
- Uses this assessment to guide subsequent professional development efforts.

What Other Information May Be Helpful in Applying for a Teachers and Personnel Grant?

Applicants are reminded that they must submit a copy of their application to the SEA for review and comment. In addition, applicants must submit a copy of their application to the State Single Point of Contact to satisfy the requirements of Executive Order 12372. The SEA review requirement and the requirements for Executive Order 12372 are two distinct requirements.

BILLING CODE 4000–01–P

Application for Federal Education Assistance

U.S. Department of Education

Form Approved
OMB No. 1875-0106
Exp. 06/30/2001

Applicant Information

1. Name and Address

Legal Name:_____

Address:_____

_____

_____ _____ _____ _____

City State County ZIP Code

Organizational Unit

2. Applicant's D-U-N-S Number

3. Catalog of Federal Domestic Assistance #: 8 4 1 9 5 A → Title: Bilingual Education: ~~Teachers and Personnel Grants~~

4. Project Director:_____

Address:_____

_____ _____ _____

City State ZIP Code

Tel. #: ( )_____-_____ Fax #: ( )_____-_____

E-Mail Address:_____

5. Is the applicant delinquent on any Federal debt? ☐ Yes ☐ No

(If "Yes," attach an explanation.)

6. Type of Applicant *(Enter appropriate letter in the box.)*

A State	H Independent School District
B County	I Public College or University
C Municipal	J Private, Non-Profit College or University
D Township	K Indian Tribe
E Interstate	L Individual
F Intermunicipal	M Private, Profit-Making Organization
G Special District	N Other *(Specify)*:_____

7. Novice Applicant ☐ Yes ☐ No

Application Information

8. Type of Submission:

—PreApplication	*—Application*
☐ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

9. Is application subject to review by Executive Order 12372 process?

Yes *(Date made available to the Executive Order 12372 process for review):* ___/___/_____

No *(If "No," check appropriate box below.)*

☐ Program is not covered by E.O. 12372.

☐ Program has not been selected by State for review.

10. Proposed Project Dates: Start Date: ___/___/_____ End Date: ___/___/_____

11. Are any research activities involving human subjects planned at any time during the proposed project period? ☐ Yes ☐ No

a. If "Yes," Exemption(s) #:

OR

b. Assurance of Compliance #:

c. IRB approval date: _____ ☐ Full IRB or ☐ Expedited Review

12. Descriptive Title of Applicant's Project:

Estimated Funding

13a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

Authorized Representative Information

14. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Typed Name of Authorized Representative

b. Title

c. Tel. #: ( )_____-_____ Fax #: ( )_____-_____

d. E-Mail Address:_____

e. Signature of Authorized Representative Date:

Instructions for ED 424

1. **Legal Name and Address.** Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. **D-U-N-S Number.** Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505 or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: **http://www.dnb.com/dbis/aboutdb/intlduns.htm.**

3. **Catalog of Federal Domestic Assistance (CFDA) Number.** Enter the CFDA number and title of the program under which assistance is requested.

4. **Project Director.** Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

5. **Federal Debt Delinquency.** Check **"Yes"** if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check **"No."**

6. **Type of Applicant.** Enter the appropriate letter in the box provided.

7. **Novice Applicant.** Check **"Yes"** only if assistance is being requested under a program that gives special consideration to novice applicants and you meet the program requirements for novice applicants. By checking "Yes" the applicant certifies that it meets the novice applicant requirements specified by ED. Otherwise, check **"No."**

8. **Type of Submission.** Self-explanatory.

9. **Executive Order 12372.** Check **"Yes"** if the application is subject to review by Executive Order 12372. Also, please enter the month, date, and four (4) digit year (e.g., 12/12/2000). Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. Otherwise, check **"No."**

10. **Proposed Project Dates.** Please enter the month, date, and four (4) digit year (e.g., 12/12/2000).

11. **Human Subjects.** If research activities involving human subjects are **not** planned **at any time** during the proposed project period, check **"No."** The remaining parts of item 11 are then not applicable.

    If research activities involving human subjects, whether or not exempt from Federal regulations for the protection of human subjects, **are** planned **at any time** during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution, check **"Yes."** If the research activities are designated to be exempt under the regulations, enter, in item 11a, the exemption number(s) corresponding to one or more of the six exemption categories listed in **"PROTECTION OF HUMAN SUBJECTS IN RESEARCH"** attached to this form. Provide sufficient information in the application to allow a determination that the designated exemptions are appropriate.

    If the planned research activities involving human subjects are covered (not exempt), complete the remaining parts of item 11 and follow the instructions in **"PROTECTION OF HUMAN SUBJECTS IN RESEARCH"** attached to this form. If the applicant organization has an approved Multiple Project Assurance of Compliance on file with the Grants Policy and Oversight Staff (GPOS), U.S. Department of Education, or with the Office for Protection from Research Risks (OPRR), National Institutes of Health, U.S. Department of Health and Human Services, that covers the specific activity, enter the Assurance number in item 11b and the date of approval by the Institutional Review Board (IRB) of the proposed activities in item 11c. This date must be no earlier than one year before the receipt date for which the application is submitted and must include the four (4) digit year (e.g., 2000). Check the type of IRB review in the appropriate box. An IRB may review an application through an expedited review procedure only if it complies with Section 97.110 of the human subjects regulations 34 CFR 97. If the IRB review is unavoidably delayed beyond the submission of the application, enter **"Pending"** in item 11c. A follow-up certification of IRB approval from an official signing for the applicant organization must then be sent to and received by the designated ED official. The certification must be received within 30 days of a specific formal request from the designated ED official. The certification must include: the PR Award number, title of the project from item #12, name of the principal investigator, project director, fellow, or other, institution, Multiple Assurance number, date of IRB approval, and appropriate signatures.

    If the applicant organization does not have on file with GPOS or OPRR an approved Assurance of Compliance that covers the proposed research activity, enter **"None"** in item 11b. In this case, the applicant organization, by the signature on the application, is declaring that it will comply with 34 CFR 97 within 30 days of a specific formal request from the designated ED official.

    For additional instructions regarding proposals that involve human subjects research see, **"PROTECTION OF HUMAN SUBJECTS IN RESEARCH"** attached to this form.

12. **Project Title.** Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

13. **Estimated Funding.** Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate **only** the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 13.

14. **Certification.** To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office.

    Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 14e, please enter the month, date, and four (4) digit year (e.g., 12/12/2000) in the date signed field.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1875-0106**. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

PROTECTION OF HUMAN SUBJECTS IN RESEARCH
(Attachment to ED 424)

I. Instructions to Applicants if Research Activities Involving Human Subjects are Planned

If you marked item 11 on the application "Yes" and designated exemptions from the human subjects regulations, provide sufficient information in the application to allow a determination that the designated exemptions are appropriate. Research involving human subjects that is exempt from the regulations is discussed under **II.B. "Exemptions,"** below.

If you marked "Yes" to item 11 on the Face Page, and designated no exemptions from the regulations, address the following six points. In addition, if research involving human subjects will take place at collaborating site(s) or other performance site(s), provide this information before discussing the six points. Although no specific page limitation applies to this section of the application, be succinct. Be sure to provide this information on a separate page(s) entitled "Protection of Human Subjects Attachment."

(1) Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable.

(2) Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

II. Information on Research Activities Involving Human Subjects

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Is it a research activity?

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." *If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, such as an exploratory study or the collection of data to test a hypothesis, it is research.* Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Is it a human subject?

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." *(1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met.* [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of ***exemptions*** are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. ***If the subjects are children, this exemption applies only to research involving educational tests or observations of public behavior when the investigator(s) do not participate in the activities being observed.*** [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S Department of Agriculture.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff (GPOS) Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, Washington, D.C., telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://ocfo.ed.gov/humansub.htm.

GROUP APPLICATION CERTIFICATION

NOTE: This form must be completed by eligible parties applying as a group for a grant. This form must be accompanied by a group agreement that details the activities that each member of the group plans to perform under the grant.

(34 CFR 75.128(b)-(c)).

To the best of my knowledge and belief, all data in this application are true and correct. I agree to be bound to every statement and assurance made in this application.

Authorized Representative					
Typed Name	Title	Signature	Date Signed	Telephone Number (including Area Code)	Name of Institution/ Organization

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control No. 1880--0538

Expiration Date: 10/31/99

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED FORM NO. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington, D.C. 20503.

INSTRUCTIONS FOR ED FORM NO. 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

PARTICIPANT DATA

Note: This form must be completed by applicants under the following programs:

- Teachers and Personnel Grants Program
- Career Ladder Program
- Training for all Teachers Program

Estimated number of anticipated participants in each of the following three categories per year

Preservice Teachers _____

Inservice Teachers _____

Other Type of Educational Personnel _____
(Specify type below)

_____

_____

Degree level (if applicable) _____

Certification Type _____

Languages of Participants _____
(other than English)

Training for all Teachers Program applicants may not necessarily anticipate providing services to participants during the grant period. If this is the case indicate NA in the "anticipated participants" categories above.

PROJECT DOCUMENTATION

Note: Submit the appropriate documents and information as specified below for the following programs.

- Teachers and Personnel Grants Program
- Career Ladder Program
- Training for All Teachers Program

Section A

A copy of the applicant's transmittal letter requesting the appropriate State educational agency to comment on the application.

Section B

If applicable, identify on the line below the Empowerment Zone, Supplemental Zone, or Enterprise Community that the proposed project will serve.
(See the competitive priority and the list of designated Empowerment Zones in previous sections of this application package.)

_____

PROGRAM ASSURANCES

Note: The authorizing statute requires applicants under certain programs to provide assurances. These assurances are specified below under the relevant programs. If your application pertains to any of these programs, this form must be completed.

As the duly authorized representative of the applicant, I certify that the applicant, in regard to the program relevant to this application:

- Teachers and Personnel Grants
- Career Ladder Program
- Training for All Teachers

Will include, if applicable, as part of the project implementing a master's or doctoral-level program, a training practicum in a local school program serving children and youth of limited English proficiency.
(Authority: 20 U.S.C. 7426(g)(3)

Authorized Representative Signature:_____

OMB Approval No. 0348-0040

ASSURANCES- NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management, and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §§874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to

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EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of Authorized Certifying Official	Title
Applicant Organization	Date Submitted

SF 424 (4-88) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110–

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c)Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a. controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about-

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 600 Independence Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted-

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 600 Independence Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APP LICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OM
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action: ☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: ☐ a. bid/offer/application b. initial award c. post-award	3. Report Type: ☐ a. initial filing b. material change For Material Change Only: year _____ quarter ____ date of last report
4. Name and Address of Reporting Entity: ☐ Prime ☐ Subawardee Tier ____, *if known:* Congressional District, *if known:*	5. If Reporting Entity in No.4 is Subawardee, Enter Name and Address of Prime: Congressional District, *if known:*	
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable*:	
8. Federal Action Number, *if known:*	9. Award Amount, *if known:* $	
10. a. Name and Address of Lobbying ~~Entity~~ Registrant *(if individual, last name, first name, MI):*	b. Individuals Performing Services *(including address if different from No. 10a) (last name, first name, MI):*	
~~11. Amount of Payment *(check all that apply):*~~ ~~$ _____ ☐ actual ☐ planned~~	~~13. Type of Payment *(Check all that apply):*~~ ~~☐ a. retainer~~ ~~☐ b. one-time fee~~ ~~☐ c. commission~~ ~~☐ d. contingent fee~~ ~~☐ e. deferred~~ ~~☐ f. other; specify: _____~~	
~~12. Form of Payment *(check all that apply):*~~ ~~☐ a. cash~~ ~~☐ b. in-kind; specify: nature _____ value _____~~		
~~14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:~~ ~~*(attach Continuation Sheet(s) SF-LLL-A, if necessary)*~~		
~~15. Continuation Sheet(s) SF-LLL attached: ☐ Yes ☐ No~~		
16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date:	
Federal Use Only	Authorized for Local Reproduction Standard Form - LLL	

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. ~~Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate.~~ Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and conract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee" then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number, grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state, and zip code of the ~~lobbying entity~~ registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

~~11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this a material change report, enter the cumulative amount of payment made or planned to be made.~~

~~12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of in-kind payment.~~

~~13. Check the appropriate box(es). Check all boxes that apply. If other specify nature.~~

~~14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.~~

~~15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.~~

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

OMB Control No. 1801-0004 (Exp. 8/31/2001)

NOTICE TO ALL APPLICANTS

The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103-382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new grant awards under this program. **ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.**

(If this program is a State-formula grant program, a State needs to provide this description only for projects or activities that it carries out with funds reserved for State-level uses. In addition, local school districts or other eligible applicants that apply to the State for funding need to provide this description in their applications to the State for funding. The State would be responsible for ensuring that the school district or other local entity has submitted a sufficient section 427 statement as described below.)

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs.

This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single

narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with Section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement for GEPA Requirements

The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, DC 20202-4651.

General Education Provisions Act (GEPA) Requirement

Applicants should use this section to address the GEPA provision.

EXECUTIVE ORDER - INTERGOVERNMENTAL REVIEW

The Education Department General Administrative Regulations (EDGAR), 34 CFR 79, pertaining to intergovernmental review of Federal programs, apply to the program included in this application package.

Immediately upon receipt of this notice, all applicants, other than federally recognized Indian Tribal Governments, must contact the appropriate State Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform in more than one State should contact, immediately upon receipt of this notice, the Single Points of Contact for each State and follow the procedures established in those States under the Executive Order. A list containing the Single Point of Contact for each State is included in the application package for this program.

In States that have not established a process or chosen a program for review, State, area wide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments by a State Point of Contact and any comments from State, area wide, regional, and local entities must be mailed or hand-delivered by the date in the Program announcement for Intergovernmental Review to the following address:

The Secretary
E.O. 12372 - CFDA # 84.200
U.S. Department of Education, FB-10, Room 6213
600 Independence Avenue, SW
Washington, DC 20202

In those States that require review for this program, applications are to be submitted simultaneously to the State Review Process and the U.S. Department of Education.

Proof of mailing will be de determined on the same basis as applications.

Please note that the above address is not the same address as the one to which the applicant submits its completed application.

DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

STATE SINGLE POINTS OF CONTACT

ARIZONA

Ms. Janice Dunn
Arizona State Clearinghouse
3800 North Central Avenue
Fourteenth Floor
Phoenix, Arizona 85012
Telephone: (602) 280-1315

ARKANSAS

Ms. Tracie L. Copeland
Manager, State Clearinghouse
Office of Intergovernmental Service
Department of Finance and Administration
P.O. Box 3278
Little Rock, Arkansas 72203
Telephone: (501) 682-1074

CALIFORNIA

Mr. Glenn Staber
Grants Coordinator
Office of Panning & Research
1400 Tenth Street
Sacramento, California 95814
Telephone: (916) 323-7480

COLORADO

State Single Point of Contact
State Clearinghouse
Division of Local Government
1313 Sherman Street, Room 520
Denver, Colorado 80203
Telephone: (303) 866-2156

DELAWARE

Ms. Francine Booth
State Single Point of Contact
Executive Department
Thomas Collins Building
Dover, Delaware 19903
Telephone: (302) 739-3326

DISTRICT OF COLUMBIA

Mr. Rodney T. Hallman
State Single Point of Contact
Office of Grants Management & Development
717 14th St. N.W., Suite 500
Washington, DC 20005
Telephone: (202) 727-6551

FLORIDA

Florida State Clearinghouse
Intergovernmental Affairs Policy Unit
Executive Office of the Governor
Office of Planning & Budgeting
The Capitol
Tallahassee, Florida 32399-0001
Telephone: (904) 488-8114

GEORGIA

Charles H. Badger, Administrator
Georgia State Clearinghouse
270 Washington Street, S.W.
Room 534A
Atlanta, Georgia 30334
Telephone: (404) 656-3855

INDIANA

Ms. Jean S. Blackwell
Budget Director
State Budget Agency
212 State House
Indianapolis, Indiana 46204
Telephone: (317) 232-5610

IOWA

Mr. Steven R. McCann
Division for Community Progress
Iowa Department of Economic Development
200 East Grand Avenue
Des Moines, Iowa 50309
Telephone: (515) 281-3725

KENTUCKY

Mr. Ronald W. Cook
Office of the Governor
Department of Local Government
1024 Capitol Center Drive
Frankfort, Kentucky 40601
Telephone: (502) 564-2382

MAINE

State Single Point of Contact
Attn: Joyce Benson
State Planning Office
State House Station #38
Augusta, Maine 04333
Telephone: (207) 289-3261

CONNECTICUT

Mr. William T. Quigg
Intergovernmental Review Coordinator
State Single Point of Contact
Office of Policy and Management
Intergovernmental Policy Division
80 Washington Street
Hartford, Connecticut 06106-4459
Telephone: (203) 566-3410

ILLINOIS

Mr. Steve Klokkenga
State Single Point of Contact
Office of the Governor
State of Illinois
107 Stratton Building
Springfield, Illinois 62706
Telephone: (217) 782-1671

MARYLAND

Mary Abrams, Chief
Maryland State Clearinghouse
Department of State Planning
301 West Preston Street
Baltimore, Maryland 21201
Telephone: (301) 225-4490

* In accordance with Executive Order #12372, "Intergovernmental Review Process," this listing represents the designated State Single Points of Contact. Upon request, a background document explaining the Executive Order is available. The Office of Management and Budget point of contact for updating this listing is: Donna Rivelli (202) 395-5090. The States not listed no longer participate in the process. These include: Alabama; Alaska; Kansas; Hawaii; Idaho; Louisiana; Minnesota; Montana; Nebraska; Oklahoma; Oregon; Pennsylvania; Virginia; and Washington. This list is based on the most current information provided by the States. Information on any changes or apparent errors should be provided to the Office of Management and Budget and the State in question. Changes to the list will be made only upon formal notification by the State.

MASSACHUSETTS

Ms. Karen Arone
State Clearinghouse
Executive Office of Communities and Development
100 Cambridge Street, Room 1803
Boston, Massachusetts 02202
Telephone: (617) 727-7001

MICHIGAN

Richard S. Pastula
Director
Michigan Department of Commerce
Office of Federal Grants
P.O. Box 30225
Lansing, Michigan 48909
Telephone: (517) 373-7356

MISSISSIPPI

Ms. Cathy Mallette
Clearinghouse Officer
Office of Federal Grant Management and Reporting
Department of Finance and Administration
301 West Pearl Street
Jackson, Mississippi 39203
Telephone: (601) 949-2174

NEW HAMPSHIRE

Mr. Jeffrey H. Taylor, Director
New Hampshire Office of State Planning
Attn: Intergovernmental Review Process/James E. Bieber
2 1/2 Beacon Street
Concord, New Hampshire 03301
Telephone: (603) 271-2155

NEW JERSEY

Gregory W. Adkins, Acting Director
Division of Community Resources
New Jersey Department of Community Affairs

Please direct all correspondence and questions about intergovernmental review to:
Andrew Jaskolka
State Review Process
Division of Community Resources
CN 814, Room 609
Trenton, New Jersey 08625-0814
Telephone: (609) 292-9025

NEW MEXICO

Mr. George Elliott
Deputy Director
State Budget Division
Rm 190, Bataan Memorial Building
Santa Fe, New Mexico 87503
Telephone: (505) 827-3640

NORTH DAKOTA

North Dakota State Single Point of Contact
Office of Intergovernmental Assistance
Office of Management & Budget
600 East Boulevard Avenue
Bismarck, N. Dakota 58505-0170
Telephone: (701) 224-2094

OHIO

Mr. Larry Weaver
State Single Point of Contact
State\Federal Funds Coordinator
State Clearinghouse
Office of Budget & Management
30 East Broad Street, 34th Floor
Columbus, OH 43266-0411
Telephone: (614) 466-0698

RHODE ISLAND

Mr. Daniel W. Varin
Associate Director
Statewide Planning Program
Department of Administration
Division of Planning
265 Melrose Street
Providence, Rhode Island 02907
Telephone: (401) 277-2656

Please direct correspondence and questions to :
Review Coordinator
Office of Strategic Planning

MISSOURI

Ms. Lois Pohl
Federal Assistance Clearinghouse
Office of Administration
P.O. Box 809
Room 430, Truman Building
Jefferson City, Missouri 65102
Telephone: (314) 751-4834

NEVADA

Department of Administration
State Clearinghouse
Capitol Complex
Carson City, Nevada 89710
Attn: Ron Sparks
Clearinghouse Coordinator
Telephone: (702) 687-4065

NEW YORK

New York State Clearinghouse
Division of the Budget
State Capitol
Albany, New York 12224
Telephone: (518) 474-1605

NORTH CAROLINA

Mrs. Chrys Baggett, Director
Office of the Secretary of Admin.
N.C. State Clearinghouse
116 West Jones Street
Raleigh, N. Carolina 27603-8003
Telephone: (919) 733-7232

SOUTH CAROLINA

Ms. Omeagia Burgess
State Single Point of Contact
Grant Services
Office of the Governor, Room 477
1205 Pendleton Street
Columbia, South Carolina 29201
Telephone: (803) 734-0494

SOUTH DAKOTA

Ms. Susan Comer
State Clearinghouse Coordinator
Office of the Governor
500 East Capitol
Pierre, South Dakota 57501
Telephone: (605) 773-3212

TERRITORIES

TENNESSEE

Mr. Charles Brown
State Single Point of Contact
State Planning Office
500 Charlotte Avenue
309 John Sevier Building
Nashville, Tennessee 37219
Telephone: (615) 741-1676

TEXAS

Mr. Tom Adams
Governor's Office of Budget and Planning
P.O. Box 12428
Austin, Texas 78711
Telephone: (512) 463-1778

UTAH

Utah State Clearinghouse
Office of Planning and Budget
Attn: Ms. Carolyn Wright
Room 116, State Capitol
Salt Lake City, Utah 84114
Telephone: (801) 538-1535

VERMONT

Mr. Bernard D. Johnson
Assistant Director
Office of Policy Research and Coordination
Pavilion Office Building
109 State Street
Montpelier, Vermont 05602
Telephone: (802) 828-3326

WEST VIRGINIA

Mr. Fred Cutlip
Director
Community Development Division
West Virginia Development Office
Building #6, Room 553
Charleston, West Virginia 25305
Telephone: (304) 348-4010

WISCONSIN

Mr. William C. Carey, Section Chief
Federal/State Relations Office
Wisconsin Department of Administration
101 South Webster Street
P.O. Box 7864
Madison, Wisconsin 53707
Telephone: (608) 266-0267

WYOMING

Ms. Sheryl Jeffries
State Single Point of Contact
Herschler Building
4th Floor, East Wing
Cheyenne, Wyoming 82002
Telephone: (307) 777-7574

GUAM

Mr. Michael J. Reidy, Director
Bureau of Budget and Management Research
Office of the Governor
P.O. Box 2950
Agana, Guam 96910
Telephone: (671) 472-2285

NORTHERN MARIANA ISLANDS

State Single Point of Contact
Planning and Budget Office
Office of the Governor
Saipan, CM
Northern Mariana Islands 96950

PUERTO RICO

Norma Burgos/Jose E. Caro
Chairman/Director
Puerto Rico Planning Board
Minillas Government Center
P.O. Box 41119
San Juan, Puerto Rico 00940-9985
Telephone: (809) 727-4444

VIRGIN ISLANDS

Mr. Jose George, Director
Office of Management & Budget
#41 Norregade Emancipation Garden Station, Second Floor
St. Thomas, Virgin Islands 00802

Please direct correspondence to:
Linda Clarke
Telephone: (809) 774-0750

[FR Doc. 99–1863 Filed 1–26–99; 8:45 am]
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Federal Register

Wednesday
January 27, 1999

Part IV

Department of Education

Bilingual Education: Career Ladder Program; Inviting Applications for New Awards for Fiscal Year 1999; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.195E]

Bilingual Education: Career Ladder Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1999.

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and the applicable regulations governing this program, including the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions needed to apply for a grant under this program.

Purpose of Program: This program provides grants to upgrade the qualifications and skills of noncertified educational personnel, especially educational paraprofessionals, to meet high professional standards, including certification and licensure as bilingual teachers and other educational personnel who serve limited English proficient students, and to help recruit and train secondary students as bilingual education teachers and other educational personnel to serve limited English proficient students.

Eligible Applicants: (1) One or more institutions of higher education (IHEs) that have entered into consortia arrangements with local educational agencies (LEAs) or State educational agencies (SEAs), to achieve the purposes of this section. Consortia may include community-based organizations or professional education organizations.

Deadline for Transmittal of Applications: February 27, 1999.

Deadline for Intergovernmental Review: April 26, 1999.

Available Funds: $9.7 million.

Estimated Range of Awards: $150,000–$250,000.

Estimated Average Size of Awards: $200,000.

Estimated Number of Awards: 49.

Note: The Department of Education is not bound by any estimates in this notice.

Project Period: 60 Months.

Applicable Regulations:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

Description of Program:

The statutory authorization for this program, and the application requirements that apply to this competition, are set out in sections 7144 and 7146–7150 of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act of 1994 (Pub. L. 103–382, enacted October 20, 1994) (the Act) (20 U.S.C. 7474 and 7476–7480).

Funds under this program may be used to provide for the development of bilingual education career ladder program curricula appropriate to the needs of consortia participants; assistance for stipends and costs related to tuition fees and books for coursework required to complete degree and certification requirements for bilingual education teachers; and programs to introduce secondary school students to careers in bilingual education teaching that are coordinated with other activities assisted under this program. Activities conducted under this program must assist educational personnel in meeting State and local certification requirements for bilingual education and, wherever possible, must lead to the awarding of college or university credit.

Priorities

Competitive Priority 1: The Secretary, under 34 CFR 75.105(c)(2)(i) and 299.3(b), gives preference to applications that meet the following competitive priority. The Secretary awards up to 3 points for an application that meets this competitive priority. These points are in addition to any points the application earns under the selection criteria for the program:

Projects that will contribute to a systemic educational reform in an Empowerment Zone, including a Supplemental Empowerment Zone, or an Enterprise Community designated by the United States Department of Housing and Urban Development or the United States Department of Agriculture, and are made an integral part of the Zone's or Community's comprehensive community revitalization strategies.

Note: A list of areas that have been designated as Empowerment Zones and Enterprise Communities is provided in the appendix to this notice.

Competitive Priority 2: Under 34 CFR 75.105 (c)(2)(ii) and section 7144(d) of the Act, the Secretary gives a competitive preference to applications that meet the following priority:

Applications that propose to provide for participant completion of baccalaureate and master's degree teacher education programs, and certification requirements and may include effective employment placement activities; the development of teacher proficiency in English as a second language, including demonstrating proficiency in the instructional use of English and, as appropriate, a second language in classroom contexts; coordination with programs for the recruitment and retention of bilingual students in secondary and postsecondary programs training to become bilingual educators; and the applicant's contribution of additional student financial aid to participating students.

The Secretary selects applications that meet this priority over applications of comparable merit which do not meet the priority.

Invitational Priorities

The Secretary is particularly interested in applications that meet the following invitational priority. However, an application that meets this invitational priority receives no competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Applicants which propose to collaborate with 2-year institutions of higher education to develop or improve teacher preparation programs for bilingual paraprofessionals.

Selection Criteria

(a)(1) The Secretary uses the following selection criteria in 34 CFR 75.210 to evaluate applications for new grants under this competition.

(2) The maximum score for all of these criteria is 100 points.

(3) The maximum score for each criterion is indicated in parentheses.

(a) *Need for project.* (10 points) (1) The Secretary considers the need for the proposed project.

(2) In determining the need for the proposed project, the Secretary considers the following factors:

(i) The magnitude or severity of the problem to be addressed by the proposed project.

(ii) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and the magnitude of those gaps or weaknesses.

(b) *Quality of the project design.* (55 points) (1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(iii) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance.

(iv) The extent to which the proposed activities constitute a coherent, sustained program of training in the field.

(v) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice.

(vi) The extent to which the proposed project will be coordinated with similar or related efforts, and with other appropriate community, State, and Federal resources.

(vii) The extent to which the proposed project is part of a comprehensive effort to improve teaching and learning and support rigorous academic standards for students.

(viii) The extent to which fellowship recipients or other project participants are to be selected on the basis of academic excellence.

(c) *Quality of project services.* (10 points) (1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(d) *Quality of project personnel.* (5 points) (1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the qualifications, including relevant training and experience, of key project personnel.

(e) *Quality of the management plan.* (5 points) (1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(f) *Quality of the project evaluation.* (15 points) (1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies.

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR Part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive Order. If you want to know the name and address of any State Single Point of Contact, see the list published in the **Federal Register** on November 3, 1998 (63 FR 59452 through 59455).

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA# 84.195E, U.S. Department of Education, Room 6213, 400 Maryland Avenue, SW., Washington, D.C. 20202–0124.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, D.C. time) on the date indicated in this notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. Do not send applications to the above address.

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.195E), Washington, D.C. 20202–4725,

or

(2) Hand-deliver the original and two copies of the application by 4:30 p.m. (Washington, D.C. time) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.195E), Room #3633, Regional Office Building #3, 7 Th and D Streets, SW., Washington, D.C.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an

applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9495.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number and suffix letter, if any, of the competition under which the application is being submitted.

Application Instructions and Forms

The appendix to this notice is divided into three parts, plus a statement regarding estimated public reporting burden, a notice to applicants regarding compliance with Section 427 of the General Education Provisions Act, questions and answers on this program (located at the end of the notice) and various assurances, certifications, and required documentation. These parts and additional materials are organized in the same manner that the submitted application should be organized. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

Part II: Budget Information—Non-Construction Programs (ED Form No. 524) and instructions.

Part III: Application Narrative.

Additional Materials

a. Estimated Public Reporting Burden.
b. Group Application Certification.
c. Participant Data.
d. Project Documentation.
e. Program Assurances.
f. Assurances—Non-Construction Programs (Standard Form 424B) and instructions.
g. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and instructions.
h. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions.

(Note: This form is intended for the use of grantees and should not be transmitted to the Department.)

i. Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions. The document has been marked to reflect statutory changes. See the notice published by the Office of Management and Budget in the **Federal Register** (61 FR 1413) on (January 19, 1996).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. All applicants must submit *ONE* original signed application, including ink signatures on all forms and assurances, and *two* copies of the application. Please mark each application as ''original'' or ''copy''. No grant may be awarded unless a completed application has been received.

FOR FURTHER INFORMATION CONTACT: Carol Manitaras (202)205–9729 or Sue Kenworthy (202)205–9839, U.S. Department of Education, 400 Maryland Avenue, SW., Room 5090, Switzer Building, Washington, D.C. 20202–6510. 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.

Individuals with disabilities may obtain this notice in an alternate format (e.g., braille, large print, audiotape, or computer diskette) on request to the contact persons listed in the preceding paragraph. Please note, however, that the Department is not able to reproduce in an alternate format the standard forms included in the notice.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the Federal Register, in text or portable document format (pfd) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm

http://www.ed.gov/news.html

To use the pfd you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the preceding sites. If you have questions about using the pfd, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these 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 this document is the document published in the **Federal Register**.

Program Authority: 20 U.S.C. 7474.

Dated: January 22, 1999.

Art Love,

Acting Deputy Director, Office of Bilingual Education and Minority Languages Affairs.

Instructions for Estimated Public Reporting Burden

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB No. 1885–0542, Exp. Date: 12/31/00. The time required to complete this information collection is estimated to average 120 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. *If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to:* U.S. Department of Education, Washington, D.C. 20202–4651. *If you have any comments or concerns regarding the status of your individual submission of this form, write directly to:* Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202–6510.

The following forms and other items must be included in the application:

☐ 1. Application for Federal Assistance (SF 424)
☐ 2. Group Application Certification (if applicable)
☐ 3. Budget Information (ED Form No. 524)
☐ 4. Itemized Budget for each year (attached to ED Form No. 524)
☐ 5. Participant Data—approximate number of participants to be served each year.
☐ 6. Project Documentation
Section A—Copy of Transmittal Letter to SEA requesting SEA to comment on application
Section B—Documentation of Empowerment Zone or Enterprise Community—if applicable
☐ 7. Program Assurances
☐ 8. Non-Construction Programs (SF 424B)
☐ 9. Certifications Regarding Lobbying; Debarment Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013)
☐ 10. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (ED 80–0014)
☐ 11. Disclosure of Lobbying Activities (SF–LLL)
☐ 12. Notice to all Applicants (See form provided below)

☐ 13. Table of Contents
☐ 14. One-page single-spaced abstract
☐ 15. Application narrative (Not to exceed 30 double-spaced pages, see instructions below)
☐ 16. One original and three copies of the application for transmittal to the Department's Application Control Center

Mandatory Page Limits for the Application Narrative

The narrative is the section of the application where you address the selection criteria used by reviewers in evaluating the application. You must limit the narrative to the equivalent of no more than 30 pages, using the following standards:

(1) A page is 8.5″ × 11″, on one side only with 1″ margins at the top, bottom, and both sides.

(2) You must double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables figures and graphs.

If you use a proportional computer font, you may not use a font smaller than a 12-point font. If you use a non-proportional font or a typewriter, you may not use more than 12 characters per inch.

The page limit does not apply to the Application for Federal Assistance Form (ED 424); the Budget Information Form (ED 524) and attached itemization of costs; the other application forms and attachments to those forms; the assurances and certifications; or the one-page abstract and table of contents. The page limit applies only to item 15 in the Checklist for Applicants provided above.

IF, IN ORDER TO MEET THE PAGE LIMIT, YOU USE PRINT SIZE, SPACING, OR MARGINS SMALLER THAN THE STANDARD SPECIFIED IN THIS NOTICE, YOUR APPLICATION WILL NOT BE CONSIDERED FOR FUNDING.

Application Narrative and Abstract

The narrative should address fully all aspects of the selection criteria in the order listed and should give detailed information regarding each criterion. Do not simply paraphrase the criteria. Provide position descriptions for key personnel. This package includes non-regulatory guidance (Questions and Answers) to assist you in preparing the narrative portion of your application. Prepare a one-page single-spaced abstract which summarizes the proposed project activities, the expected outcomes, and how the application addresses the invitational priority, if applicable.

Budget

Budget line items must support the goals and objectives of the proposed project and be directly applicable to the program design and all other project components. Prepare an itemized budget for each year of requested funding. Indirect costs for institutions of higher education which are the fiscal agents for Career Ladder Programs are limited to the lower of either 8% of a modified total direct cost base or the institution for higher education's actual indirect cost agreement. A modified direct cost base is defined as total direct costs less stipends, tuition and related fees and capital expenditures of $5,000 or more. In describing student support costs for tuition and fees from costs for stipends.

Final Application Preparation

Use the above checklist to verify that all items are addressed. Prepare one original with an original signature, and include three additional copies. Do not use elaborate bindings or covers. The application package must be mailed to the Application Control Center (ACC) and postmarked by the deadline date of February 23, 1999.

Submission of Application to State Educational Agency

Section 7146(a)(4) of the Act (Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act of 1994, Pub. L. 103–382) requires all applicants except schools funded by the Bureau of Indian Affairs to submit a copy of their application to their State educational agency (SEA) for review and comment (20 U.S.C. 7476(a)(4)). Section 75.156 of the Education Department General Administrative Regulations (EDGAR) requires these applicants to submit their application to the SEA on or before the deadline date for submitting their application to the Department of Education. This section of EDGAR also requires applicants to attach to their application a copy of their letter that requests the SEA to comment on the application (34 CFR 75.156). A copy of this letter should be attached to the Project Documentation Form contained in this application package.

Applicants that do not submit a copy of their application to their SEA will not be considered for funding.

Questions and Answers

Does the Career Ladder Program have specific evaluation requirements?

Yes, the evaluation requirements are described in Section 7149 of Title VII of ESEA, 20 U.S.C. 7479.

What requirements must grantees meet related to teacher certification?

The Title VII statute requires grantees to assist educational personnel in meeting State and local certification requirements. 20 U.S.C. 7477. However, because certification requirements vary among States, applicants are given flexibility in designing activities that lead to meeting State and local certification requirements.

May program budgets include costs for items other than student tuition and fees?

Project budgets should reflect the proposed program activities. In addition to student support costs, budget items may include costs for personnel, supplies or equipment, and other reasonable and necessary costs to support developmental activities.

What information may be helpful in preparing the application narrative for a Career Ladder Program?

In responding to the selection criteria applicants may wish to consider the following questions as a guide for preparing application narrative.

- What are the specific responsibilities of districts, schools, institutions of higher education and other partnership organizations in planning, implementing and evaluating the proposed program? How is the program linked to the school district's overall professional development plan?
- What resources and support will each of the consortia members provide? How will resources be integrated to ensure maximum effectiveness of the program and to promote capacity building and long-range collaboration?
- How does the training curricula reflect high standards for pedagogy, content, and proficiency in English and a second language to ensure that participants are effectively prepared to provide instruction and support to LEP students?
- How will the program assist in systemically reforming policies and practices in the target schools and in the IHE related to the preparation of new teachers, the induction of new bilingual teachers, clinical experiences for new bilingual teachers and other educational personnel, or professional development opportunities for all teachers?
- What special selection criteria will the applicant adopt to ensure that individuals selected to participate in the program hold promise for successfully completing program requirements?
- What special support will be provided to participants by experienced bilingual teachers, higher education

faculty, and school administrators to guide them during their period of induction?

- How will the instructional responsibilities of participants be balanced with appropriate professional development, support and planning time?
- How will clinical experiences for preservice participants be structured to ensure that they are well-supervised, of sufficient duration and in a setting which provides opportunities for participants to experience a variety of effective bilingual education instructional methods and approaches?
- How is the training curriculum based on current research related to effective teaching and learning? What evidence of effectiveness supports the training model?
- What performance indicators will the proposed program use to support the effectiveness of the program related to, for example: improved teaching practices; participants' effectiveness in the instructional setting; improved performance on National or State benchmark tests; reduction in the number of new bilingual teachers leaving the profession; improvement of graduation rates?
- How will the program evaluation incorporate strategies for assessing the progress and performance of participants; communicating meaningful, regular and timely feedback to participants; improving the quality of the training program; documenting and identifying exemplary program features and successful strategies; and reporting on specific data related to the number of participants completing the program and the number of graduates placed in the instructional setting?

In addition, applicants may wish to consider the Department of Education Professional Development Principles in planning a Career Ladder Program

The following are the professional development principles:

- Focuses on teachers as central to student learning, yet includes all other members of the school community;
- Focuses on individual, collegial and organizational improvement;
- Respects and nurtures the intellectual and leadership capacity of teachers, principals, and others in the school community;
- Reflects best available research and practice in teaching, learning, and leadership; enables teachers to develop further expertise in subject content, teaching strategies, uses of technologies, and other essential elements in teaching to high standards;
- Promotes continuous inquiry and improvement embedded in the daily life of schools;
- Is planned collaboratively by those who will participate in and facilitate that development;
- Requires substantial time and other resources;
- Is driven by a coherent long-term plan;
- Is evaluated ultimately on the basis of its impact on teacher effectiveness and student learning; and uses this assessment to guide subsequent professional development efforts.

What other information may be helpful in applying for a Career Ladder Program?

Applicants are reminded that they must submit a copy of their application to the SEA for review and comment. In addition, applicants must submit a copy of their application to the State Single Point of Contact to satisfy the requirements of Executive Order 12372. The SEA review requirement and the requirements for Executive Order 12372 are two separate requirements.

BILLING CODE 4000–01–P

Application for Federal Education Assistance

U.S. Department of Education

Form Approved
OMB No. 1875-0106
Exp. 06/30/2001

Applicant Information

1. Name and Address

Legal Name:

Address:

City | State | County | ZIP Code

Organizational Unit

2. Applicant's D-U-N-S Number

3. Catalog of Federal Domestic Assistance #: 8 4 1 9 5 E → Title: Bilingual Education: Career Ladder Program

4. Project Director:

Address:

City | State | ZIP Code

Tel. #: ( ) - Fax #: ( ) -

E-Mail Address:

5. Is the applicant delinquent on any Federal debt? ☐ Yes ☐ No
(If "Yes," attach an explanation.)

6. Type of Applicant *(Enter appropriate letter in the box.)*

A State	H Independent School District
B County	I Public College or University
C Municipal	J Private, Non-Profit College or University
D Township	K Indian Tribe
E Interstate	L Individual
F Intermunicipal	M Private, Profit-Making Organization
G Special District	N Other *(Specify)*:

7. Novice Applicant ☐ Yes ☐ No

Application Information

8. Type of Submission:

—*PreApplication*	—*Application*
☐ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

9. Is application subject to review by Executive Order 12372 process?

Yes *(Date made available to the Executive Order 12372 process for review):* ___/___/___

No *(If "No," check appropriate box below.)*

☐ Program is not covered by E.O. 12372.

☐ Program has not been selected by State for review.

10. Proposed Project Dates: Start Date: ___/___/___ End Date: ___/___/___

11. Are any research activities involving human subjects planned at any time during the proposed project period? ☐ Yes ☐ No

a. If "Yes," Exemption(s) #:

OR

b. Assurance of Compliance #:

c. IRB approval date: ___ ☐ Full IRB or ☐ Expedited Review

12. Descriptive Title of Applicant's Project:

Estimated Funding

13a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

Authorized Representative Information

14. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Typed Name of Authorized Representative

b. Title

c. Tel. #: ( ) - Fax #: ( ) -

d. E-Mail Address:

e. Signature of Authorized Representative | Date:

2 —

Instructions for ED 424

1. **Legal Name and Address.** Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. **D-U-N-S Number.** Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505 or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: **http://www.dnb.com/dbis/aboutdb/intlduns.htm.**

3. **Catalog of Federal Domestic Assistance (CFDA) Number.** Enter the CFDA number and title of the program under which assistance is requested.

4. **Project Director.** Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

5. **Federal Debt Delinquency.** Check **"Yes"** if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check **"No."**

6. **Type of Applicant.** Enter the appropriate letter in the box provided.

7. **Novice Applicant.** Check **"Yes"** only if assistance is being requested under a program that gives special consideration to novice applicants and you meet the program requirements for novice applicants. By checking "Yes" the applicant certifies that it meets the novice applicant requirements specified by ED. Otherwise, check **"No."**

8. **Type of Submission.** Self-explanatory.

9. **Executive Order 12372.** Check **"Yes"** if the application is subject to review by Executive Order 12372. Also, please enter the month, date, and four (4) digit year (e.g., 12/12/2000). Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. Otherwise, check **"No."**

10. **Proposed Project Dates.** Please enter the month, date, and four (4) digit year (e.g., 12/12/2000).

11. **Human Subjects.** If research activities involving human subjects are **not** planned **at any time** during the proposed project period, check **"No."** The remaining parts of item 11 are then not applicable.

    If research activities involving human subjects, whether or not exempt from Federal regulations for the protection of human subjects, **are** planned **at any time** during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution, check **"Yes."** If the research activities are designated to be exempt under the regulations, enter, in item 11a, the exemption number(s) corresponding to one or more of the six exemption categories listed in **"PROTECTION OF HUMAN SUBJECTS IN RESEARCH"** attached to this form. Provide sufficient information in the application to allow a determination that the designated exemptions are appropriate.

    If the planned research activities involving human subjects are covered (not exempt), complete the remaining parts of item 11 and follow the instructions in **"PROTECTION OF HUMAN SUBJECTS IN RESEARCH"** attached to this form. If the applicant organization has an approved Multiple Project Assurance of Compliance on file with the Grants Policy and Oversight Staff (GPOS), U.S. Department of Education, or with the Office for Protection from Research Risks (OPRR), National Institutes of Health, U.S. Department of Health and Human Services, that covers the specific activity, enter the Assurance number in item 11b and the date of approval by the Institutional Review Board (IRB) of the proposed activities in item 11c. This date must be no earlier than one year before the receipt date for which the application is submitted and must include the four (4) digit year (e.g., 2000). Check the type of IRB review in the appropriate box. An IRB may review an application through an expedited review procedure only if it complies with Section 97.110 of the human subjects regulations 34 CFR 97. If the IRB review is unavoidably delayed beyond the submission of the application, enter **"Pending"** in item 11c. A follow-up certification of IRB approval from an official signing for the applicant organization must then be sent to and received by the designated ED official. The certification must be received within 30 days of a specific formal request from the designated ED official. The certification must include: the PR Award number, title of the project from item #12, name of the principal investigator, project director, fellow, or other, institution, Multiple Assurance number, date of IRB approval, and appropriate signatures.

    If the applicant organization does not have on file with GPOS or OPRR an approved Assurance of Compliance that covers the proposed research activity, enter **"None"** in item 11b. In this case, the applicant organization, by the signature on the application, is declaring that it will comply with 34 CFR 97 within 30 days of a specific formal request from the designated ED official.

    For additional instructions regarding proposals that involve human subjects research see, **"PROTECTION OF HUMAN SUBJECTS IN RESEARCH"** attached to this form.

12. **Project Title.** Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

13. **Estimated Funding.** Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate **only** the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 13.

14. **Certification.** To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office.

    Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 14e, please enter the month, date, and four (4) digit year (e.g., 12/12/2000) in the date signed field.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1875-0106**. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

PROTECTION OF HUMAN SUBJECTS IN RESEARCH (Attachment to ED 424)

I. Instructions to Applicants if Research Activities Involving Human Subjects are Planned

If you marked item 11 on the application "Yes" and designated exemptions from the human subjects regulations, provide sufficient information in the application to allow a determination that the designated exemptions are appropriate. Research involving human subjects that is exempt from the regulations is discussed under **II.B. "Exemptions,"** below.

If you marked "Yes" to item 11 on the Face Page, and designated no exemptions from the regulations, address the following six points. In addition, if research involving human subjects will take place at collaborating site(s) or other performance site(s), provide this information before discussing the six points. Although no specific page limitation applies to this section of the application, be succinct. Be sure to provide this information on a separate page(s) entitled "Protection of Human Subjects Attachment."

(1) Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable.

(2) Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

II. Information on Research Activities Involving Human Subjects

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Is it a research activity?

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." *If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, such as an exploratory study or the collection of data to test a hypothesis, it is research.* Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Is it a human subject?

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." *(1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met.* [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of *exemptions* are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. ***If the subjects are children, this exemption applies only to research involving educational tests or observations of public behavior when the investigator(s) do not participate in the activities being observed.*** [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S Department of Agriculture.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff (GPOS) Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, Washington, D.C., telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://ocfo.ed.gov/humansub.htm.

GROUP APPLICATION CERTIFICATION

NOTE: This form must be completed by eligible parties applying as a group for a grant. This form must be accompanied by a group agreement that details the activities that each member of the group plans to perform under the grant.

(34 CFR 75.128(b)-(c)).

To the best of my knowledge and belief, all data in this application are true and correct. I agree to be bound to every statement and assurance made in this application.

Authorized Representative					
Typed Name	Title	Signature	Date Signed	Telephone Number (including Area Code)	Name of Institution/ Organization

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control No. 1880--0538

Expiration Date: 10/31/99

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED FORM NO. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington, D.C. 20503.

INSTRUCTIONS FOR ED FORM NO. 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

PARTICIPANT DATA

Note: This form must be completed by applicants under the following programs:

- Teachers and Personnel Grants Program
- Career Ladder Program
- Training for all Teachers Program

Estimated number of anticipated participants in each of the following three categories per year

Preservice Teachers _____

Inservice Teachers _____

Other Type of Educational Personnel _____
(Specify type below)

_____

_____

Degree level (if applicable) _____

Certification Type _____

Languages of Participants _____
(other than English)

Training for all Teachers Program applicants may not necessarily anticipate providing services to participants during the grant period. If this is the case indicate NA in the "anticipated participants" categories above.

PROJECT DOCUMENTATION

Note: Submit the appropriate documents and information as specified below for the following programs.

- Teachers and Personnel Grants Program
- Career Ladder Program
- Training for All Teachers Program

Section A

A copy of the applicant's transmittal letter requesting the appropriate State educational agency to comment on the application.

Section B

If applicable, identify on the line below the Empowerment Zone, Supplemental Zone, or Enterprise Community that the proposed project will serve.
(See the competitive priority and the list of designated Empowerment Zones in previous sections of this application package.)

_____

PROGRAM ASSURANCES

Note: The authorizing statute requires applicants under certain programs to provide assurances. These assurances are specified below under the relevant programs. If your application pertains to any of these programs, this form must be completed.

As the duly authorized representative of the applicant, I certify that the applicant, in regard to the program relevant to this application:

- Teachers and Personnel Grants
- Career Ladder Program
- Training for All Teachers

Will include, if applicable, as part of the project implementing a master's or doctoral-level program, a training practicum in a local school program serving children and youth of limited English proficiency.
(Authority: 20 U.S.C. 7426(g)(3)

Authorized Representative Signature:_____

OMB Approval No. 0348-0040

ASSURANCES- NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management, and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §§874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to

EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of Authorized Certifying Official	Title
Applicant Organization	Date Submitted

SF 424 (4-88) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 55, Sections 85.105 and 85.110—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c)Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about-

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 600 Independence Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted-

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE
(GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 600 Independence Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APP LICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action: ☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: ☐ a. bid/offer/application b. initial award c. post-award	3. Report Type: ☐ a. initial filing b. material change For Material Change Only: year _____ quarter ____ date of last report

4. Name and Address of Reporting Entity: ☐ Prime ☐ Subawardee Tier ____, *if known:* Congressional District, *if known:*	5. If Reporting Entity in No.4 is Subawardee, Enter Name and Address of Prime: Congressional District, *if known:*
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable*:
8. Federal Action Number, *if known:*	9. Award Amount, *if known:* $
10. a. Name and Address of Lobbying Entity Registrant *(if individual, last name, first name, MI):*	b. Individuals Performing Services *(including address if different from No. 10a) (last name, first name, MI):*
~~11. Amount of Payment *(check all that apply):*~~ ~~$ _____ ☐ actual ☐ planned~~ ~~12. Form of Payment *(check all that apply):*~~ ~~☐ a. cash~~ ~~☐ b. in-kind; specify: nature _____ value _____~~	~~13. Type of Payment *(Check all that apply):*~~ ~~☐ a. retainer~~ ~~☐ b. one-time fee~~ ~~☐ c. commission~~ ~~☐ d. contingent fee~~ ~~○ e. deferred~~ ~~☐ f. other; specify: _____~~

~~14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:~~

_____
~~(attach Continuation Sheet(s) SF-LLL-A, if necessary)~~

~~15. Continuation Sheet(s) SF-LLL attached: ☐ Yes ☐ No~~

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date:
Federal Use Only	Authorized for Local Reproduction Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. ~~Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate.~~ Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and conract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee" then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number, grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state, and zip code of the ~~lobbying entity~~ registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

~~11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this a material change report, enter the cumulative amount of payment made or planned to be made.~~

~~12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of in-kind payment.~~

~~13. Check the appropriate box(es). Check all boxes that apply. If other specify nature.~~

~~14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.~~

~~15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.~~

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

OMB Control No. 1801-0004 (Exp. 8/31/2001)

NOTICE TO ALL APPLICANTS

The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103-382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new grant awards under this program. **ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.**

(If this program is a State-formula grant program, a State needs to provide this description only for projects or activities that it carries out with funds reserved for State-level uses. In addition, local school districts or other eligible applicants that apply to the State for funding need to provide this description in their applications to the State for funding. The State would be responsible for ensuring that the school district or other local entity has submitted a sufficient section 427 statement as described below.)

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs.

This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single

narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with Section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

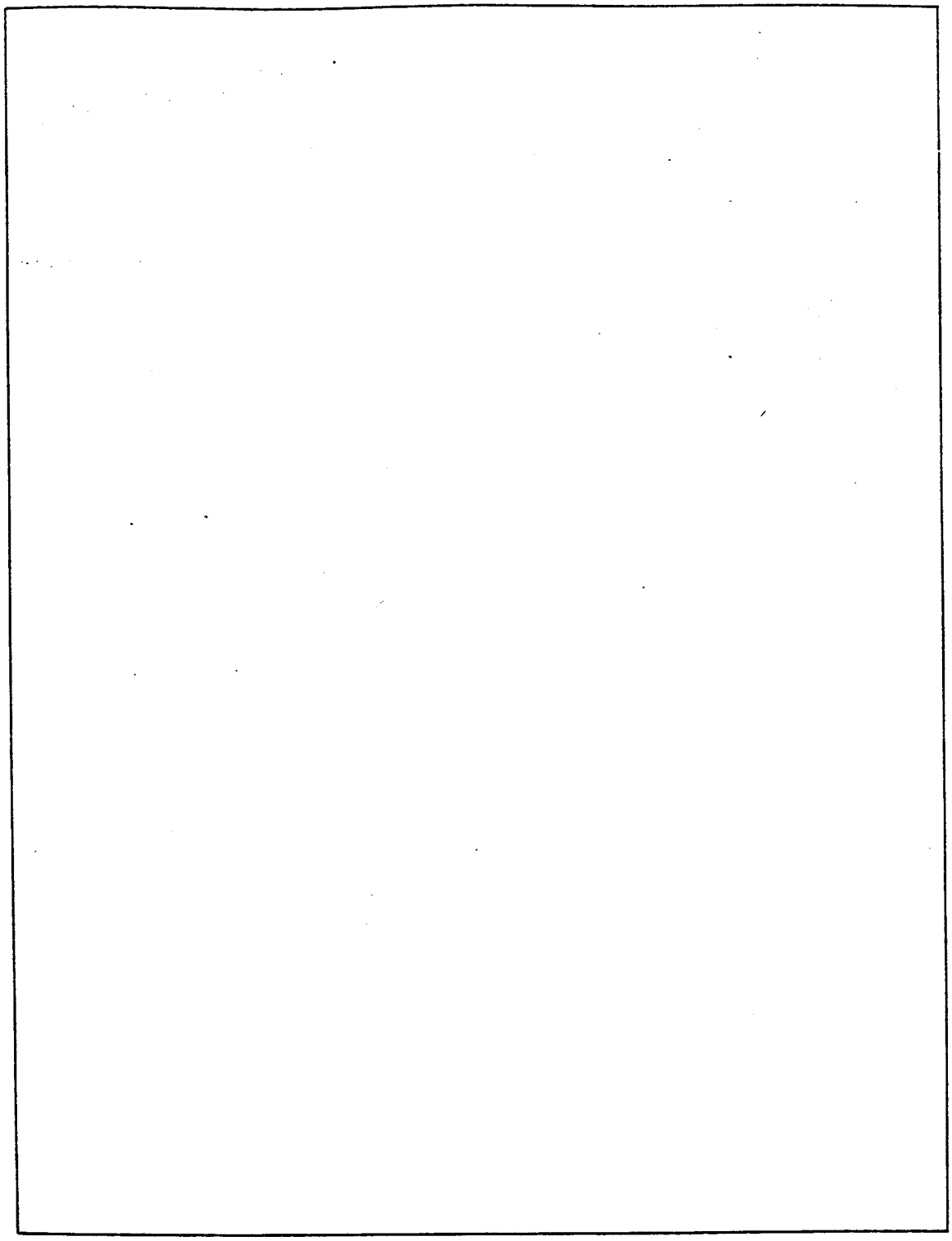
We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement for GEPA Requirements

The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, DC 20202-4651.

General Education Provisions Act (GEPA) Requirement

Applicants should use this section to address the GEPA provision.



EXECUTIVE ORDER - INTERGOVERNMENTAL REVIEW

The Education Department General Administrative Regulations (EDGAR), 34 CFR 79, pertaining to intergovernmental review of Federal programs, apply to the program included in this application package.

Immediately upon receipt of this notice, all applicants, other than federally recognized Indian Tribal Governments, must contact the appropriate State Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform in more than one State should contact, immediately upon receipt of this notice, the Single Points of Contact for each State and follow the procedures established in those States under the Executive Order. A list containing the Single Point of Contact for each State is included in the application package for this program.

In States that have not established a process or chosen a program for review, State, area wide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments by a State Point of Contact and any comments from State, area wide, regional, and local entities must be mailed or hand-delivered by the date in the Program announcement for Intergovernmental Review to the following address:

The Secretary
E.O. 12372 - CFDA # 84.200
U.S. Department of Education, FB-10, Room 6213
600 Independence Avenue, SW
Washington, DC 20202

In those States that require review for this program, applications are to be submitted simultaneously to the State Review Process and the U.S. Department of Education.

Proof of mailing will be de determined on the same basis as applications.

Please note that the above address is not the same address as the one to which the applicant submits its completed application.

DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

STATE SINGLE POINTS OF CONTACT

ARIZONA

Ms. Janice Dunn
Arizona State Clearinghouse
3800 North Central Avenue
Fourteenth Floor
Phoenix, Arizona 85012
Telephone: (602) 280-1315

ARKANSAS

Ms. Tracie L. Copeland
Manager, State Clearinghouse
Office of Intergovernmental Service
Department of Finance and Administration
P.O. Box 3278
Little Rock, Arkansas 72203
Telephone: (501) 682-1074

CALIFORNIA

Mr. Glenn Staber
Grants Coordinator
Office of Panning & Research
1400 Tenth Street
Sacramento, California 95814
Telephone: (916) 323-7480

COLORADO

State Single Point of Contact
State Clearinghouse
Division of Local Government
1313 Sherman Street, Room 520
Denver, Colorado 80203
Telephone: (303) 866-2156

DELAWARE

Ms. Francine Booth
State Single Point of Contact
Executive Department
Thomas Collins Building
Dover, Delaware 19903
Telephone: (302) 739-3326

DISTRICT OF COLUMBIA

Mr. Rodney T. Hallman
State Single Point of Contact
Office of Grants Management & Development
717 14th St. N.W., Suite 500
Washington, DC 20005
Telephone: (202) 727-6551

FLORIDA

Florida State Clearinghouse
Intergovernmental Affairs Policy Unit
Executive Office of the Governor
Office of Planning & Budgeting
The Capitol
Tallahassee, Florida 32399-0001
Telephone: (904) 488-8114

GEORGIA

Charles H. Badger, Administrator
Georgia State Clearinghouse
270 Washington Street, S.W.
Room 534A
Atlanta, Georgia 30334
Telephone: (404) 656-3855

INDIANA

Ms. Jean S. Blackwell
Budget Director
State Budget Agency
212 State House
Indianapolis, Indiana 46204
Telephone: (317) 232-5610

IOWA

Mr. Steven R. McCann
Division for Community Progress
Iowa Department of Economic Development
200 East Grand Avenue
Des Moines, Iowa 50309
Telephone: (515) 281-3725

KENTUCKY

Mr. Ronald W. Cook
Office of the Governor
Department of Local Government
1024 Capitol Center Drive
Frankfort, Kentucky 40601
Telephone: (502) 564-2382

MAINE

State Single Point of Contact
Attn: Joyce Benson
State Planning Office
State House Station #38
Augusta, Maine 04333
Telephone: (207) 289-3261

CONNECTICUT

Mr. William T. Quigg
Intergovernmental Review Coordinator
State Single Point of Contact
Office of Policy and Management
Intergovernmental Policy Division
80 Washington Street
Hartford, Connecticut 06106-4459
Telephone: (203) 566-3410

ILLINOIS

Mr. Steve Klokkenga
State Single Point of Contact
Office of the Governor
State of Illinois
107 Stratton Building
Springfield, Illinois 62706
Telephone: (217) 782-1671

MARYLAND

Mary Abrams, Chief
Maryland State Clearinghouse
Department of State Planning
301 West Preston Street
Baltimore, Maryland 21201
Telephone: (301) 225-4490

* In accordance with Executive Order #12372, "Intergovernmental Review Process," this listing represents the designated State Single Points of Contact. Upon request, a background document explaining the Executive Order is available. The Office of Management and Budget point of contact for updating this listing is: Donna Rivelli (202) 395-5090. The States not listed no longer participate in the process. These include: Alabama; Alaska; Kansas; Hawaii; Idaho; Louisiana; Minnesota; Montana; Nebraska; Oklahoma; Oregon; Pennsylvania; Virginia; and Washington. This list is based on the most current information provided by the States. Information on any changes or apparent errors should be provided to the Office of Management and Budget and the State in question. Changes to the list will be made only upon formal notification by the State.

MASSACHUSETTS

Ms. Karen Arone
State Clearinghouse
Executive Office of Communities and Development
100 Cambridge Street, Room 1803
Boston, Massachusetts 02202
Telephone: (617) 727-7001

MICHIGAN

Richard S. Pastula
Director
Michigan Department of Commerce
Office of Federal Grants
P.O. Box 30225
Lansing, Michigan 48909
Telephone: (517) 373-7356

MISSISSIPPI

Ms. Cathy Mallette
Clearinghouse Officer
Office of Federal Grant Management and Reporting
Department of Finance and Administration
301 West Pearl Street
Jackson, Mississippi 39203
Telephone: (601) 949-2174

NEW HAMPSHIRE

Mr. Jeffrey H. Taylor, Director
New Hampshire Office of State Planning
Attn: Intergovernmental Review Process/James E. Bieber
2 1/2 Beacon Street
Concord, New Hampshire 03301
Telephone: (603) 271-2155

NEW JERSEY

Gregory W. Adkins, Acting Director
Division of Community Resources
New Jersey Department of Community Affairs

Please direct all correspondence and questions about intergovernmental review to:
Andrew Jaskolka
State Review Process
Division of Community Resources
CN 814, Room 609
Trenton, New Jersey 08625-0814
Telephone: (609) 292-9025

NEW MEXICO

Mr. George Elliott
Deputy Director
State Budget Division
Rm 190, Bataan Memorial Building
Santa Fe, New Mexico 87503
Telephone: (505) 827-3640

NORTH DAKOTA

North Dakota State Single Point of Contact
Office of Intergovernmental Assistance
Office of Management & Budget
600 East Boulevard Avenue
Bismarck, N. Dakota 58505-0170
Telephone: (701) 224-2094

OHIO

Mr. Larry Weaver
State Single Point of Contact
State\Federal Funds Coordinator
State Clearinghouse
Office of Budget & Management
30 East Broad Street, 34th Floor
Columbus, OH 43266-0411
Telephone: (614) 466-0698

RHODE ISLAND

Mr. Daniel W. Varin
Associate Director
Statewide Planning Program
Department of Administration
Division of Planning
265 Melrose Street
Providence, Rhode Island 02907
Telephone: (401) 277-2656

Please direct correspondence and questions to :
Review Coordinator
Office of Strategic Planning

MISSOURI

Ms. Lois Pohl
Federal Assistance Clearinghouse
Office of Administration
P.O. Box 809
Room 430, Truman Building
Jefferson City, Missouri 65102
Telephone: (314) 751-4834

NEVADA

Department of Administration
State Clearinghouse
Capitol Complex
Carson City, Nevada 89710
Attn: Ron Sparks
Clearinghouse Coordinator
Telephone: (702) 687-4065

NEW YORK

New York State Clearinghouse
Division of the Budget
State Capitol
Albany, New York 12224
Telephone: (518) 474-1605

NORTH CAROLINA

Mrs. Chrys Baggett, Director
Office of the Secretary of Admin.
N.C. State Clearinghouse
116 West Jones Street
Raleigh, N. Carolina 27603-8003
Telephone: (919) 733-7232

SOUTH CAROLINA

Ms. Omeagia Burgess
State Single Point of Contact
Grant Services
Office of the Governor, Room 477
1205 Pendleton Street
Columbia, South Carolina 29201
Telephone: (803) 734-0494

SOUTH DAKOTA

Ms. Susan Comer
State Clearinghouse Coordinator
Office of the Governor
500 East Capitol
Pierre, South Dakota 57501
Telephone: (605) 773-3212

TENNESSEE

Mr. Charles Brown
State Single Point of Contact
State Planning Office
500 Charlotte Avenue
309 John Sevier Building
Nashville, Tennessee 37219
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Federal Register

Wednesday
January 27, 1999

Part V

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 14, 15, and 52
Federal Acquisition Regulation; Conforming Late Offer Treatment; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 14, 15, and 52

[FAR Case 97–030]

RIN 9000–AI25

Federal Acquisition Regulation; Conforming Late Offer Treatment

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the Federal Acquisition Regulation (FAR) to align guidance regarding receipt of late offers for commercial, sealed bid, and negotiated acquisitions.

DATES: Comments should be submitted on or before March 29, 1999 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVR), Attn: Laurie Duarte, 1800 F Street, NW, Room 4035, Washington, DC 20405.

E-mail comments submitted over Internet should be addressed to: farcase.97–030@gsa.gov.

Please cite FAR case 97–030 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Ralph DeStefano, Procurement Analyst, at (202) 501–1958. Please cite FAR case 97–030.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule amends the FAR to provide a single standard for receipt of late offers under commercial, sealed bid, and negotiated acquisitions. The proposed rule amends paragraph (f) of the clause at FAR 52.212–1, Instructions to Offerors—Commercial Items, to permit consideration of late offers if the Government mishandled the offer. This proposed rule also amends guidance on receipt of late offers in FAR sections 14.304 and 15.208 and associated FAR solicitation provisions 52.214–7, Late Submissions, Modifications, and Withdrawals of Bids; 52.214–23, Late Submissions, Modifications, and Withdrawals of Technical Proposals under Two-Step Bidding; and paragraph (c)(3) of the solicitation provision at 52.215–1, Instruction to Offerors—Competitive Acquisitions, to align the guidance for sealed bids and negotiated acquisitions. Solicitation provision 52.214–32, Late Submissions, Modifications, and Withdrawals of Bids (Overseas) and 52.214–33, Late Submissions, Modifications, and Withdrawals of Technical Proposals under Two-Step Sealed Bidding (Overseas) are deleted, as the revisions to 52.214–7 and 52.214–23 eliminate the need for a separate provision.

This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

This proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule will affect when an offer is considered late, and, although no statistics regarding the number of late proposals exist, we expect that less than 1 percent of the offers will be received late. Under the rule, late offers, including late offers under commercial acquisitions will not be penalized for Government mishandling. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 97–030), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 14, 15, and 52

Government procurement.

Dated: January 22, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, it is proposed that 48 CFR Parts 14, 15, and 52 be amended as set forth below:

1. The authority citation for 48 CFR Parts 14, 15, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 14—SEALED BIDDING

2. Section 14.201–6 is amended by revising paragraph (c)(3); by removing paragraph (c)(4); by revising paragraph (r); by removing paragraph (v); and by redesignating paragraphs (w) through (y) as (v) through (x), respectively.

The revised text reads as follows:

14.201–6 Solicitation provisions.

* * * * *

(c) * * *

(3) 52.214–7, Late Submissions, Modifications, and Withdrawals of Bids.

* * * * *

(r) The contracting officer shall insert the provision at 52.214–23, Late Submissions, Modifications, and Withdrawals of Technical Proposals under Two-Step Sealed Bidding, in solicitations for technical proposals in step one of two-step sealed bidding.

* * * * *

3. Section 14.304 is revised to read as follows:

14.304 Submission, modification, and withdrawal of bids.

(a) Bidders are responsible for submitting bids, and any modifications or withdrawals, so as to reach the Government office designated in the invitation for bid (IFB) by the time specified in the IFB. They may use any transmission method authorized by the IFB (*i.e.*, regular mail, electronic commerce, or facsimile). If no time is specified in the IFB, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that bids are due.

(b)(1) Any bid, modification, or withdrawal of a bid received at the Government office designated in the IFB after the exact time specified for receipt of bids is ''late'' and will not be considered unless it is received before award is made, the contracting officer determines that accepting the late bid would not unduly delay the acquisition, and—

(i) If it was transmitted through an electronic commerce method authorized by the IFB, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m.

one working day prior to the date specified for receipt of bids; or

(ii) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of bids and was under the Government's control prior to the time set for receipt of bids.

(2) However, a late modification of an otherwise successful bid, that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(c) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the bid wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(d) If an emergency or unanticipated event interrupts normal Government processes so that bids cannot be received at the Government office designated for receipt of bids by the exact time specified in the IFB, and urgent Government requirements preclude amendment of the bid opening date, the time specified for receipt of bids will be deemed to be extended to the same time of day specified in the IFB on the first work day on which normal Government processes resume.

(e) Bids may be withdrawn by written notice received at any time before the exact time set for receipt of bids. If the IFB authorizes facsimile bids, bids may be withdrawn via facsimile received at any time before the exact time set for receipt of bids, subject to the conditions specified in the provision at 52.214–31, Facsimile Bids. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for receipt of bids, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid. Upon withdrawal of an electronically transmitted bid, the data received shall not be viewed and, where practicable, shall be purged from primary and backup data storage systems.

(f) The contracting officer shall promptly notify any bidder if its bid, modification, or withdrawal, was received late, and shall inform the bidder whether its bid will be considered, unless contract award is imminent and the notices prescribed in 14.409 would suffice.

(g) Late bids and modifications that are not considered shall be held unopened, unless opened for identification, until after award and then retained with other unsuccessful bids. However, any bid bond or guarantee shall be returned.

(h) The following shall, if available, be included in the contract files for each late bid, modification, or withdrawal:

(1) The date and hour of receipt.

(2) A statement, with supporting rationale, regarding whether the bid was considered for award.

(3) The envelope, wrapper, or other evidence of the date of receipt.

PART 15—CONTRACTING BY NEGOTIATION

4. Section 15.208 is revised to read as follows:

15.208 Submission, modification, revision, and withdrawal of proposals.

(a) Offerors are responsible for submitting proposals, and any revisions, and modifications, or withdrawals, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. Offerors may use any transmission method authorized by the solicitation (*i.e.*, regular mail, electronic commerce, or facsimile). If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that proposals are due.

(b)(1) Any proposals, modification, revision, or withdrawal that is received at the designated Government office after the exact time specified for receipt of proposals is ''late'' and will not be considered unless it is received before award is made, the contracting officer determines that accepting the late proposal would not unduly delay the acquisition and—

(i) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals; or

(ii) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of proposals and was under the Government's control prior to the time set for receipt of proposals; or

(iii) It was the only proposal received.

(2) However, a late modification of an otherwise successful proposal, that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(c) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(d) If an emergency or unanticipated event interrupts normal Government processes so that proposals cannot be received at the Government office designated for receipt of proposals by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation closing date, the time specified for receipt of proposals will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(e) Proposals may be withdrawn by written notice at any time before award. Oral proposals in response to oral solicitations may be withdrawn orally. The contracting officer shall document the contract file when oral withdrawals are made. One copy of withdrawn proposals should be retained in the contract file (see 4.803(a)(10)). Extra copies of the withdrawn proposals may be destroyed or returned to the offeror at the offeror's request. Where practicable, electronically transmitted proposals that are withdrawn shall be purged from primary and backup data storage systems after a copy is made for the file. Extremely bulky proposals shall only be returned at the offeror's request and expense.

(f) The contracting officer shall promptly notify any offeror if its proposal, modification, or revision was received late, and shall inform the offeror whether its proposal will be considered, unless contract award is imminent and the notice prescribed in 15.503(b) would suffice.

(g) Late proposals and modifications that are not considered shall be held unopened, unless opened for identification, until after award and then retained with other unsuccessful proposals.

(h) The following shall, if available, be included in the contracting office files for each late proposal, modification, revision, or withdrawal:

(1) The date and hour of receipt.

(2) A statement regarding whether the proposal was considered for award, with supporting rationale.

(3) The envelope, wrapper, or other evidence of date of receipt.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 52.212–1 is amended by revising the date of the clause and paragraph (f) to read as follows:

52.212–1 Instructions to Offerors—Commercial Items.

* * * * *

Instructions to Offerors—Commercial Items (Date)

* * * * *

(f) *Late submissions, modifications, revisions, and withdrawals of offers.* (1) Offerors are responsible for submitting offers, and any modifications, revisions, or withdrawals, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that offers or revisions are due.

(2)(i) Any offer, modification, revision, or withdrawal of an offer received at the Government office designated in the solicitation after the exact time specified for receipt of offers is ''late'' and will not be considered unless it is received before award is made, the contracting officer determines that accepting the late offer would not unduly delay the acquisition, and—

(A) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of offers; or

(B) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers; or

(C) If this solicitation is a request for proposals, it was the only proposal received.

(ii) However, a late modification of an otherwise successful offer, that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(3) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the offer wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(4) If an emergency or unanticipated event interrupts normal Government processes so that offers cannot be received at the Government office designated for receipt of offers by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(5) Offers may be withdrawn by written notice received at any time before the exact time set for receipt of offers. Oral offers in response to oral solicitations may be withdrawn orally. The contracting officer shall document the contract file when such oral withdrawals are made. If the solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for receipt of offers, subject to the conditions specified in the solicitation concerning facsimile offers. An offer may be withdrawn in person by an offeror or its authorized representative if, before the exact time set for receipt of offers, the identity of the person requesting withdrawal is established and the person signs a receipt for the offer.

* * * * *

6. Section 52.214–7 is amended by revising the provision to read as follows:

52.214–7 Late Submissions, Modifications, and Withdrawals of Bids.

* * * * *

Late Submissions, Modifications, and Withdrawals of Bids (Date)

(a) Bidders are responsible for submitting bids, and any modifications or withdrawals, so as to reach the Government office designated in the invitation for bids (IFB) by the time specified in the IFB. If no time is specified in the IFB, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that bids are due.

(b)(1) Any bid, modification or withdrawal received at the Government office designated in the IFB after the exact time specified for receipt of bids is ''late'' and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late bid would not unduly delay the acquisition, and—

(i) If it was transmitted through an electronic commerce method authorized by the IFB, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of bids; or

(ii) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of bids and was under the Government's control prior to the time set for receipt of bids.

(2) However, a late modification of an otherwise successful bid that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(c) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the bid wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(d) If an emergency or unanticipated event interrupts normal Government processes so that bids cannot be received at the Government office designated for receipt of bids by the exact time specified in the IFB and urgent Government requirements preclude amendment of the IFB, the time specified for receipt of bids will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(e) Bids may be withdrawn by written notice received at any time before the exact time set for receipt of bids. If the IFB authorizes facsimile bids, bids may be withdrawn via facsimile received at any time before the exact time set for receipt of bids, subject to the conditions specified in the provision at 52.214–31, Facsimile Bids. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for receipt of bids, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid.

(End of provision)

7. Section 52.214–23 is amended by the revising the section heading and the provision to read as follows:

52.214–23 Late Submissions, Modifications, Revisions, and Withdrawals of Technical Proposals under Two-Step Sealed Bidding.

* * * * *

Late Submissions, Modifications, Revisions, and Withdrawals of Technical Proposals Under Two-Step Sealed Bidding (Date)

(a) Bidders are responsible for submitting technical proposals, and any modifications or revisions, so as to reach the Government office designated in the request for technical proposals by the time specified in the invitation for bids (IFB). If no time is specified in the IFB, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that bids or revisions are due.

(b)(1) Any technical proposal under step one of two-step sealed bidding or modification or revision or withdrawal of such proposal received at the Government office designated in the request for technical proposals after the exact time specified for receipt will not be considered unless the Contracting Officer determines that accepting the late technical proposal would not unduly delay the acquisition; and—

(i) If it was transmitted through an electronic commerce method authorized by the request for technical proposals, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals; or

(ii) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt; or

(iii) It is the only proposal received and it is negotiated under Part 15 of the Federal Acquisition Regulation.

(2) However, a late modification of an otherwise successful proposal that makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

(c) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the technical proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(d) If an emergency or unanticipated event interrupts normal Government processes so that technical proposals cannot be received at the Government office designated for receipt of technical proposals by the exact time specified in the request for technical

proposals, and urgent Government requirements preclude amendment of the request for technical proposals, the time specified for receipt of technical proposals will be deemed to be extended to the same time of day specified in the request for technical proposals on the first work day on which normal Government processes resume.

(e) Technical proposals may be withdrawn by written notice received at any time before the exact time set for receipt of technical proposals. If the request for technical proposals authorizes facsimile technical proposals, they may be withdrawn via facsimile received at any time before the exact time set for receipt of proposals, subject to the conditions specified in the provision at 52.214–31, Facsimile Bids. A technical proposal may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for receipt of technical proposals, the identity of the person requesting withdrawal is established and the person signs a receipt for the technical proposal.

(End of provision)

52.214–32 and 52.214–33 [Reserved]

8. Sections 52.214–32 and 52.214–33 are removed and reserved.

9. Section 52.215–1 is amended by revising the date of the provision and paragraph (c)(3) to read as follows:

52.215–1 Instructions to Offerors—Competitive Acquisition.

* * * * *

Instructions to Offerors—Competitive Acquisition (Date)

* * * * *

(c) * * *

(3) *Submission, modification, revision, and withdrawal of proposals.* (i) Offerors are responsible for submitting proposals, and any modifications, revisions, or withdrawals, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that proposal or revision is due.

(ii)(A) Any proposal, modification, revision, or withdrawal received at the Government office designated in the solicitation after the exact time specified for receipt of offers is ''late'' and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition, and—

(1) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals; or

(2) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers; or

(3) It is the only proposal received.

(B) However, a late modification of an otherwise successful proposal that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(iii) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(iv) If an emergency or unanticipated event interrupts normal Government processes so that proposals cannot be received at the office designated for receipt of proposals by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation, the time specified for receipt of proposals will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(v) Proposals may be withdrawn by written notice received at any time before award. Oral proposals in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile proposals, proposals may be withdrawn via facsimile received at any time before award, subject to the conditions specified in the provision at 52.215–5, Facsimile Proposals. Proposals may be withdrawn in person by an offeror or an authorized representative, if the identity of the person requesting withdrawal is established and the person signs a receipt for the proposal before award.

* * * * *

[FR Doc. 99–1861 Filed 1–26–99; 8:45 am]

BILLING CODE 6820–EP–P

Federal Register

Wednesday
January 27, 1999

Part VI

Department of Education

Fund for the Improvement of Postsecondary Education (FIPSE)—Special Focus Competition: Higher Education Collaboration Between the United States and the European Community; Notice

DEPARTMENT OF EDUCATION

[CFDA No. 84.116J]

Fund for the Improvement of Postsecondary Education (FIPSE)—Special Focus Competition: Higher Education Collaboration Between the United States and the European Community

Notice inviting applications for new awards for fiscal year (FY) 1999.

Purpose of Program: To provide grants or enter into cooperative agreements to improve postsecondary education opportunities by focusing on problem areas or improvement approaches in postsecondary education.

Eligible Applicants: Institutions of higher education, combinations of institutions, and other public and private nonprofit educational institutions and agencies.

Applications Available: January 27, 1999.

Deadline for Transmittal of Applications: March 11, 1999.

Deadline for Intergovernmental Review: May 10, 1999.

Available Funds: $1,600,000 over three years.

Estimated Range of Awards: $100,000–$175,000 per consortium for up to three years. Awards for the first planning year will be $20,000 per consortium.

Estimated Average Size of Awards: $160,000 for up to three years.

Estimated Number of Awards: 10.

Project Period: Up to 36 months.

Note: The Department is not bound by any estimates in this notice.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 82, 85 and 86.

Supplemental Information: For FY 1999, the competition includes an invitational priority to encourage proposals designed to support the formation of educational consortia of institutions in the United States and the European Union to encourage cooperation in the coordination of curricula, the exchange of students, and the opening of educational opportunities between the United States and the European Union. The invitational priority is issued in cooperation with the European Union. European institutions participating in any consortium proposal responding to the invitational priority may apply to the European Commission Directorate Generale for Education, Training, and Youth for funding under a separate European competition.

Invitational Priority

The Secretary is particularly interested in applications that meet the following invitational priority. However, an application that meets this invitational priority does not receive competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Invitational Priority: Projects that support consortia of institutions of higher education that promote institutional cooperation and student mobility between the United States and the member states of the European Union.

Methods for Applying Selection Criteria

The Secretary gives equal weight to the listed criteria. Within each of the criteria, the Secretary gives equal weight to each of the factors.

Selection Criteria

In evaluating applications for grants under this program competition, the Secretary uses the following selection criteria chosen from those listed in 34 CFR 75.210.

1. *The quality of the design of the proposed project,* as determined by—

a. The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable; and

b. The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

2. *The significance of the proposed project,* as determined by—

a. The extent to which the proposed project involves the development or demonstration of promising new strategies that build on, or are alternatives to, existing strategies;

b. The likely utility of the products (such as information, materials, processes, or techniques) that will result from the proposed project, including the potential for their being used in a variety of other settings; and

c. The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in teaching and student achievement.

3. *The adequacy of resources,* as determined by—

a. The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project;

b. The potential for continued support of the project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support; and

c. The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project.

For Applications or Information Contact: Fund for the Improvement of Postsecondary Education (FIPSE), U.S. Department of Education, 7th & D Streets, S.W., Room 3100, ROB–3, Washington, D.C. 20202–5175. You may also request application forms by calling 732–544–2872 (fax on demand), or application guidelines by calling 202–358–3041 (voice mail) or submitting the name of the competition and your name and postal address to FIPSE@ED.GOV (e-mail). Applications are also listed on the FIPSE Web Site <http://www.ed.gov/offices/OPE/FIPSE>. 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. For additional program information call Beverly Baker at the FIPSE office (202–708–5750) between the hours of 8 a.m. and 5 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Individuals with disabilities may obtain a copy of the application package in an alternate format, also, by contacting that person. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Electronic Access to This Document

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To use the pdf you 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 at (202) 512-1530 or, toll free, at 1–888–293–6498.

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Note: The official version of a document is the document published in the **Federal Register**.

Program Authority: 20 U.S.C. 1138–1138d.

Dated: January 22, 1999.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

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Part VII

Department of Health and Human Services

Administration for Children and Families

Request for Applications Under the Office of Community Services' Fiscal Year 1999 Assets for Independence Demonstration Program (IDA Program); Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCS–99–04]

Request for Applications Under The Office of Community Services' Fiscal Year 1999 Assets for Independence Demonstration Program (IDA Program)

AGENCY: Office of Community Services (OCS), ACF, DHHS.

ACTION: Announcement of availability of funds and request for competitive applications under the Office of Community Services' Assets for Independence Demonstration Program.

SUMMARY: The Office of Community Services (OCS) invites eligible entities to submit competitive grant applications for new demonstration projects that will establish, support, and participate in the evaluation of Individual Development Accounts for lower income individuals and families. Applications will be screened and competitively reviewed as indicated in this Program Announcement. Awards will be contingent on the outcome of the competition and the availability of funds.

DATES: To be considered for funding applications must be *postmarked* on or before April 27, 1999. Applications postmarked after that date will not be accepted for consideration. See Part IV of this announcement for more information on submitting applications.

FOR FURTHER INFORMATION CONTACT: Richard Saul (202) 401–9341 or Sheldon Shalit (202) 401–4807, Department of Health and Human Services, Administration for Children and Families, Office of Community Services, 370 L'Enfant Promenade, SW, Washington, DC, 20447.

In addition, this Announcement is accessible on the OCS WEBSITE for reading or downloading at ''http://www.acf.dhhs.gov/programs/ocs'' under ''funding opportunities''.

SUPPLEMENTARY INFORMATION: This program announcement consists of seven parts plus appendices:

PART I: BACKGROUND INFORMATION: legislative authority, program purpose, CFDA number, and definition of terms.

PART II: PROGRAM OBJECTIVES AND REQUIREMENTS: program priority areas, eligible applicants, project and budget periods, funds availability and grant amounts, project eligibility and requirements, non-Federal matching funds requirements, preferences, multiple applications, treatment of program income, and partnership with financial institutions.

PART III: THE PROJECT DESCRIPTION, PROGRAM PROPOSAL ELEMENTS AND REVIEW CRITERIA: project summary; the review process, project goals, application brevity; proposal elements and review criteria; and funding reconsideration.

PART IV: APPLICATION PROCEDURES: application materials, application development/availability of forms, application submission, intergovernmental review, initial OCS screening, application consideration.

PART V: INSTRUCTIONS FOR COMPLETING APPLICATION FORMS: SF424, SF424A, SF424B.

PART VI: CONTENTS OF APPLICATION AND RECEIPT PROCESS: content and order of program application, acknowledgement of receipt.

PART VII: POST AWARD INFORMATION AND REPORTING REQUIREMENTS: notification of grant award, attendance at evaluation workshops, reporting requirements, audit requirements, prohibitions and requirements with regard to lobbying, applicable Federal regulations.

APPENDICES: Application forms and required attachments.

Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, Public Law 104–13, the Department is required to submit to OMB for review and approval any reporting and record keeping requirements in regulations, including Program Announcements. 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. This Program Announcement does not contain information collection requirements beyond those approved for ACF grant announcements/applications under OMB Control Number OMB–0970–0139 (expires 10/31/2000).

Part I. Background Information

A. Legislative Authority

The Assets for Independence Demonstration Program (IDA Program) was established by the Assets for Independence Act (AFI Act), under Title IV of the Community Opportunities, Accountability, and Training and Educational Services Act of 1998 (P.L. 105–285, 42 U.S.C. 604 Note).

B. Program Purpose

The purpose of the program is, in the language of the AFI Act: to provide for the establishment of demonstration projects designed to determine:

(1) The social, civic, psychological, and economic effects of providing to individuals and families with limited means an incentive to accumulate assets by saving a portion of their earned income;

(2) The extent to which an asset-based policy that promotes saving for postsecondary education, homeownership, and microenterprise development may be used to enable individuals and families with limited means to increase their economic self-sufficiency; and

(3) The extent to which an asset-based policy stabilizes and improves families and the community in which the families live.

C. The Catalog of Federal Domestic Assistance (CFDA) number for this program is 93.602. The title is Assets for Independence Demonstration Program (IDA Program).

D. Definition of Terms

For the purposes of this Announcement:

(1) *AFI Act* means the Assets for Independence Act (Title IV of the Community Opportunities, Accountability, and Training and Educational Services Act of 1998) which authorizes this program.

(2) *Eligible Individual* means an individual who meets the income and net worth requirements of the program as set forth in PART II, Section G(2)(a).

(3) *Emergency Withdrawal* means a withdrawal of only those funds, or a portion of those funds, deposited by the eligible individual (Project Participant) in an Individual Development Account of such Individual. Such withdrawal must be approved by the Project Grantee, must be made for an allowable purpose as defined in the AFI Act and under the Project Eligibility Requirements set forth in PART II of this Announcement, and must be repaid by the individual Project Participant within 12 months of the withdrawal. [See PART II, Section G(6)(b)]

(4) *Household* means all individuals who share use of a dwelling unit as primary quarters for living and eating separate from other individuals.

(5) *Individual Development Account* means a trust created or organized in the United States exclusively for the purpose of paying the qualified expenses of an eligible individual, or enabling the eligible individual to make an emergency withdrawal, but only if the written governing instrument creating the trust meets the requirements of the AFI Act and of the Project Eligibility and Requirements set

forth in this Announcement. [See PART II, Section G(3)]

(6) *Net Worth of a Household* means the aggregate market value of all assets that are owned in whole or in part by any member of the household, exclusive of the primary dwelling unit and one motor vehicle owned by a member of the household, minus the obligations or debts of any member of the household.

(7) *Project Grantee* means a Qualified Entity as defined in paragraph (10) below, which receives a grant pursuant to this Announcement.

(8) *Project Participant* means an Eligible Individual as defined in paragraph (2) above who is selected to participate in a demonstration project by a qualified entity.

(9) *Project Year* means, with respect to a funded demonstration project, any of the 5 consecutive 12-month periods beginning on the date the project is originally awarded a grant by ACF.

(10) *Qualified Entity* means an entity eligible to apply for and operate an assets for independence demonstration project, under Priority Area 1.0, as one or more not-for-profit 501(c)(3) tax exempt organizations, or a State or local government agency, or a tribal government, submitting an application jointly with such a not-for-profit organization. States eligible to apply under Priority Area 2.0 are deemed to be Qualified Entities.

(11) *Qualified Expenses* means one or more of the expenses for which payment may be made from an individual development account by a project grantee on behalf of the eligible individual in whose name the account is held, and is limited to expenses of (A) post-secondary education, (B) first home purchase, and/or (C) business capitalization, as defined below:

(A) *Post-Secondary Educational Expenses* means post-secondary educational expenses paid from an individual development account directly to an eligible educational institution, and includes:

(i) *Tuition and Fees* required for the enrollment or attendance of a student at an eligible educational institution.

(ii) *Fees, Books, Supplies, and Equipment* required for courses of instruction at an eligible educational institution.

(iii) *Eligible Educational Institution* means the following:

(I) *Institution of Higher Education*.—An institution described in Section 101 or 102 of the Higher Education Act of 1965.

(II) *Post-Secondary Vocational Education School*.—An area vocational education school (as defined in subparagraph (C) or (D) of section 521(4) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)) which is in any State (as defined in section 521(33) of such Act) as such sections are in effect on the date of enactment of this title.

(B) *First-Home Purchase* means qualified acquisition costs with respect to a principal residence for a qualified first-time homebuyer, if paid from an individual development account directly to the persons to whom the amounts are due. Within this definition:

(i) *Principal Residence* means a main residence, the qualified acquisition costs of which do not exceed 100 percent of the average purchase price applicable to a comparable residence in the area.

(ii) *Qualified Acquisition Costs* means the cost of acquiring, constructing, or reconstructing a residence, including usual or reasonable settlement, financing, or other closing costs.

(iii) *Qualified First-Time Homebuyer* means an individual participating in the project involved (and, if married, the individual's spouse) who has no present ownership interest in a principal residence during the 3-year period ending on the date on which a binding contract is entered into for purchase of the principal residence to which this subparagraph applies.

(C) *Business Capitalization* means amounts paid from an individual development account directly to a business capitalization account that is established in a Qualified Financial Institution and is restricted to use solely for qualified business capitalization expenses of the eligible individual in whose name the account is held. Within this definition:

(i) *Qualified Business Capitalization Expenses* means qualified expenditures for the capitalization of a qualified business pursuant to a qualified plan.

(ii) *Qualified Expenditures* means expenditures included in a qualified plan, including but not limited to capital, plant, equipment, working capital, and inventory expenses.

(iii) *Qualified Business* means any business that does not contravene any law or public policy (as determined by the Secretary).

(iv) *Qualified Plan* means a business plan, or a plan to use a business asset purchased, which—

(I) Is approved by a financial institution, a microenterprise development organization, or a nonprofit loan fund having demonstrated fiduciary integrity;

(II) Includes a description of services or goods to be sold, a marketing plan, and projected financial statements; and

(III) may require the eligible individual to obtain the assistance of an experienced entrepreneurial advisor.

(12) *Qualified Financial Institution* means a Federally insured Financial Institution, or a State insured Financial Institution if no Federally insured Financial Institution is available.

(13) *Qualified Savings of the Individual for the Period* means the aggregate of the amounts contributed by an eligible individual to the individual development account of the individual during the period.

(14) *Secretary* means the Secretary of Health and Human Services, acting through the Director of the Office of Community Services.

(15) *Tribal Government* means a tribal organization, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (24 U.S.C. 450b) or a Native Hawaiian organization, as defined in section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912).

(16) *Trust Agreement* means the instrument by which an Individual Development Account is established in the partnering Financial Institution as required in PART II Section G(3).

(17) *Trustee* means the Qualified Financial Institution responsible for management of the Individual Development Account pursuant to the Trust Agreement.

Part II. Program Objectives and Requirements

The Office of Community Services (OCS) invites qualified entities to submit competing grant applications for new demonstration projects that will establish, support, manage, and participate in the evaluation of Individual Development Accounts for eligible participants among lower income individuals and families.

A. Program Priority Areas

There are two Program Priority Areas under this program: Priority Area 1.0, under which OCS will accept applications from Qualified Entities as described below and in Section G; and Priority Area 2.0, under which OCS will accept applications from States for eligible statewide individual asset-building programs carried out in a manner consistent with the purposes of the Assets for Independence Act, that were established under State law as of the date of enactment of that act [October 27, 1998], and that as of such date were operating with an annual State appropriation of not less than $1,000,000 in non-Federal funds.

B. Eligible Applicants

Eligible applicants for the Assets for Independence Demonstration Program Priority Area 1.0 are one or more not-for-profit 501(c)(3) tax exempt organizations, or a State or local government agency, or a tribal government, submitting an application jointly with such a not-for-profit organization. Applicants must provide documentation of their tax exempt status. The applicant can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code or by providing a copy of their currently valid IRS tax exemption certificate. Failure to provide evidence of Section 501(c)(3) tax exempt status will result in rejection of the application.

For Priority Area 2.0 eligible applicants are States which are carrying out any statewide individual asset-building program that is carried out in a manner consistent with the purposes of the Assets for Independence Act, and which was established under State law as of the date of enactment of that act [October 27, 1998], and that as of such date was operating with an annual State appropriation of not less than $1,000,000 in non-Federal funds. Applicants under Priority Area 2.0 must provide documentation that their program meets these requirements.

C. Project and Budget Periods for Projects under Priority Area 1.0

This announcement is inviting applications under Priority Area 1.0 for project and budget periods of five (5) years. Grant actions, on a competitive basis, will award funds for the full five year project and budget period. As noted below in Section E., subject to the availability of funds, grantees may be offered the opportunity to compete for supplementary funding in later years during the five-year project.

Note: Applicants should be aware that OCS funds awarded pursuant to this Announcement will be from FY 1999 funds and may not be expended after the end of the five-year Project/Budget Period to support administration of the project or matching contributions to Individual Development Accounts which may be open at that time.

D. Project and Budget Periods for Projects Under Priority Area 2.0

This announcement is inviting applications from eligible States under Priority Area 2.0 for project periods of five (5) years. Awards will be for an initial one-year budget period. Applications for continuation grants funded under these awards beyond the one-year budget period but within the five (5) year project period will be entertained in subsequent years on a noncompetitive basis, subject to satisfactory progress of the grantee, availability of funds, and a determination that continued funding would be in the best interest of the Government.

E. Funds Availability and Grant Amounts Under Priority Area 1.0

In Fiscal Year 1999 approximately $7.44 million is available under Priority Area 1.0 for funding commitments to approximately 30 projects, not to exceed $500,000 and averaging a total of approximately $250,000 for the five-year project and budget periods. Applicants are reminded that grant awards are limited to the amount of committed non-Federal cash matching contributions, and are urged to make realistic projections of project needs over the five year project and propose project budgets accordingly. Draw-down of grant funds over the five-year budget period will be permitted in amounts that will match non-Federal deposits into the Project Reserve Fund. (See PART II Section I.) As noted above, subject to availability of funds and the progress of individual demonstration projects, grantees may be offered the opportunity to compete for supplementary funding in later years during the five-year project, if there were a determination that this would be in the best interest of the government.

F. Funds Availability and Grant Amounts Under Priority Area 2.0

In Fiscal Year 1999 up to approximately $1.86 million is available under Priority Area 2.0 for up to two grants of up to approximately $930,000 each for the first budget year of a five-year State project. Any funds not awarded in FY 1999 under Priority Area 2.0 will be available for project grants under Priority Area 1.0.

G. Project Eligibility and Requirements Under Priority Area 1.0

To be eligible for funding under Priority Area 1.0, projects must be sponsored and managed by Qualified Entities and must meet the following requirements:

(1) Reserve Fund. A grantee, other than a State or local government agency or tribal government, must establish a Reserve Fund and maintain it in accordance with accounting regulations prescribed by the Secretary. (Note: Such regulations will be issued prior to grant awards and made available to grantees at the time of the award.)

(a) Amounts in the Reserve Fund. As soon after receipt as is practicable, such grantees shall deposit in such Reserve Fund the non-Federal matching contributions received pursuant to the ''Non-Federal Share Agreement'' or Agreements reached with the provider(s) of non-Federal matching contributions. Once such non-Federal funds are deposited in the Reserve Fund, grantees may draw down OCS grant funds in amounts equal to such deposits. Similarly, as soon after receipt as practical, such grantees shall deposit the income received from any investment made of those funds (see below).

(b) Use of Amounts in the Reserve Fund. Grantees shall use the amounts in such Reserve Fund as follows:

(A) At least 90.5% of the funds shall be used as matching contributions, equally divided between federal and non-federal monies, to individual development accounts for project participants, in an agreed upon ratio to deposits made in those accounts by project participants from earned income.

(B) At least 2% but no more than 9.5% of the Federal grant funds shall be used toward the expense of collecting and providing to the research organization evaluating the demonstration project the data and information required for the evaluation.

(C) Up to 7.5% of the Federal grant funds may be used for administration of the demonstration project and toward expenses of assisting project participants to obtain the skills (including economic literacy, budgeting, and business management skills), training, and information necessary to achieve economic self-sufficiency through activities requiring qualified expenses.

(D) Up to 9.5% of the required matching non-Federal funds may be used for expenses outlined in Paragraphs (B) and (C), above, or other project-related expenses as agreed by the Applicant and the providing entity.

Note: If a grantee mobilizes matching non-Federal contributions in excess of the required 100 percent match, such non-Federal funds may be used however the grantee and provider of the funds may agree.

(c) Authority to Invest Funds. A grantee shall invest the amounts in its Reserve Fund that are not immediately needed for payment under paragraph (b), in a manner that provides an appropriate balance between return, liquidity, and risk, and in accordance with Guidelines which will be issued by the Secretary prior to making of grant awards and provided to grantees at the time of grant award.

(d) Use of Investment Income. Income generated from investment of Reserve Fund monies that are not allocated to existing Individual Development Accounts may be added by grantees to the funds committed to program administration, participant support, or evaluation data collection. As noted in Paragraph M, below, once funds have been committed as matching contributions to Individual Development Accounts, then any income subsequently generated by such funds must be deposited/credited to the credit of such accounts.

Note: No part of such income is to be considered as a Federal funds contribution subject to the $2000/$4000 limitations under Paragraph (5)(b), below.

(e) Joint Project Administration. If two or more qualified entities are jointly administering a project, none shall use more than its proportional share for the purposes described in subparagraphs (B) and (C), of paragraph (b).

(2) Eligibility and Selection of Project Participants.

(a) Participant Eligibility. Eligibility for participation in the demonstration projects is limited to individuals who are members of households eligible for assistance under TANF or of households whose adjusted gross income does not exceed the earned income amount described in Section 32 of the Internal Revenue Code of 1986 (taking into account the size of the household), and whose net worth as of the end of the calendar year preceding the determination of eligibility does not exceed $10,000, excluding the primary dwelling unit and one motor vehicle owned by a member of the household.

(b) Participant Selection. In keeping with the statutory preference in Section 405(d)(3) of the AFI Act for applications that target individuals from neighborhoods or communities that experience high rates of poverty or unemployment, grantees under Priority Area 1.0 only, in their selection of Project Participants, may restrict participation in such neighborhoods or communities targeted by their demonstration projects to individuals and households with lower incomes and net worth than set forth above, provided that they shall nonetheless select individuals that they determine to be best suited to participate in the demonstration project.

(3) Establishment of Individual Development Accounts. Grantees must create, through written governing instruments, trusts which will be Individual Development Accounts on behalf of Project Participants. Trustees must be Qualified Financial Institutions. The written governing instruments of the trusts must contain the following requirements:

(a) No contribution will be accepted unless in cash or by check.

Note: In accordance with U.S. Treasury Regulations and accepted commercial practice, electronic transfer of funds will be considered a cash payment for purposes of this Announcement.

(b) The assets of the trust will be invested in accordance with the direction of the Project Participant after consultation with the grantee and pursuant to the guidelines of the Secretary (which will be issued prior to the making of grant awards and made available to grantees at the time of grant award).

(c) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

(d) In the event of the death of the Project Participant, any balance remaining in the trust shall be distributed within 30 days of the date of death to another Individual Development Account established for the benefit of an eligible individual as directed by the Participant in the Savings Plan Agreement under sub-paragraph (h), below; provided, that the Participant may at their option direct the disposition of any funds in the trust which were deposited in the trust by the Participant.

(e) Except in the case of the death of the Project Participant, amounts in the trust attributable to deposits by the grantee from grant funds and matching non-federal contributions, and any interest thereon, may be paid, withdrawn or distributed out of the trust only for the purpose of paying qualified expenses of the Project Participant (i.e. for post-secondary education expenses, first-home purchase, or business capitalization. See PART I Section D(11))

(f) The procedures governing the withdrawal of funds from the Individual Development Account, for both Qualified Expenses and Emergency Withdrawals, which comply with the provisions of Paragraph (6) Withdrawals from Individual Development Accounts, below.

(g) A provision, in accordance with the direction of the Project Participant, for the distribution within 30 days of any balance in the trust on the day following the death of such Participant, to another individual development account established for the benefit of an eligible individual.

[**Note** that this will mean that each Project Participant must provide such direction at the time the Individual Development Account is established. Provision should be made by grantees for modification of such directions during the course of the project, in the event of changing circumstances.]

(h) a ''Savings Plan Agreement'' between the grantee and the Project Participant, which should include: (1) savings goals (including a proposed schedule of savings deposits by the Participant from earned income, which may be for a period of less than five years); (2) the rate at which participant savings will be matched (from one dollar to eight dollars for each dollar in savings deposited by Participant, up to a total of $2000 during the five-year project period); (3) the proposed qualified expense for which the Account is maintained, (4) any training or education related to the qualified expense which the Grantee agrees to provide and of which the Participant agrees to partake, (5) contingency plans in the event that the Participant exceeds or fails to meet projected savings goals or schedules, (6) any agreement as to investments of assets described in subparagraph (c), above, (7) provision for disposition of the funds in the trust (account) in the event of the Participant's death (see sub-Paragraph (d), above; and (8) provision for amendment of the Agreement with the concurrence of both Grantee and Participant.

(4) Custodial Accounts. Grantees may establish Custodial Accounts on behalf of minor children of Eligible Individuals, or up to age 24 in the case of students, of disabled dependents of Eligible Individuals, or of Eligible Individuals who are disabled. Such a Custodial Account shall be treated as a trust if the assets of the custodial account are held by a bank (as defined in section 408(n) of the Internal Revenue Code of 1986) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which such person will administer the custodial account will be consistent with the requirements of the AFI Act and paragraph (3), above, and if the custodial account would, except for the fact that it is not a trust, constitute an individual development account described above. In the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of that custodial account shall be treated as the trustee of the account. Grantees are reminded that (1) the savings deposits into such Custodial Accounts can be made only from earned income of the Eligible Individual, and (2) there is a limitation of $2000 per individual and $4000 per household on matching contributions from OCS grant funds.

(5) Deposits in Individual Development Accounts.

(a) Matching Contributions. Not less than once every three months during the demonstration project grantees will make deposits into Individual Development Accounts, or into a parallel account maintained by the grantee, as matching contributions to deposits made by Project Participants during the period since the previous deposit, from earned income.

Note: Deposits made by Project Participants shall be deemed to have been made from earned income so long as the Participant's earned income (as defined in Section 911(d)(2) of the Internal Revenue Code of 1986) during the period since the Participant's previous deposit in the account is greater than the amount of the current deposit.

Matching contributions must be made in equal amounts from Federal grant funds and non-Federal public and private funds committed to the project as matching contributions. Matching contribution deposits by grantees (Federal plus non-Federal) may be from $1 to $8 for each dollar of earned income deposited in the account by the Project Participant in whose name the account is established. At the time such deposits are made, the grantee will also deposit into the Individual Development Account (or the parallel account) any interest or income that has accrued since the previous deposit on amounts previously deposited in or credited to that account.

(b) Limitations on Matching Contributions. Over the course of the five year demonstration, not more than $2,000 in Federal grant funds shall be provided through matching contributions to any one individual; and not more than $4,000 shall be provided to any one household.

(6) Withdrawals from Individual Development Accounts.

(a) Limitations. No earlier than six months after the initial deposit by a Project Participant in an Individual Development Account, funds may be withdrawn from such account, but only upon written approval of the Project Participant and of a responsible official of the project grantee, and only for one or more Qualified Expenses (as defined in Part I) or for an Emergency Withdrawal.

(b) Emergency Withdrawals. An Emergency Withdrawal may only be of those funds, or a portion of those funds, deposited in the account by the Project Participant, and for the following purposes:

(i) Expenses for medical care or necessary to obtain medical care for the Project Participant or a spouse or dependent of the Participant;

(ii) Payments necessary to prevent eviction of the Project Participant from, or foreclosure on the mortgage for, the principal residence of the Participant;

(iii) Payments necessary to enable the Project Participant to meet necessary living expenses (food, clothing, shelter—including utilities and heating fuel) following loss of employment.

(c) Reimbursement of Emergency Withdrawals. A Project Participant shall reimburse an Individual Development Account for any funds withdrawn from the account for an Emergency Withdrawal, not later than 12 months after the date of the withdrawal. If the Participant fails to make the reimbursement, the Project Grantee must transfer the funds deposited into the account or a parallel account from Federal and non-Federal matching contributions, and any income generated thereby, back to the Reserve Fund of the grantee, and use the funds to benefit other individuals participating in the demonstration project involved. Any remaining funds deposited by the Project Participant (plus any income generated thereby) shall be returned to such Project Participant.

(d) Transfers to Individual Development Accounts of Family Members. At the request of a Project Participant, and with the written approval of a responsible official of the grantee, amounts may be paid from an individual development account directly into another such account established for the benefit of an eligible individual who is—

(i) The Participant's spouse, or

(ii) Any dependent of the Participant with respect to whom the Participant is allowed a deduction under section 151 of the Internal Revenue Code of 1986.

H. Project Eligibility and Requirements under Priority Area 2.0

State applicants which are eligible under Priority Area 2.0 (see PART II Sections A and B) are subject to the same Project Eligibility standards and Requirements as grantees under Priority Area 1.0 except that where such standards or requirements are inconsistent with State statutory requirements in effect as of the date of enactment of the AFI Act (October 27, 1998), governing such statewide program, they shall not apply to the program.

I. Non-Federal Matching Funds Requirements

Grantees must provide at least one hundred percent of the OCS grant amount in cash non-Federal share for deposit to the Reserve Fund as matching contribution. Public sector resources that can be counted toward the minimum required match include funds from State and local governments, and funds from various block grants allocated to the States by the Federal Government providing the authorizing legislation for these grants permits such use. (Note, for example, that Community Development Block Grant (CDBG) funds may be counted as matching funds; CSBG FUNDS MAY NOT.) To be considered for funding an Application must include a copy of a ''Non-Federal Share Agreement'' or Agreements in writing executed with the entity or entities providing the required non-Federal matching contributions, on letterhead of the entity and signed by a person authorized to make a commitment on behalf of the entity. Such Agreement(s) must include: (1) a commitment to provide the non-Federal funds contingent only on the grant award; (2) a schedule of deposits to the project's Reserve Fund of at least ten percent of the total committed for the entire project at the start of each of the five Project Years, plus any additional amounts needed to assure that there is at least $2000 of non-Federal matching contribution funds in the Reserve Fund for each Individual Development Account that has been opened; and (3) a statement that up to 9.5 percent of the required non-Federal matching contribution funds it provides may be allocated from the Reserve Fund to the support of project administration, Participant support, data collection or other project-related expenses. (See Section G(1)(b), above, and PART IV, Section D(5)) Grantees are encouraged to mobilize additional resources, which may be cash or in-kind contributions, Federal or non-Federal, for support of project administration and assistance to Project Participants in obtaining skills, knowledge, and needed support services. (See PART III, Element IV)

Note: If a grantee mobilizes matching non-Federal contributions in excess of the required 100 percent match, such non-Federal funds may be used however the grantee and provider of the funds may agree. Grantees will be held accountable for commitments of such excess matching funds and additional resources proposed or pledged as part of an approved application even if over the amount of the required match.

J. Preferences

In accordance with the provisions of the AFI Act, in considering an application to conduct a demonstration project under Priority Area 1.0, OCS

will give preference to an application that

(1) Demonstrates the willingness and ability of the applicant to select individuals for participation in the project who are predominantly from households in which a child (or children) is living with the child's biological or adoptive mother or father, or with the child's legal guardians;

(2) Provides a commitment of non-Federal funds with a proportionately greater amount of such funds committed from private sector sources; and

(3) Targets individuals residing within one or more relatively well-defined neighborhoods or communities (including rural communities, public housing developments, Empowerment Zones and Enterprise Communities) that experience high rates of poverty or unemployment.

K. Multiple Applications

Qualified Entities may submit more than one application for different demonstration projects, but no more than one such application will be funded to the same Qualified Entity.

L. Treatment of Program Income

As noted in Section G(1)(d), above, income generated from investment of unallocated funds in the Reserve Fund may be added to the funds already committed from the Reserve Fund to program administration, participant support, or evaluation data collection. However, once funds have been committed as matching contributions to Individual Development Accounts, then any income generated by such funds must be deposited proportionately to the credit of such accounts.

Note: No part of such income is to be considered as a Federal funds contribution subject to the $2000/$4000 limitations under Section G(5)(b), above. (See also Sections G(1)(d) and G(5)(a), above).

M. Agreements With Qualified Financial Institutions

All applicants under Priority Area 1.0 must enter into agreements with one or more Qualified Financial Institutions, under which Reserve Funds and Individual Development Accounts will be established and maintained. To be considered for funding, an Application under Priority Area 1.0 must include a copy of an Agreement or Agreements with one or more partnering Qualified Financial Institutions, which state(s) that the accounting procedures to be followed in account management will conform to Guidelines established by the Secretary (which will be issued prior to grant awards and made available to grantees at time of award), and under which the partnering Financial Institution agrees to provide data and reports as requested by the applicant. The Agreement may also include other services to be provided by the partnering Financial Institution that could strengthen the program, such as Financial Education Seminars, favorable pricing or matching contributions provided by the Financial Institution, and assistance in recruitment of Project Participants.

Part III. The Project Description, Program Proposal Elements and Review Criteria

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. Cross-referencing should be used rather than repetition. OCS is particularly interested in specific factual information and statements of measurable goals in quantitative terms. Project descriptions are evaluated on the basis of substance, not length. Extensive exhibits are not required. (Supporting information concerning activities that will not be directly funded by the grant or information that does not directly pertain to an integral part of the grant funded activity should be placed in an appendix.) Pages should be numbered and a table of contents should be included for easy reference.

A. Project Summary

Applicants should provide a Project Summary of not more than one page which should be page 1 of the Project Narrative-/Description.

B. Project Goals, Application Brevity

The ultimate goals of the projects to be funded under the Assets for Independence Demonstration Program are: (1) to achieve, through project activities and interventions, the creation of asset accumulation opportunities for recipients of Temporary Assistance for Needy Families (TANF) and other eligible individuals and families that can lead to economic self-sufficiency of members of the communities served through activities requiring one or more qualified expenses; (2) to support and make possible the evaluation of the effectiveness of these interventions and of the project design through which they were implemented; and (3) thus to make possible the replication of successful programs. As noted here, OCS intends to make the awards of all the above grants on the basis of brief, concise narrative project descriptions. The elements and format of these project descriptions, along with the review criteria that will be used to evaluate them, will be outlined in this Part.

In order to simplify the application preparation and review process, OCS seeks to keep grant proposals cogent and brief. Applications with project narratives (excluding appendices) of more than 30 letter-sized pages of 12 c.p.i. type or equivalent on a single side will not be reviewed for funding. Applicants should prepare and assemble their project description using the following outline of required project elements. They should, furthermore, build their project concept, plans, and application description upon the guidelines set forth for each of the project elements.

C. Proposal Elements and Review Criteria for Applications Under Priority Area 1.0

Applications which pass the initial screening will be assessed and scored by reviewers. Each reviewer will give a numerical score for each application reviewed. These numerical scores will be supported by explanatory statements on a formal rating form describing major strengths and weaknesses under each applicable criterion published in the Announcement. Scoring will be based on a total of 100 points.

The competitive review of proposals will be based on the degree to which applicants:

(1) Adhere to the requirements in PART II and incorporate each of the Elements and Sub-Elements below into their proposals, so as to:

(2) Describe convincingly a project that will develop new asset accumulation opportunities for TANF recipients and other eligible individuals and families that can lead to a transition from dependency to economic self-sufficiency through activities requiring one or more qualified expenses; and

(3) Provide for the collection of relevant data to support the testing and evaluation of the project design, implementation, and outcomes so as to make possible replication of a successful program.

For each of the Project Elements or Sub-Elements below there is at the end of the discussion a suggested number of pages to be devoted to the particular element or sub-element. These are suggestions only; but the applicant must remember that the overall Project Narrative must not be longer than 30 pages.

Element I. Organizational Experience and Administrative Capability. (Total Weight of 0 to 20 Points

Sub-Element I(a) Experience and Staffing. (Weight of 0–10 Points)

The applicant should cite its capability and relevant experience in developing and operating programs which deal with poverty problems similar to those to be addressed by the proposed project, including the provision of supportive services to TANF recipients and other low income individuals and families seeking to achieve economic stability and self-sufficiency, as well as with evaluations and data collection. Applications should identify applicant agency executive leadership in this section and briefly describe their involvement in the proposed project and provide assurance of their commitment to its successful implementation. The application should note and justify the priority that this project will have within the agency including the facilities and resources that it has available to carry it out.

Finally, the application must identify the two or three individual staff persons who will have the most responsibility for managing the project, coordinating services and activities for participants and partners, and for achieving performance targets. The focus should be on the qualifications, experience, capacity and commitment to the program of the key staff persons who will administer and implement the project. The person identified as Project Director should have supervisory experience, experience in working with financial institutions and budget related problems of the poor, and experience with the target population. Because this is a demonstration project within an already-established agency, OCS expects that the key staff person(s) would be identified, if not hired.

It is suggested that applicants use no more than 3 pages for this sub-Element, not counting actual resumes or position descriptions, which should be included in an Appendix to the proposal.

Sub-Element I(b) Ability to Assist Participants. (Weight of 0–10 Points)

The experience and ability of the applicant in recruiting, educating, and assisting project participants to increase their economic independence and general well-being through the development of assets. The application should cite the organization's experience in collaborative programming and operations which involve financial institutions and financial planning, budget counseling, educational guidance, preparation for home ownership, and self-employment training. The application should also cite the roles, responsibilities, and experience of any other organizations that will be collaborating with the Applicant to assist and support Project Participants in the pursuit of their goals under the project.

It is suggested that applicants use no more than 3 pages for this sub-Element. Any supportive materials or reports should be included in the Appendix to the proposal.

Element II. Sufficiency of the Project Theory, Design, and Plan (Total Weight of 0–40 Points)

The degree to which the project described in the application appears likely to aid project participants in achieving economic self-sufficiency through activities requiring one or more qualified expenses.

OCS seeks to learn from the application why and how the project as proposed is expected to establish the creation of new opportunities for asset accumulation by eligible individuals and families that can lead to significant improvements in individual and family self-sufficiency through activities requiring one or more qualified expenses: for post-secondary education, home ownership, and/or qualified business capitalization.

Applicants are urged to design and present their project in terms of a conceptual cause-effect framework that makes clear the relationship between what the project plans to do and the results it expects to achieve.

Sub-Element II(a). Description of Target Population, Analysis of Need, and Project Assumptions (Weight of 0–15 Points)

The project design or plan should begin with identifying the underlying assumptions about the program. These are the beliefs on which the proposed program is built. They should begin with assumptions about the strengths and needs of the population to be served; about how the accumulation of assets will enable project participants to build on those strengths in their quest to achieve self-sufficiency; about what anticipated needs of the participants could be barriers to that achievement, and why and how the services or interventions proposed by the applicant are appropriate and will meet those needs and remove such barriers; and about the impact the proposed interventions will have on the project participants.

In other words, the underlying assumptions of the program are the applicant's analysis of the participant strengths and potential to be supported and their needs and problems to be addressed by the project, and the applicant's theory of how its proposed interventions will address those strengths and needs to achieve the desired result. Thus a strong application is based upon a clear description of the needs and problems to be addressed and a persuasive understanding of the causes of those problems.

In this sub-element of the proposal the applicant must precisely identify the target population to be served. The geographic area to be impacted should then be briefly described, citing the percentage of residents who are low-income individuals and TANF recipients, as well as the unemployment rate, and other data that are relevant to the project design.

The application should include an analysis of the identified personal barriers to employment, job retention and greater self-sufficiency faced by the population to be targeted by the project. (These might include such problems as illiteracy, substance abuse, family violence, lack of skills training, health or medical problems, need for childcare, lack of suitable clothing or equipment, or poor self-image.) The application should also include an analysis of the identified community systemic barriers which the project will seek to overcome. These might include lack of public transportation; lack of markets; unavailability of financing, insurance or bonding; inadequate social services (employment service, child care, job training); high incidence of crime; inadequate health care; or environmental hazards. Applicants should be sure not to overlook the personal and family services and support needed by project participants after they are on the job which will enhance job retention and advancement, and help to assure that benefits attainable through asset accumulation are not wasted by crises beyond the participants' control.

Note: In accordance with the legislative preferences set forth in Part III Section J, above, the maximum score for this sub-Element in the review of applications under Priority Area 1.0 will only be given to applications which—

(1) Demonstrate the willingness and ability of the applicant to select individuals for participation in the project who are predominantly from households in which a child (or children) is living with the child's biological or adoptive mother or father, or with the child's legal guardians; and

(2) Target individuals residing within one or more relatively well-defined neighborhoods or communities (including rural communities, public housing developments, Empowerment Zones and

Enterprise Communities) that experience high rates of poverty or unemployment.

Each of these preferences will be valued at 2 points in the proposal review, so that the absence of one will reduce the review score for the sub-Element by 2 points; the absence of both will reduce the review score by 4 points.

It is suggested that applicants use no more than 5 pages for this Sub-Element.

Sub-Element II(b). Project Approach and Design: Interventions, Outcomes, and Goals (Weight of 0–20 Points)

The Application should outline a plan of action which describes the scope and detail of how the proposed work will be accomplished and result in outcomes which will build on the strengths of the Program Participants and assist them to overcome the identified personal and systemic barriers to achieving self-sufficiency. In other words, what will the project staff do with the resources provided to the project and how will what they do (interventions) assist project participants to accumulate assets in Individual Development Accounts and use those assets for qualified expenses in a manner that will lead them to self-sufficiency?

In this sub-element the applicant should discuss all of the planned activities and interventions and should explain the reasons for taking the approaches proposed.

The application should include here a brief discussion of the following aspects of the proposed project:

(1) Plans for recruitment of participants into the program;

(2) Criteria for selection of participants from among the eligible target population;

(3) The proposed rate(s) for matching contributions to Individual Development Accounts. (If more than one rate project-wide is proposed, the rationale should be provided);

(4) The provisions of the ''Savings Plan Agreements'' proposed to be made with Project Participants and included in the Trust Agreements establishing Individual Development Accounts. (A sample Savings Plan Agreement may be provided to satisfy this criterion.) [See PART II, Section G(3)(g) of this Announcement]

(5) The role of partnering financial institutions in account management and data collection and reporting;

(6) The role of the applicant and partners in providing training, counseling, and other types of support to participants, including those activities documented as in-kind contributions to the project under Element IV, below; and

(7) Any plans included in the proposed project for crisis intervention activities that will be able to provide assistance to participants so as to avoid emergency withdrawals which might jeopardize continued participation in the project.

It is suggested that applicants use no more than 9 pages for this Sub-Element, not including any sample ''Savings Plan Agreement'', which if provided should be included in an Appendix.

Sub-Element II(c). Work Plan, Projections, Time Lines. (Weight of 0–5 Points)

Applicant should provide quantitative quarterly projections of the activities to be carried out and such information as the projected number of participants to be enrolled, the number of Individual Development Accounts to be opened, the number and amount of deposits, and the number and types of services provided to participants. The plan should briefly describe the key project tasks, and show the timelines and major milestones for their implementation. Applicant may be able to use a simple Gantt or time line chart to convey the work plan in minimal space.

It is suggested that applicants use no more than 2 pages for this Sub-Element.

Element III. Evaluation Data: Adequacy of Plan for Providing Information for Evaluation (Weight of 0–15 Points)

Applicant should identify the kinds of data to be collected, maintained, and/or disseminated. The AFI Act makes provision for a national evaluation of the demonstration program as a whole, and sets aside 2% of the appropriated funds for its support. In addition, each grantee must spend at least 2% of its grant funds (but not more than 9.5%) for the collection of data needed to support the evaluation. This Element of the application will be judged on the adequacy of the plan for providing information relevant to an evaluation of the project.

Note: The maximum score for this Element will be awarded in the review process to applications that include a statement that the applicant agrees to use the ''MIS IDA'' information system software developed by the Center for Social Development, or a *comparable and compatible* system, for the maintenance, collection, and transmission of data from the proposed project.

It is suggested that applicants use no more than 2 pages for this Element.

Element IV. Commitment of Non-Federal Funds and Additional Resources. (Weight of 0–15 Points)

The aggregate amount of direct funds from non-federal public sector and from private sources that are formally committed to the project as matching contributions; and the mobilization of additional resources in support of project .

As noted below in Part IV, Paragraph D Initial OCS Screening, only applications which include written documentation of a commitment to the provision of a non-Federal share, in cash as distinguished from in-kind, of at least the amount of the total federal budget for the project will be considered for competitive review.

At the same time, OCS has determined that the strict legislative limitations on the use of Federal grant funds and of the minimum required non-Federal match (at least 90.5% of each must go toward matching deposits in Individual Development Accounts) mean that important training, counseling and support activities, critical to the success of a project, can only be supported by additional resources, both of the applicant itself and mobilized by the applicant in the community.

Consequently, applicants documenting only the required non-Federal 100% cash matching contributions to the project will receive no more than 8 points for this Element, subject to the Notation below regarding legislative preferences.

In this section the applicant should identify those additional resources, cash and in-kind, which will be dedicated to support of those activities and interventions identified in sub-Element II(b), such as training, counseling, and crisis intervention; and any staff activities described in Element III. Such resources may be existing programs of the applicant or a project partner, such as Family Development, Literacy classes, or Small Business Training, in which Project Participants will be enrolled as part of their efforts to achieve self-sufficiency. This Element will be judged in the review process on the adequacy of the mobilized resources to support the activities and interventions described in sub-Element II(b). The commitment of such resources to the project must be documented in writing and submitted as an Appendix to the Application. Because such additional resources are not part of the legislatively mandated non-Federal matching requirement, these additional resources may be of Federal or non-Federal origin, public or private, in cash or in-kind. Applicants are reminded that they will be held accountable for commitments of such additional resources even if over the amount of the required match.

Note: In accordance with the legislative preferences set forth in Part III Section J,

above, the maximum score for this Element, in the review of applications under Priority Area 1.0 only, will only be given to applications which provide a commitment of required non-Federal cash matching contributions with a proportionately greater amount of such funds committed from private sector as opposed to public sources. This preference will be valued at 2 points in the proposal review, so that the absence of such a commitment will reduce the review score for the Element by 2 points.

It is suggested that no more than 3 pages be used for this Element, not including any letters of commitment or partnership agreements, which should be put in an Appendix to the proposal.

Element V. Results or Benefits Expected: Significant and Beneficial Impacts. (Weight of 0–10 Points)

The proposed project is expected to produce permanent and measurable results that will reduce the incidence of poverty in the community and lead TANF recipients and other eligible individuals and families toward economic self-sufficiency. Results are expected to be quantifiable in terms of the number of Individual Development Accounts opened, their rate of growth, the number and size of withdrawals for each of the three qualified expenses, and the impact of the payment of those expenses on the participants' movement toward self-sufficiency.

Applicants should set forth their realistic goals and projections for attainment of these and other beneficial impacts of the proposed project.

Critical issues or potential problems that might affect the achievement of project objectives should be explicitly addressed, with an explanation of how they would be overcome, and how the objectives will be achieved notwithstanding any such problems.

It is suggested that no more than 3 pages be used for this Element.

D. Proposal Elements and Review Criteria for Application Under Priority Area 2.0.

Applications under Priority area 2.0 will be reviewed by OCS staff for their satisfactory adherence to the following criteria. These criteria will be considered thresholds for eligible State Applicants to receive grants and participate in the IDA Program. Consequently, rather than a rating score in points, reviewers will rate the Applications as having met the criterion satisfactorily or not. To be recommended for funding Applications under Priority Area 2.0 must satisfactorily meet all of the following criteria:

Element I: Sufficiency of the Project

Applicants should describe the project to be carried out, including participant recruitment, criteria for participant selection, the rate(s) by which participant savings will be matched, the role of the State and local project administrators in providing training, counseling, and other types of support to participants designed to help them achieve economic self-sufficiency. The Application will be reviewed on the degree to which the project described in the application appears likely to aid project participants in achieving economic self-sufficiency through activities requiring one or more qualified expenses.

Element II: Administrative Ability

The Application will be reviewed on the experience and ability of the applicant to responsibly administer the project. The application should describe how the applicant proposes to administer the project, what collaboration exists or is proposed with financial institutions for management of Individual Development Accounts, and the type of agreement reached with Project Participants with regard to planned savings and the goal or goals to be pursued in achieving one or more the Qualified Expenses. The Application should include a statement that the accounting procedures to be followed in account management will conform to Guidelines established by the Secretary (which will be issued prior to grant awards and made available to grantees at time of the award), and that any partnering financial institution agrees to provide data and reports as requested by the applicant.

Element III: Ability to Assist Participants

The application should document the experience and ability of the applicant in recruiting, educating, and assisting project participants to increase their economic independence and general well-being through the development of assets.

Element IV: Commitment of Non-Federal Funds

The aggregate amount of direct funds from non-federal public sector and from private sources that are formally committed to the project as matching contributions to Individual Development Accounts. The application must contain documentation of commitment of non-Federal matching cash contribution to the project in an amount equal to the grant requested, which will be available to the project during the Budget Period of the grant.

Element V: Adequacy of Plan for Providing Information for Evaluation

The adequacy of the plan for providing information relevant to an evaluation of the project. Applications that include a statement that the applicant agrees to use the ''MIS IDA'' information system software developed by the Center for Social Development, or a *comparable and compatible system,* for the maintenance, collection, and transmission of data from the proposed project will be deemed to have satisfactorily met this Criterion.

D. Funding Reconsideration

After Federal funds are exhausted for this grant competition, applications which have been independently reviewed and ranked but have no final disposition (neither approved nor disapproved for funding) may again be considered for funding. Reconsideration may occur at any time funds become available within twelve (12) months following ranking. ACF does not select from multiple ranking lists for a program. Therefore, should a new competition based on the same review criteria be scheduled and applications remain ranked without final disposition, such applications will be entered into the rank order list for the new competition in accordance with their previous score. At the same time, such applicants will be informed of their opportunity instead to reapply for the new competition, if they so choose, and to the extent practical, in which case the previous application will be disregarded.

Part IV. Application Procedures

A. Application Development/ Availability of Forms

In order to be considered for a grant under this program announcement, an application must conform to the Program Requirements set out in Part II and be prepared in accordance with the guidelines set out in Part III, above. It must be submitted on the forms supplied in the attachments to this Announcement and in the manner prescribed below. Attachments A through I contain all of the standard forms necessary for the application for awards under this OCS program. These attachments and Parts IV and V of this Announcement contain all the instructions required for submittal of applications.

Additional copies may be obtained by writing or telephoning the office listed under the section entitled **FOR FURTHER INFORMATION CONTACT** at the beginning of this announcement. In addition, this Announcement is accessible on the

Internet through the OCS WEBSITE for reading or downloading at ''http://www.acf.dhhs.gov/programs/ocs'' under ''funding opportunities''.

The applicant must be aware that in signing and submitting the application for this award, it is certifying that it will comply with the Federal requirements concerning the drug-free workplace, debarment regulations and the Certification Regarding Environmental Tobacco Smoke, set forth in Attachments G, I and H.

PART III contains instructions for the substance and development of the project narrative. PART V contains instructions for completing application forms. PART VI, Section A describes the contents and format of the application as a whole.

B. Application Submission

(1) Number of Copies Required. One signed original application and four copies should be submitted at the time of initial submission. (OMB 0970–0139)

(2) Deadline. Mailed applications shall be considered as meeting the announced deadline of April 27, 1999 if they are either received on or before the deadline date or postmarked on or before the deadline date and received by ACF in time for the independent review. Mailed applications must be sent to: U.S. Department of Health and Human Services, Administration for Children and Families, Office of grants Management, Office of Child Support Enforcement, ''Attention: IDA Program'', 370 L'Enfant Promenade, S.W., Washington, D.C. 20447.

Applicants must ensure that a legibly dated U.S. Postal Service postmark or a legibly dated machine produced postmark of a commercial mail service is affixed to the envelope/package containing the application(s). To be acceptable as proof of timely mailing, a postmark from a commercial mail service must include the logo/emblem of the commercial mail service company and must reflect the date the package was received by the commercial mail service company from the applicant. Private Metered postmarks shall not be acceptable as proof of timely mailing.

Applications handcarried by applicants, applicant couriers, overnight/express delivery services, or by other representatives of the applicant shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8:00 a.m. and 4:30 p.m., EST, at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of grants Management, Office of Child Support Enforcement, Mailroom, 2nd Floor (near loading dock), Aerospace Center, 901 D Street, S.W., Washington, D.C. 20024, between Monday and Friday (excluding Federal holidays). The address must appear on the envelope/package containing the application with the note ''Attention: IDA Program''. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

(3) Late applications. Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

(4) Extension of deadlines. ACF may extend an application deadline when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruption of the mail service, or in other rare cases. Determinations to extend or waive deadline requirements rest with ACF's Chief Grants Management Officer.

C. Intergovernmental Review

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR Part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

NOTE: STATE/TERRITORY PARTICIPATION IN THE INTERGOVERNMENTAL REVIEW PROCESS DOES NOT SIGNIFY APPLICANT ELIGIBILITY FOR FINANCIAL ASSISTANCE UNDER A PROGRAM. A POTENTIAL APPLICANT MUST MEET THE ELIGIBILITY REQUIREMENTS OF THE PROGRAM FOR WHICH IT IS APPLYING PRIOR TO SUBMITTING AN APPLICATION TO ITS SPOC, IF APPLICABLE, OR TO ACF.

Attachment J is a Single Point of Contact List for participating jurisdictions. The following jurisdictions have elected not to participate in the Executive Order process: Alabama, Alaska, American Samoa, Colorado, Connecticut, Kansas, Hawaii, Idaho, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Oklahoma, Oregon, Palau, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, and Washington. Applicants from these jurisdictions, for projects administered by federally recognized Indian Tribes, or which are States (under Priority Area 2.0) need take no action in regard to E.O. 12372. All remaining jurisdictions participate in the Executive Order process and have established SPOCs. Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them of the prospective applications and receive instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule. When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Office of Child Support Enforcement, 370 L'Enfant Promenade, S.W., Mail Stop 6C–462, Washington, D.C. 20447.

D. Initial OCS Screening

Each application submitted under this program announcement will undergo a pre-review to determine that the application was postmarked by the closing date and submitted in accordance with the instructions in this announcement.

All applications that meet the published deadline requirements as provided in this Program Announcement will be screened for completeness and conformity with the following requirements. Only complete applications that meet the requirements listed below will be reviewed and evaluated competitively. Other applications will be returned to the applicants with a notation that they were unacceptable and will not be reviewed.

The following requirements must be met by all applicants except as noted:

(1) The application must contain a Standard Form 424 ''Application for Federal Assistance'' (SF–424), a budget

(SF–424A), and signed ''Assurances'' (SF 424B) completed according to instructions published in Part V and Attachments A, B, and C of this Program Announcement.

(2) A project narrative must also accompany the standard forms. OCS requires that the narrative portion of the application be limited to 30 pages, typewritten on one side of the paper only with one-inch margins and type face no smaller than 12 characters per inch (cpi) or equivalent. The Budget Narrative, Charts, exhibits, resumes, position descriptions, letters of support or commitment, Agreements with partnering organizations, and Business Plans (where required) are not counted against this page limit. IT IS STRONGLY RECOMMENDED THAT APPLICANTS FOLLOW THE FORMAT AND CONTENT FOR THE NARRATIVE DESCRIBED IN THE PROGRAM ELEMENTS SET OUT IN PART III.

(3) The SF–424 and the SF–424B must be signed by an official of the organization applying for the grant who has authority to obligate the organization legally. Applicants must also be aware that the applicant's legal name as required on the SF–424 (Item 5) must match that listed as corresponding to the Employer Identification Number (Item 6).

(4) In the case of applications under Priority Area 1.0 only, application must contain documentation of the applicant's tax exempt status as required under Part II, Section A.

(5) In the case of Application under Priority Area 1.0 only, the Application must include a copy of a ''Non-Federal Share Agreement'' or Agreements in writing executed with the entity or entities providing the required non-Federal matching contributions, on letterhead of the entity and signed by a person authorized to make a commitment on behalf of the entity. Such Agreement(s) must include: (1) a commitment to provide the non-Federal funds contingent only on the grant award; (2) a schedule of deposits to the project's Reserve Fund of at least ten percent of the total committed for the entire project at the start of each of the five Project Years, plus any additional amounts needed to assure that there is at least $2000 of non-Federal matching contribution funds in the Reserve Fund for each Individual Development Account that as been opened; and (3) a statement that up to 9.5 percent of the required non-Federal matching contribution funds it provides may be allocated from the Reserve Fund to the support of project administration, Participant support, data collection or other project-related expenses. (See PART II Sections G(1)(b) and I.) Grantees are encouraged to mobilize additional resources, which may be cash or in-kind contributions, Federal or non-Federal, for support of project administration and assistance to Project Participants in obtaining skills, knowledge, and needed support services. (See PART III, Element IV.)

Note: If a grantee mobilizes matching non-Federal contributions in excess of the required 100 percent match, such non-Federal funds may be used however the grantee and provider of the funds may agree.

(See also PART II, Section J.)

(6) In the case of Application under Priority Area 1.0 only, the Application must include a copy of an Agreement between the Applicant and one or more Qualified Financial Institution(s), which states that the accounting procedures to be followed in account management will conform to Guidelines established by the Secretary (which will be issued prior to grant awards and provided to grantees at time of award), and under which the partnering financial institution will agree to provide data and reports as requested by the applicant.

E. Consideration of Applications under Priority Area 1.0

Applications which pass the initial OCS screening will be reviewed and rated by an independent review panel on the basis of the specific review criteria described in Part III, above. The review criteria were designed to assess the quality of a proposed project, and to determine the likelihood of its success. The evaluation criteria are closely related and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications which are responsive to the review criteria within the context of this program announcement. The results of these reviews will assist the Director and OCS program staff in considering competing applications. Reviewers' scores will weigh heavily in funding decisions, but will not be the only factors considered.

Applications generally will be considered in order of the average scores assigned by reviewers. However, highly ranked applications are not guaranteed funding since other factors are taken into consideration, including, but not limited to, the timely and proper completion of projects funded with OCS funds granted in the last five (5) years; comments of reviewers and government officials; staff evaluation and input; the amount and duration of the grant requested and the proposed project's consistency and harmony with OCS goals and policy; geographic distribution of applications; previous program performance of applicants; compliance with grant terms under previous HHS grants, including the actual dedication to program of mobilized resources as set forth in project applications; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowances on previous OCS or other Federal agency grants.

Since non-Federal reviewers will be used for review of applications under Priority Area 1.0, applicants may omit from the application copies (under Priority Area 1.0 only) which will be made available to the non-Federal reviewers, the specific salary rates or amounts for individuals identified in the application budget. Rather, only summary information is required.

OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to verify the applicant's performance record and the documents submitted.

F. Consideration of Applications under Priority Area 2.0

Applications under Priority Area 2.0 will be reviewed by OCS staff for eligibility under the criteria set out in PART II, Section B, and for compliance with the threshold criteria listed in PART III, Section D. Those meeting the criteria will be recommended for funding to the Director of OCS for his consideration.

Part V. Instructions for Completing Application Forms

The standard forms attached to this announcement shall be used to apply for funds under this program announcement.

It is suggested that you reproduce single-sided copies of the SF–424 and SF–424A, and type your application on the copies. Please prepare your application in accordance with instructions provided on the forms (Attachments A and B) as modified by the OCS specific instructions set forth below:

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification which describes how the categorical costs are derived. Discuss

the necessity, reasonableness, and allocability of the proposed costs.

A. SF–424—Application for Federal Assistance (Attachment A)

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Where the applicant is a previous Department of Health and Human Services grantee, enter the Central Registry System Employee Identification Number (CRS/EIN) and the Payment Identifying Number, if one has been assigned, in the Block entitled Federal Identifier located at the top right hand corner of the form (third line from the top).

Item 1. For the purposes of this announcement, all projects are considered Applications; there are no Pre-Applications.

Item 7. If applicant is a State, enter ''A'' in the box. If applicant is an Indian Tribe enter ''K'' in the box. If applicant is a non-profit organization enter ''N'' in the box.

Item 9. Name of Federal Agency—Enter DHHS–ACF/OCS.

Item 10. The Catalog of Federal Domestic Assistance number for OCS programs covered under this announcement is 93.602. The title is ''IDA Program''.

Item 11. In addition to a brief descriptive title of the project, indicate the priority area for which funds are being requested. Use the following letter designations:

I—Individual projects under Priority Area 1.0

S—Statewide projects under Priority Area 2.0

Item 13. Proposed Project—The project start date must begin on or before September 30, 1999; the ending date should be calculated on the basis of 60-month Project Period.

Item 15a. This amount should be no greater than $500,000 for applications under Priority Area 1.0; no greater than $1,000,000 for applications under Priority Area 2.0.

Item 15b–e. These items should reflect both cash and third-party, in-kind contributions for the Project Period.

B. SF–424A—Budget Information—Non-Construction Programs

(Attachment B)

In completing these sections, the Federal Funds budget entries will relate to the requested OCS funds only, and Non-Federal will include mobilized funds from all other sources—applicant, state, local, and other. Federal funds other than requested OCS funding should be included in Non-Federal entries.

Sections A, B, and C of SF–424A should reflect budget estimates for each year of the Project Period.

Section A—Budget Summary

You need only fill in lines 1 and 5 (with the same amounts):

Col. (a): Enter ''IDA Program'' as Item number 1. (Items 2, 3, 4, and 5 should be left blank.)

Col.(b): Catalog of Federal Domestic Assistance number is 93.602. Col.

(c) and (d): not relevant to this program.

Column (e)–(g): enter the appropriate amounts in items 1. and 5. (Totals) Column e should not be more than $500,000 for applications under Priority Area 1.0; or more than $1,000,000 for applications under Priority Area 2.0 (although as noted in Part II grants are expected to be of approximately $930,000); and in no case can it be more than the committed non-Federal matching cash contribution.

Section B—Budget Categories

(Note that the following information supersedes the instructions provided with the Form in Attachment C)

Columns (1)–(5): For each of the relevant Object Class Categories:

Column 1: Enter the OCS grant funds for the full 5-year budget period. With regard to Class Categories, at least 90.5 percent of OCS grant funds should be entered in ''h. Other'', representing the funds to be deposited in the Reserve Fund. At least 2 percent of OCS grant funds, for data collection, should be entered under ''Other'', ''Contractual'', and/or ''Personnel'' as appropriate. Up to 7.5 percent of OCS grant funds, which may be for project administration and support, should be entered in Class Categories as appropriate.

Columns 2, 3 and 4 are not relevant to this program.

Column 5: Enter the total federal OCS grant funds for the five year budget by Class Categories, showing a total of not more than $500,000 (or $1,000,000 Priority Area 2.0).

Note: Only out-of-town travel should be entered under Category c. Travel. Local travel costs should be entered under Category h. Other. Costs of supplies should be included under Category e. ''Supplies'' is tangible personal property other than ''equipment''. ''Equipment'' means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for financial statement purposes, or (b) $5,000. Articles costing less should be included in ''Supplies''.

Section C—Non Federal Resources

This section is to record the amounts of ''non-Federal'' resources that will be used to support the project. In this context, ''Non-Federal'' resources mean other than the OCS funds for which the applicant is applying. Therefore, mobilized funds from other Federal programs, such as the Job Training Partnership Act program or the Welfare-to-Work program, should be entered on these lines. Provide a brief listing of these ''non-Federal'' resources on a separate sheet and describe whether it is a grantee-incurred cost or a third-party cash or in-kind contribution. The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process under the Non-Federal Resources program element.

(Note: Even though non-Federal resources mobilized may go beyond the amount required as match under the IDA Program, grantees will be held accountable for any such cash or in-kind contribution proposed or pledged as part of an approved application. (See PART II, Section I. and PART III, Element IV.)

Sections D, E, and F may be left blank by Applicants under Priority Area 1.0. State Applicants under Priority Area 2.0 must complete Section E. Estimates of OCS funds needed for the subsequent four years of the five-year Project Period (not to exceed $1,000,000 per year) should be entered on line 16 under columns (b), (c), (d), and (e).

As noted in Part VI, a supporting Budget Justification must be submitted providing details of expenditures under each budget category, with justification of dollar amounts which relate the proposed expenditures to the work program and goals of the project.

C. SF–424B Assurances: Non-Construction Programs

Applicants requesting financial assistance for a non construction project must file the Standard Form 424B, ''Assurances: Non-Construction Programs.'' (Attachment C) Applicants must sign and return the Standard Form 424B with their applications.

Applicants must provide a certification concerning Lobbying. Prior to receiving an award in excess of $100,000, applicants shall furnish an executed copy of the lobbying certification. (See Attachments D and E) Applicants must sign and return the certification with their applications. Applicants should note that the Lobbying Disclosure Act of 1995 has simplified the lobbying information required to be disclosed under 31 USC 1352.

Applicants must make the appropriate certification on their compliance with the Drug-Free Workplace Act of 1988 and the Pro-Children Act of 1994 (Certification Regarding Smoke Free Environment). (See Attachments G and H) By signing and submitting the applications, applicants are attesting to their intent to comply with these requirements and need not mail back the certification with the applications.

Applicants must make the appropriate certification that they are not presently debarred, suspended or otherwise ineligible for award. (See Attachment I) By signing and submitting the applications, applicants are providing the certification and need not mail back the certification with the applications. Copies of the certifications and assurances are located at the end of this announcement.

Part VI. Contents of Application and Receipt Process

Application pages should be numbered sequentially throughout the application package, beginning with an Abstract of the proposed project as page number one; and each application must include all of the following, in the order listed below:

A. Content and Order of IDA Program Application

1. Table of Contents;

2. An Abstract of the project—very brief, not to exceed 300 words, that would be suitable for use in an announcement that the application has been selected for a grant award; which identifies the type of project(s), the target population, the applicant, partners, and the major elements of the work plan.

3. A completed Standard Form 424 (Attachment A) which has been signed by an official of the organization applying for the grant who has authority to obligate the organization legally; [Note: The original SF–424 must bear the original signature of the authorizing representative of the applicant organization];

4. A completed Budget Information-Non-Construction Programs (SF–424A) (Attachment B);

5. A narrative budget justification for each object class category included under Section B;

6. Proof of tax-exempt status (in the case of Applications under Priority Area 1.0 only); in the case of Applications under Priority Area 2.0, evidence of eligibility as required by PART II Section C;

7. *A project narrative,* limited to the number of pages specified below, which includes all of the required elements described in Part III. [Specific information/data required under each component is described in Part III Sections C and D, Application Elements and Review Criteria.]

8. *Appendices,* which should include the following:

a. Filled out, signed and dated *Assurances—Non-Construction Programs* (SF–424B), Attachment C;

b. *Restrictions on Lobbying—Certification for Contracts, Grants, Loans, and Cooperative Agreements:* filled out, signed and dated form found at Attachment D;

d. *Disclosure of Lobbying Activities, SF–LLL:* Filled out, signed and dated form found at Attachment E, if appropriate (omit Items 11–15 on the SF LLL and ignore references to continuation sheet SF–LLL–A)

e. *Maintenance of Effort Certification* (See Attachment F);

f. signed *Agreement* with partnering Financial Institution(s) (in the case of Application under Priority Area 1.0 only);

g. signed *Agreements with providers of Required non-Federal matching contributions;*

h. resumes and/or position descriptions (see Program Element IV);

i. any letters from cooperating or partnering agencies in target communities. [Such letters are not part of the Narrative and should be included in the Appendices. These letters are therefore not counted against the page limitations of the Narrative.]; and

j. single points of contact comments, if applicable.

Applications must be uniform in composition since OCS may find it necessary to duplicate them for review purposes. Therefore, applications must be submitted on white 8–1/2 x 11 inch paper only. They must not include colored, oversized or folded materials. Do not include organizational brochures or other promotional materials, slides, films, clips, etc. in the proposal. They will be discarded if included. The applications should be two-hole punched at the top center and fastened separately with a compressor slide paper fastener, or a binder clip. The submission of bound plans, or plans enclosed in binders is specifically discouraged.

B. Acknowledgement of Receipt

Acknowledgment of Receipt—All applicants will receive an acknowledgement with an assigned identification number. Applicants are requested to supply a self-addressed mailing label with their Application, or a FAX number or e-mail address which can be used for acknowledgement. The assigned identification number, along with any other identifying codes, must be referenced in all subsequent communications concerning the Application. If an acknowledgement is not received within three weeks after the deadline date, please notify ACF by telephone at (202) 205–5082.

Part VII. Post Award Information and Reporting Requirements

A. Notification of Grant Award

Following approval of the applications selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Financial Assistance Award which provides the amount of Federal funds approved for use in the project, the project and budget period for which support is provided, the terms and conditions of the award, and the total project period for which support is contemplated.

B. Attendance at Evaluation Workshops

OCS hopes to sponsor one or more national evaluation workshops in Washington, D.C. or in other locations during the course of the five-year project. Project Directors will be expected to attend such workshops provided funds can be made available by OCS for expenses of attending.

C. Reporting Requirements

Grantees will be required to submit a semi-annual program progress and financial report (SF 269) covering the six months after grant award, and similar reports after conclusion of the first Project Year. Such reports will be due 60 days after the reporting period. Thereafter grantees will be required to submit annual program progress and financial reports (SF 269), as well as a final program progress and financial report within 90 days of the expiration of the grant.

D. Audit Requirements

Grantees are subject to the audit requirements in 45 CFR Parts 74 (non-profit organization) and OMB Circular A–133.

E. Prohibitions and Requirements With Regard to Lobbying

Section 319 of Public Law 101–121, signed into law on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides limited exemptions for Indian tribes and tribal organizations. Current and prospective recipients (and their subtier

contractors and/or grantees) are prohibited from using appropriated funds for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement or loan. In addition, for each award action in excess of $100,000 (or $150,000 for loans) the law requires recipients and their subtier contractors and/or subgrantees (1) to certify that they have neither used nor will use any appropriated funds for payment to lobbyists, (2) to submit a declaration setting forth whether payments to lobbyists have been or will be made out of non-appropriated funds and, if so, the name, address, payment details, and purpose of any agreements with such lobbyists whom recipients or their subtier contractors or subgrantees will pay with the non-appropriated funds and (3) to file quarterly up-dates about the use of lobbyists if an event occurs that materially affects the accuracy of the information submitted by way of declaration and certification.

The law establishes civil penalties for noncompliance and is effective with respect to contracts, grants, cooperative agreements and loans entered into or made on or after December 23, 1989. See Attachment H, for certification and disclosure forms to be submitted with the applications for this program.

F. Applicable Federal Regulations

Attachment K indicates the regulations which apply to all applicants/grantees under the Assets for Independence Demonstration Program.

Dated: January 22, 1999.

Donald Sykes,

Director, Office of Community Services.

BILLING CODE 4184–01–P

Attachment A

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

		2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction / Preapplication ☐ Construction ☐ Non-Construction		**3. DATE RECEIVED BY STATE**	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, State, and zip code)*:	Name and telephone number of person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER *(EIN)*: ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other*(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ – ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.)*:

13. PROPOSED PROJECT		**14. CONGRESSIONAL DISTRICTS OF:**	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Type Name of Authorized Representative	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Date Signed

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Standard Form 424 (Rev. 7-97)
Prescribed by OMB Circular A-102

BILLING CODE 4184–01–C

INSTRUCTIONS FOR THE SF–424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0043), Washington, DC 20503

Please do not return your completed form to the Office of Management and Budget. Send it to the address provided by the sponsoring agency.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).

3. Stat use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name or primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided:

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

—''New'' means a new assistance award.

—''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date.

—''Revision'' means any change in the Federal Government's financial obligation or contingent liability from an existing obligation

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is required.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the Stat Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

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Attachment B

BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. Totals		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total
	(1)	(2)	(3)	(4)	(5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges *(sum of 6a-6h)*					
j. Indirect Charges					
k. TOTALS *(sum of 6i and 6j)*	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (Rev. 7-97)
Prescribed by OMB Circular A-1

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SECTION C - NON-FEDERAL RESOURCES				
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTAL *(sum of lines 8-11)*	$	$	$	$

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL *(sum of lines 13 and 14)*	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL *(sum of lines 16-19)*	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION	
21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

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Standard Form 424A (Rev. 7-97) Page

INSTRUCTIONS FOR THE SF–424A

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0044), Washington, DC 20503.

Please do not return your completed form to the office of Management and Budget. Send it to the address provided by the sponsoring agency.

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when apply for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary Liens 1–4

Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the Catalog program title and the Catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the Catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the Catalog program title on each line in Column (a) and the respective Catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g)

For *new applications*, leave Column (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For *continuing grant program applications*, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For *supplemental grants and changes,* to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Line 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplement) or funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Attachment C—Assurances—Non-Construction Programs

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the

data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0040), Washington, DC 20503.

Please do not return your completed form to the Office of Management and Budget. Send it to the address provided by the sponsoring agency.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duty authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share or project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standard or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 CFR 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6105–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290dd–3 and 290ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis Bacon Act (40 U.S.C. 276a to 276a–7), the Copeland Act (40 U.S.C. 276c and 18 U.S.C. 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition in $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (g) protection of underground sources of drinking water under the Safety Drinking Water Act of 1974, as amended (P.L. 93–523); and, (h) protection of endangered species under the endangered Species Act of 1973, as amended (P.L. 92–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A–133, ''Audits of States, Local Governments, and Non-Profit Organization.''

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

_____

Signature of Authorized Certifying Official

_____

Title

_____

Applicant Organization

Date Submitted _____

Attachment D—Certification Regarding Lobbying

Certification for Contracts. Grants. Loans. and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress,

or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____

Signature

_____

Title

_____

Organization

BILLING CODE 4184–01–P

Attachment E

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

Approved by OMB
0348-0046

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: **Congressional District**, *if known*:	 **Congressional District**, *if known*:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	**9. Award Amount**, *if known*: $
10. a. Name and Address of Lobbying Registrant (*if individual, last name, first name, MI*):	**b. Individuals Performing Services** (*including address if different from No. 10a*) (*last name, first name, MI*):

11.	
Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____

Federal Use Only:	Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

BILLING CODE 4184–01–C

Instructions for Completion of SF–LLL, Disclosure of Lobbying Activities

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks ''Subawardee,'' then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., ''RFP–DE–90–001.''

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348–0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management Budget, Paperwork Reduction Project (0348–0046), Washington, DC 20503.

Attachment F—Certification Regarding Maintenance of Effort

In accordance with the applicable program statute(s) and regulation(s), the undersigned certifies that financial assistance provided by the Administration for Children and Families, for the specified activities to be performed under the _____ Program by _____ (Applicant Organization), will be in addition to, and not in substitution for, comparable activities previously carried on without Federal assistance.

_____

Signature of Authorized Certifying Official

_____

Title

_____

Date

Attachment G—Certification Regarding Drug-Free Workplace Requirements

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart F. Sections 76.630(c) and (d)(2) and 76.645(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517–D, 200 Independence Avenue, SW., Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals. Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).

8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement;

consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification Regarding Drug-Free Workplace Requirements

Alternate I. (Grantees Other Than Individuals).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

(B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

Altrnate II. (Grantees Who Are Individuals)

(a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant:

(b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

[55 FR 21690, 21702, May 25, 1990]

Attachment H

Administration for Children and Families U.S. Department of Health and Human Services

CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

Public Law 103227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994, requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residence, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity. By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act.

The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

Attachment I

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

Certification Regarding Debarment, Suspension and Other Responsibility Matters—Primary Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntary excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4 debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,''

provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension and Other Responsibility Matters—Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when the transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions,'' without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

E.O. 12372 State Single Point of Contact List

Arizona

Joni Saad, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, AZ 85012, (602) 280–1315, FAX (602) 280–8144

Arkansas

Tracy L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, 1515 W. 7th St., Room 412, Little Rock, AK 72203, (501) 682–1074, FAX (501) 682–5206, tlcopeland@dfa.state.ar.us

California

Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Room 121, Sacramento, CA 95814, (916) 323–7480, FAX (916) 323–3018

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Office of the Budget, 540 S. Dupont Highway, Suite 5, Dover, DE 19901, (302) 739–3326, FAX (302) 739–5561, fbooth@state.de.us

District of Columbia

Charles Nichols, State Single Point of Contact, Office of Grants Management and Development, 717 14th Street, N.W., Suite 400, Washington, DC 20005, (202) 727–

1700 (direct), (202) 727–6537 (secretary), FAX (202) 727–1617

Florida

Florida State Clearinghouse, Department of Community Affairs, 22740 Centerview Drive, Tallahassee, FL 32399–2100, FAX (850) 414–0479, Contact: Cherie Trainor, (850) 414–5495, cherie.trainor@dcs.state.fl.us

Georgia

Deborah Stephens, Administrator, Georgia State Clearinghouse, 270 Washington Street, S.W., #710, Marietta, GA 30067, (404) 656–3855, FAX (404) 656–7901, ssda@mail.opb.state.ga.us

Illinois

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In accordance with Executive Order #12372, ''Intergovernmental Review of Federal Programs,'' this listing represents the designated State Single Points of Contact. The jurisdictions not listed no longer participate in the process BUT GRANT APPLICANTS ARE STILL ELIGIBLE TO APPLY FOR THE GRANT EVEN IF YOUR STATE, TERRITORY, COMMONWEALTH, ETC. DOES NOT HAVE A ''STATE SINGLE POINT OF CONTACT.'' JURISDICTIONS WITHOUT ''STATE SINGLE POINTS OF CONTACTS'' INCLUDE: Alabama; Alaska; American Samoa; Colorado; Connecticut; Kansas; Hawaii; Idaho; Louisiana; Massachusetts; Minnesota; Montana; Nebraska; New Jersey; Oklahoma; Oregon;

Palau; Pennsylvania; South Dakota; Tennessee; Vermont; Virginia; and Washington.

This list is based on the most current information provided by the States. Information on any changes or apparent errors should be provided to the Office of Management and Budget and the State in question. Changes to the list will only be made upon formal notification by the State. Also, this listing is published biannually in the Catalogue of Federal Domestic Assistance.

Attachment K

DHHS Regulations Applying to All Applicants/Grantees Under the Assets for Independence Demonstration Program (IDA Program)

Title 45 of the *Code of Federal Regulations:*

Part 16—Department of Grant Appeals Process
Part 74—Administration of Grants (grants with subgrants to entities)
Part 75—Informal Grant Appeal Procedures
Part 76—Debarment and Suspension from Eligibility for Financial Assistance

Subpart F—Drug Free Workplace Requirements

Part 80—Non-Discrimination Under Programs Receiving Federal Assistance through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964
Part 81—Practice and Procedures for Hearings Under Part 80 of this Title
Part 83—Regulation for the Administration and Enforcement of Sections 799A and 845 of the Public Health Service Act
Part 84—Non-discrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance
Part 85—Enforcement of Non-Discrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Health and Human Services
Part 86—Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance
Part 91—Non-discrimination on the Basis of Age in Health and Human Services Programs or Activities Receiving Federal Financial Assistance
Part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments (**Federal Register**, March 11, 1988)
Part 93—New Restrictions on Lobbying
Part 100—Intergovernmental Review of Department of Health and Human Services Programs and Activities

[FR Doc. 99–1982 Filed 1–26–99; 8:45 am]

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Drug Enforcement Administration
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Modafinil; placement into Schedule IV; published 1-27-99

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Federal Aviation Administration
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Bell; published 1-12-99

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AGRICULTURE DEPARTMENT
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COMMERCE DEPARTMENT
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ENERGY DEPARTMENT
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FEDERAL COMMUNICATIONS COMMISSION
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FEDERAL ELECTION COMMISSION
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HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

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Land Management Bureau

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INTERIOR DEPARTMENT

Fish and Wildlife Service

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INTERIOR DEPARTMENT

National Park Service

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INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

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JUSTICE DEPARTMENT

Immigration and Naturalization Service

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LABOR DEPARTMENT

Employment and Training Administration

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TRANSPORTATION DEPARTMENT

Federal Aviation Administration

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International Aero Engines; comments due by 2-5-99; published 1-6-99

McDonnell Douglas; comments due by 2-1-99; published 12-2-98

MT-Propeller Entwicklung GmbH; comments due by 2-1-99; published 12-1-98

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