

2-1-99
Vol. 64 No. 20
Pages 4777-4956

Federal Register

Monday
February 1, 1999

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WASHINGTON, DC

WHEN: February 23, 1999 at 9:00 am.

WHERE: Office of the Federal Register
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RESERVATIONS: 202-523-4538



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phone numbers, online resources, finding aids, reminders,
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Rules and Regulations

Federal Register

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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 AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 95-086-2]

Citrus Canker; Addition to Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the citrus canker regulations by adding portions of Broward, Collier, and Manatee Counties, FL, to the list of quarantined areas and by expanding the boundaries of the quarantined area in Dade County, FL, due to the recent detections of citrus canker in those areas. This action is necessary on an emergency basis to prevent the spread of citrus canker into noninfested areas of the United States. This action imposes certain restrictions on the interstate movement of regulated articles from and through the quarantined areas.

DATES: Interim rule effective January 26, 1999. Consideration will be given only to comments received on or before April 2, 1999.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 95-086-2, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 95-086-2. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call

ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Poe, Operations Officer, Program Support Staff, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236, (301) 734-8247; or e-mail: Stephen.R.Poe@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Citrus canker is a plant disease that affects plants and plant parts, including fresh fruit, of citrus and citrus relatives (Family Rutaceae). Citrus canker can cause defoliation and other serious damage to the leaves and twigs of susceptible plants. It can also cause lesions on the fruit of infected plants, which renders the fruit unmarketable, and cause infected fruit to drop from the trees before reaching maturity. The aggressive A (Asiatic) strain of citrus canker can infect susceptible plants rapidly and lead to extensive economic losses in commercial citrus-producing areas.

The regulations to prevent the interstate spread of citrus canker are contained in 7 CFR 301.75-1 through 301.75-14 (referred to below as the regulations). The regulations restrict the interstate movement of regulated articles from and through areas quarantined because of citrus canker and provide for the designation of survey areas around quarantined areas. Survey areas undergo close monitoring by Animal and Plant Health Inspection Service (APHIS) and State inspectors for citrus canker and serve as buffer zones against the disease.

Under § 301.75-4(c) of the regulations, any State or portion of a State where an infestation is detected will be designated as a quarantined area and will retain that designation until the area has been free from citrus canker for 2 years.

Section 301.75-4(d) of the regulations provides that less than an entire State will be designated as the quarantined area only if certain conditions are met. The State must, with certain specified exceptions, enforce restrictions on the intrastate movement of regulated articles from the quarantined area that are at least as stringent as those being enforced on the interstate movement of regulated articles from the quarantined area. The State must also undertake the destruction of all infected plants and

trees. Under the regulations in § 301.75-6(c), within 7 days after confirmation that a plant or tree is infected, the State must provide written notice to the owner that the plant or tree must be destroyed. The owner then has 45 days in which to destroy the infected plant or tree. These State-conducted eradication activities within quarantined areas are an integral element of a cooperative State/Federal citrus canker program that, when successfully completed, will result in the eradication of citrus canker and the removal of an area's designation as a quarantined area.

In an interim rule effective on January 16, 1996, and published in the **Federal Register** on January 22, 1996 (61 FR 1519-1521, Docket No. 95-086-1), we quarantined an area of approximately 140 square miles within Dade County, FL, based on the detection of the Asiatic strain of citrus canker within a 24-square-mile residential area of the county. In that document we stated that the highly populated, residential character of the area in which citrus canker was detected led us to expect the disease might be found on additional properties in the vicinity of the original detection. Given that expectation, we opted to establish an expanded quarantined area containing what we believe to be an adequate buffer zone around the affected properties, rather than establish a quarantined area surrounded by a separate, less-restrictive survey area.

We solicited comments concerning the January 1996 interim rule for 60 days ending March 22, 1996. We received two comments by that date. They were from a State agricultural agency and an association representing citrus growers. Both of the commenters fully supported the interim rule as written.

New infestations of citrus canker have recently been detected on properties in Dade County, FL, that lie outside the previously quarantined area, and in areas of Broward, Collier, and Manatee Counties, FL, which were not previously designated as quarantined areas. The State of Florida has placed these new areas under State quarantine and is enforcing restrictions on the intrastate movement of regulated articles from these quarantined areas. We have determined that Florida's restrictions on the intrastate movement of regulated articles from the

quarantined areas are at least as stringent as those on the interstate movement of regulated articles from the quarantined areas. Therefore, as provided by § 301.75-4(d), we are designating an area less than the entire State as a quarantined area.

Specifically, we are amending the regulations by adding a 30-square-mile portion of Collier County, FL, and a 68-square-mile portion of Manatee County, FL, to the list of quarantined areas. We are also adding a combined entry for Dade and Broward Counties, FL, to the list of quarantined areas. The combined entry encompasses a 507-square-mile area of those two counties and includes that portion of Dade County that was designated as a quarantined area in our January 1996 interim rule. An exact description of the quarantined areas can be found in the rule portion of this document.

These new or revised quarantined areas include what we believe to be an adequate buffer zone around the infected properties, so no areas in any of the counties have been designated as survey areas. As we explained in the January 1996 interim rule, we believe that expanding the quarantined area to include a buffer zone, rather than establishing a separate, less-restrictive survey area, will enhance our ability to detect and control further occurrences of citrus canker in and around the infected area. Because some of the new findings of citrus canker were in highly populated residential areas, we expect there may be additional detections of citrus canker on other properties in the general vicinity of the original findings. Having an extended quarantined area will allow us to more effectively contain the spread of citrus canker and reduce the need for frequent changes to the regulations to reflect new findings of citrus canker.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent citrus canker from spreading into noninfested areas of the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make this action effective upon signature. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period

closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

For our January 1996 interim rule, we performed an Initial Regulatory Flexibility Analysis, in accordance with 5 U.S.C. 603, regarding the impact of that interim rule on small entities. In that Initial Regulatory Flexibility Analysis, we stated that we did not have all of the data necessary for a comprehensive analysis of the effects of the interim rule on small entities. Therefore, we invited comments on potential effects of the interim rule and specifically requested information regarding the number and kinds of small entities that may incur benefits or costs from the implementation of that interim rule. Neither of the two comments we received in response to the interim rule contained any information pertaining to potential economic effects.

For this interim rule, we have performed a second Initial Regulatory Flexibility Analysis, in accordance with 5 U.S.C. 603, regarding the impact of this interim rule on small entities. That analysis is set out below. Because we do not currently have all of the data necessary for a comprehensive analysis of the effects of this interim rule on small entities, we are again inviting comments on its potential effects. In particular, we are interested in determining the number and kinds of small entities that may incur benefits or costs from the implementation of this interim rule.

The Plant Quarantine Act, contained in 7 U.S.C. 151-165 and 167, authorizes the Secretary of Agriculture to quarantine States or portions of States and to promulgate regulations to prevent the spread of dangerous plant diseases new to or not widely prevalent in the United States.

We are amending the citrus canker regulations by adding portions of Broward, Collier, and Manatee Counties, FL, to the list of quarantined areas and by expanding the quarantined area within Dade County, FL. This action imposes certain restrictions on the interstate movement of regulated articles from and through the quarantined area.

Entities Potentially Affected

Broward and Dade Counties. We have identified approximately 3,528 entities within Broward and Dade Counties, FL, that could be affected by this interim rule. These entities consist of 78 nurseries, 6 nursery stock dealers, 200 fresh fruit retail stores, 1 fruit packer, 1 gift fruit shipper, 6 commercial groves, 3 grove maintenance services, 3 fruit harvesting contractors, and 3,230 lawn maintenance businesses.

Collier County. We have identified approximately 85 entities within Collier County, FL, that could be affected by this interim rule. These entities consist of 10 commercial groves, 10 fruit packers, 10 gift fruit shippers, 10 fruit transporters, 20 fruit harvesting contractors, and 25 grove maintenance services. The numbers provided for all entities except commercial groves include entities that are located within the quarantined area as well as entities located outside the quarantined area that could be affected.

Manatee County. We have identified approximately 443 entities within Manatee County, FL, that could be affected by this interim rule. These entities consist of 3 nurseries, 24 fresh fruit retail stores, 57 commercial groves, 2 fruit processors, 2 fruit packers, 2 gift fruit shippers, 3 fruit transporters, 20 fruit harvesting contractors, 5 grove maintenance services, 319 lawn maintenance businesses, and 6 flea markets. The numbers provided for fruit harvesting contractors and flea markets include entities that are located within the quarantined area as well as entities located outside the quarantined area that could be affected.

Number of Small Entities

The number of these entities that meet the Small Business Administration (SBA) definition of a small entity is unknown, since the information needed to make that determination (i.e., each entity's annual sales) is not currently available. However, it is reasonable to assume that most of these entities are small in size because the majority of the same or similar businesses in southern Florida, as well as in the rest of the United States, are small entities by SBA standards. In 1992, for example, the average sales per establishment for all metropolitan Miami area establishments primarily engaged in selling trees, shrubs, and seed to the general public (SIC 526, which includes retail nurseries) was \$340,340, which is well below the SBA's current small entity size standard for such businesses of \$5 million in sales. In 1992, the average sales per establishment for all

metropolitan Miami area establishments primarily engaged in selling general food items for home consumption (SIC 541, which includes grocery stores) was \$2.6 million, which is also well below the SBA's current small entity size standard for such businesses of \$20 million in sales. Similarly, in 1992 the average sales per establishment for all metropolitan Miami area establishments primarily engaged in selling certain other food items for home consumption (SIC 543, 544, 545, and 549, which include fruit and vegetable markets) was \$453,138, which is well below the SBA's current small entity size standard for such businesses of \$5 million in sales. Finally, in 1993, the average sales per firm for all 33,301 U.S. firms primarily engaged in providing lawn and garden services (SIC 0782, which includes lawn maintenance businesses) was \$222,571, which is well below the SBA's current small entity size standard for such businesses of \$5 million in sales.

Fresh fruit retail stores, nurseries, and lawn maintenance companies comprise, on a combined basis, 3,860 (approximately 95 percent) of the total 4,056 entities potentially affected by this interim rule. The operations of those entities are, for the most part, local in nature; they do not typically move regulated articles outside of the State of Florida during the normal course of their business, and consumers do not generally move products purchased from those entities out of the State. The fruit sold by grocery stores and other retail food outlets is generally sold for local consumption. Retail nurseries also market their products for local consumption. Lawn maintenance businesses collect yard debris, but they do not normally transport that debris outside the State for disposal.

The fresh fruit retailers affected by this interim rule will be required to abide by restrictions on the interstate movement of regulated articles. They may be affected by this interim rule because fruit sold within the quarantined areas in retail stores cannot be moved outside of the quarantined areas. However, we expect any direct costs of compliance for fresh fruit retailers to be minimal.

The lawn maintenance companies affected by this interim rule will be required to perform additional sanitation measures when maintaining an area inside the quarantined areas. Lawn maintenance companies will have to clean and disinfect their equipment after grooming an area within the quarantined areas, and they must properly dispose of any clippings from plants or trees within the quarantined

areas. These requirements will slightly increase costs for lawn maintenance companies affected by this interim rule.

Commercial citrus growers, processors, packers, and shippers within the quarantined areas will still be able to move their fruit interstate, provided the fruit is treated and not shipped to another citrus-producing State. Growers will have to bear the cost of treatment, but that cost is expected to be minimal. The prohibition on moving the fruit to other citrus-producing States is not expected to negatively affect entities within the quarantined areas because most States do not produce citrus and growers are expected to be able to find a ready market in non-citrus-producing States.

The nurseries and commercial groves affected by this interim rule will be required to undergo periodic inspections. These inspections may be inconvenient, but the inspections will not result in any additional costs for the nurseries or growers because APHIS or the State of Florida will provide the services of the inspector without cost to the nursery or grower.

Consideration of Alternatives

The alternative to this interim rule was to make no changes in the citrus canker regulations. We rejected this alternative because failure to quarantine portions of Broward, Collier, and Manatee Counties, FL, and an additional portion of Dade County, FL, could result in great economic losses for domestic citrus producers.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this rule. The assessment considers three alternatives for citrus canker control: No action, regulatory quarantine only, and cooperation in a State/Federal program

to contain and eradicate citrus canker. Under the "no action" alternative, APHIS would take no action to control and eradicate citrus canker, or to otherwise restrict the movement of articles that might spread citrus canker. This option would result in State agriculture departments, grower groups, and growers bearing the entire burden in dealing with the infestation. Under the "regulatory quarantine only" alternative, APHIS would take regulatory actions (e.g., the quarantine of a whole State, restricting the interstate movement of articles which might spread citrus canker) designed to prevent the spread of citrus canker. This option would still leave State agriculture departments, grower groups, and growers to bear the entire burden of intrastate control and eradication of the infestation. Finally, under the "cooperative agreement" alternative, which is the recommended alternative, APHIS' regulatory quarantines would be used in combination with State regulatory quarantines and control methods in a cooperative State/Federal program to contain and eradicate citrus canker.

The environmental assessment provides a basis for our conclusion that the selected citrus canker eradication program will not have a significant impact on the quality of the human environment. Based on the findings of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500-1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690-2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 301.75–4, paragraph (a) is revised to read as follows:

§ 301.75–4 Quarantined areas.

(a) The following States or portions of States are designated as quarantined areas:

FLORIDA

Collier County. Beginning at the intersection of SR 29 and SR 858; then north along SR 29 approximately 3.5 miles to the north section line of sec. 32, T. 47, R. 30; then east along the north section lines of secs. 32, 33, 34, 35, and 36, T. 47, R. 30, to the northeast corner of sec. 36, T. 47, R. 30; then south along the east section line of sec. 36, T. 47, R. 30, and secs. 1, 12, 13, 24, and 25, T. 48, R. 30, approximately 6 miles to the southeast corner of sec. 25, T. 48, R. 30; then west along the south section line of secs. 25, 26, 27, 28, and 29, T. 48, R. 30, approximately 4.5 miles to SR 29; then north along SR 29 approximately 2.5 miles to the point of beginning.

Dade and Broward Counties. Beginning at the mouth of the Miami River in Biscayne Bay; then north along Biscayne Bay to Bal Harbor; then east along the inlet at Bal Harbor to the Atlantic Ocean; then north along the shoreline of the Atlantic Ocean to the Port Everglades Channel in Broward County; then west and south through the Port Everglades Channel to where it meets Eller Drive; then west on Eller Drive to I–595; then west on I–595 to I–75; then south on I–75 to the Florida Turnpike Homestead Extension; then south on the Florida Turnpike Homestead Extension to NW 58th Street; then west along NW 58th Street to Krome Avenue (NW 177th Avenue); then south along Krome Avenue (NW and SW 177th Avenue) to Coral Reef

Drive (SW 152nd Street); then east along Coral Reef Drive to Biscayne Bay; then north along the shoreline of Biscayne Bay to the point of beginning.

Manatee County. Beginning at the intersection of the Manatee River and I–75; then west along the shoreline of the Manatee River to Terra Ceia Bay; then northeast along the shoreline of Terra Ceia Bay to the Terra Ceia River; then north along the Terra Ceia River to I–275; then east on I–275 to Bishop Harbor Road; then north and east on Bishop Harbor Road to U.S. 41; then north on U.S. 41 to Buckeye Road; then east on Buckeye Road to the eastern boundary of sec. 10, T. 33 S, R. 18 E; then south along the eastern boundary of sec. 10, T. 33 S, R. 18 E to Carter Road; then south on Carter Road to the eastern boundary of sec. 22, T. 33 S, R. 18 E; then south along the eastern boundary of sec. 22, T. 33 S, R. 18 E to Erie Road; then east and south along Erie Road to U.S. Highway 301; then southwest along U.S. Highway 301 to I–75; then south along I–75 to the point of beginning.

* * * * *

Done in Washington, DC, this 26th day of January 1999.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–2324 Filed 1–29–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 244

[INS No. 1972–99]

RIN 1115–AF37

Temporary Protected Status: Amendments to the Requirements for Employment Authorization Fee, and Other Technical Amendments

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends the Immigration and Naturalization Service (Service) regulations by removing outdated language requiring that only certain EL Salvadorans must pay a fee for Temporary Protected Status (TPS)-related applications for employment authorization documents (EADs). Removing this language will make Service regulations conform to current Service policy as provided in the instructions to the Form I–765. The instructions on the Form I–765 instruct

all applicants for TPS who desire employment authorization to pay the fee.

DATES: *Effective date:* This interim rule is effective February 1, 1999.

Comment date: Comments must be submitted on or before April 2, 1999.

ADDRESSES: Please submit written documents, original and two copies, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street NW, Room 5307, Washington, DC 20536. To ensure proper handling, please reference INS No. 1972–99 on your correspondence. Comments are available for public inspections at the above address by calling (202) 514–3291 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT:

Michael Valverde, Residence and Status Branch, Office of Adjudications, Immigration and Naturalization Service, 425 I Street, NW, Room 3040, Washington, DC 20536, telephone (202) 514–3228.

SUPPLEMENTARY INFORMATION:

What is Temporary Protected Status?

Under section 244 of the Immigration and Nationality Act (Act), TPS is a temporary immigration status granted by the Attorney General to eligible nationals of a designated country or part of a country. Beneficiaries of TPS are granted a stay of removal and employment authorization for the designated TPS period and for any extensions of the designations. TPS does not lead to permanent resident status.

What Language is Being Removed Regarding Application Fees for Employment Authorization Documents?

The Service is amending section 244.6 to remove outdated language requiring that only certain El Salvadorans must pay a fee for TPS-related applications for EADs. Section 244.6 currently states that “* * * the filing fee for the Form I–765 will be charged only for those aliens who are nationals of El Salvador, and are between the ages of 14 and 65 (inclusive), and are requesting work authorization.” This language pertains to the statutory designations of EL Salvador for TPS (under section 303 of the Immigration Act of 1990) that expired June 30, 1992.

The El Salvador specific fee language has been superseded by the fee requirements contained on the instructions to the Form I–765 (last revised on April 25, 1995). The Form I–765 instructs applicants filing for initial TPS to pay the fee if they wish to receive employment authorization. The Service generally charges fees for

persons who apply for TPS (Form I-821) and who want employment authorization (Form I-765) regardless of nationality. Applicants also have the option of requesting a fee waiver for one or both of these fees in accordance with section 244.20. The Service does not charge a fee when a TPS applicant files the I-765 to comply with Service data collection purposes only and does not wish to receive employment authorization. Accordingly, section 244.6 will be amended by removing the phrase "who are nationals of El Salvador".

This interim regulation does not change the fee requirements for the Form I-821, Application for Temporary Protected Status or the related fingerprint fee.

Technical Changes

What Is Being Changed Regarding Application Filing Procedures?

The Service is amending 8 CFR part 244 to remove the word "district" when used in a reference to a "district director". Through this change, the Service will have the flexibility to determine where an applicant should submit an application for TPS and which Service personnel will adjudicate the application. In order to ensure that applicants know where to file applications, all future publications by the Service in the **Federal Register** announcing new TPS designations or extensions will contain information regarding where applicants should file.

What Is Being Changed Regarding the Duration of Employment Authorization?

A technical amendment to section 244.12 will allow the Service to issue EADS, which are valid for a period of up to eighteen (18) months. Under section 244 of the Act, the Attorney General can authorize an initial designation period for TPS from 6 to 18 months. However, section 244.12 currently limits the validity period of TPS-related EADs to 12 months. This interim rule allows the Service to provide for a period of employment authorization commensurate with the entire designation period of TPS and will eliminate the need to reissue EADs after 12 months.

Good Cause Exception

This interim rule is effective upon publication in the **Federal Register** although the Service invites post-promulgation comments and will address any such comments in a final rule. For the following reasons, the Service finds that good cause exists for adopting this rule without the prior

notice and comment period ordinarily required by 5 U.S.C. 553(b)(B) and (d)(3). The Amendments and technical changes made by this rule are administrative in nature and are necessary in order to: clarify the fee requirements for new classes of TPS eligible nationals who will be applying for employment authorization, update and standardize existing procedures, and enable the Service to more efficiently process applications for Temporary Protected Status.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule applies to individuals and has no economic effect on small entities.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any 1 year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined in 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 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

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 rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988 Civil Justice Reform

This interim rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988.

List of Subjects in 8 CFR Part 244

Aliens, Reporting and recordkeeping requirements.

Accordingly, part 244 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 244—TEMPORARY PROTECTED STATUS FOR NATIONALS OF DESIGNATED STATES

1. The authority citation for part 244 continues to read as follows:

Authority: 8 U.S.C. 1103, 1254, 1254a note, 8 CFR part 2.

§ 244.1 [Amended]

2. In § 244.1, the definition for the term Register is amended by removing the word "district".

3. Section 244.6 is revised to read as follows:

§ 244.6 Application.

An application for Temporary Protected Status must be made in accordance with § 103.2 of this chapter except as provided in this section. Each application must be filed with the fee, as provided in § 103.7 of this chapter by each individual seeking temporary protected status, except that the filing fee for the Form I-765 will be charged only for those applicants between the ages of 14 and 65 (inclusive) who are requesting employment authorization. Each application must include a completed Form I-821, Application for Temporary Protected Status, Form I-765, Application for Employment Authorization, two identification photographs (1½" x 1½"), and supporting evidence as provided in § 244.9. Every applicant who is 14 years of age or older must be fingerprinted on Form FD-258, Applicant Card, as prescribed in § 103.2(e) of this chapter.

§ 244.10 [Amended]

4. In § 244.10, the section heading is amended by removing the word “district”.

5. Section 244.10 is amended by removing the word “district” wherever it appears in the following paragraphs:

- a. Paragraph (a);
- b. Paragraph (b);
- c. Paragraph (d)(2); and
- d. Paragraph (f)(2)(iii).

6. In § 244.10, paragraph (f)(4)(ii) is amended by revising the phrase “District Office” to read: “district office or service center”.

§ 244.12 [Amended]

7. In § 244.12, paragraph (a) is amended by removing the phrase “or twelve (12) months, whichever is shorter”.

§ 244.15 [Amended]

8. In § 244.15, paragraph (a) is amended in the third sentence by removing the word “district”.

§ 244.18 [Amended]

9. In § 244.18, paragraph (b) is amended in the last sentence by revising the term “district director” to read “director”, and by revising the phrase “the district where” to read “the jurisdiction where”.

Dated: January 26, 1999.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 99–2334 Filed 1–29–99; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Airspace Docket No. 98–AGL–56]

Modification of Class E Airspace; Fremont, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Fremont, OH. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) 090° helicopter point in space approach has been developed for Memorial Hospital of Sandusky County Heliport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action modifies existing controlled airspace for Fremont, OH, in order to include the

point in space approach serving Memorial Hospital of Sandusky County Heliport.

EFFECTIVE DATE: 0901 UTC, March 25, 1999.

FOR FURTHER INFORMATION CONTACT:

Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:**History**

On Monday, November 16, 1998, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Fremont, OH (63 FR 63627). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. One comment objecting to the proposal was received. The individual felt it would be safer in instrument flight conditions to have helicopters fly into the Fremont Airport rather than two separate locations, and, since the hospital is located nearby the airport, no time would be lost transporting medical emergency patients to the hospital. Air traffic control procedures require aircraft be separated and protected from other aircraft during instrument approaches. The existing instrument approach procedure into Fremont Airport is roughly parallel to, and slightly offset to the northeast of, the proposed instrument approach procedure into the Memorial Hospital of Sandusky County Heliport. Therefore, simultaneous instrument approach clearances would not issued into Fremont Airport, or Fremont Airport and the Memorial Hospital of Sandusky County Heliport; therefore whether a helicopter lands at the airport or the hospital heliport, no change in safety of flight would occur. In addition, the nature of the helicopter medical emergency flights into Memorial Hospital of Sandusky County Heliport requires the least amount of transit time possible. These procedures would eliminate the need for ground based vehicular transportation between the airport and the hospital. Minutes and seconds are crucial in life and death medical emergencies; therefore, direct access to the hospital heliport in instrument flight conditions is greatly desired.

Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Fremont, OH, to accommodate aircraft executing the proposed GPS SIAP 090° helicopter point in space approach at Memorial Hospital of Sandusky County Heliport by modifying existing controlled airspace for the heliport. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p.389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace

Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Fremont, OH [Revised]

Fremont Airport, OH
(Lat. 41°20'03" N., long. 83°09'36" W)
Memorial Hospital of Sandusky County, OH
Point In Space Coordinates
(Lat. 41°20'18" N., long. 83°08'57" W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Fremont Airport, and within a 6.0-mile radius of the Point in Space serving Memorial Hospital of Sandusky County.

* * * * *

Issued in Des Plaines, Illinois on January 14, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99-2345 Filed 1-29-99; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98-ANM-20]

Establishment of Class E Airspace; Buena Vista, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a Class E airspace area at Buena Vista Municipal Airport, Buena Vista, CO. The effect of this action is to provide controlled airspace to accommodate the development of a new Standard Instrument Approach Procedure (SIAP) utilizing the Global Positioning System (GPS). This new SIAP requires airspace in order to contain Instrument Flight Rules (IFR) procedures.

EFFECTIVE DATE: 0901 UTC, March 25, 1999.

FOR FURTHER INFORMATION CONTACT: Dennis Ripley, ANM-520.6, Federal Aviation Administration, Docket No. 98-ANM-20, 1601 Lind Avenue SW., Renton, Washington, 98055-4056; telephone number: (425) 227-2527.

SUPPLEMENTARY INFORMATION:

History

On October 20, 1998, the FAA proposed to amend Title 14, Code of

Federal Regulations, part 71 (14 CFR part 71) by establishing the Buena Vista Class E area (63 FR 55971). This establishment of the Class E area provides the additional airspace necessary to allow the development of a GPS SIAP into the Buena Vista Municipal Airport. In the notice of proposed rulemaking action, the proposal was inadvertently listed as amended airspace action vice establishment of new airspace. The legal description remains exactly the same. These errors are corrected herein. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace at Buena Vista, CO, by providing a Class E airspace area around the Buena Vista Municipal Airport. The intended effect of this rule is designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under IFR at Buena Vista Municipal Airport and between the terminal and en route transition stages.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only effect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM CO E5 Buena Vista, CO [New]

Buena Vista, Buena Vista Municipal Airport, CO

(Lat 38°48'51" N, long. 106°07'14" W)

That airspace extending upward from 700 feet above the surface within a 4.7-mile radius of the Buena Vista Municipal Airport; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 39°01'35" N, long. 105°53'15" W; to lat. 38°59'40" N, long. 105°45'45" W; to lat. 38°52'40" N, long. 105°38'40" W; to lat. 38°33'50" N, long. 105°36'50" W; to lat. 38°26'30" N, long. 105°42'30" W; to lat. 38°25'20" N, long. 106°18'45" W; to lat. 38°33'20" N, long. 106°22'20" W; to lat. 38°36'10" N, long. 106°12'50" W; to lat. 38°51'25" N, long. 106°13'25" W; thence to point of beginning; excluding that airspace within Federal Airways, and the Leadville, CO, Class E airspace area.

* * * * *

Issued in Seattle, Washington, on January 14, 1999.

Helen Fabian Parke,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 99-2344 Filed 1-29-99; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98-AEA-46]

Amendment to Class E Airspace;
Linden, NJAGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace extending upward from 700 feet Above Ground Level (AGL) at Linden, NJ. The development of new Standard Instrument Approach Procedures (SIAP) based on the Global Positioning System (GPS) at Linden Airport has made this action necessary. This action is intended to provide adequate Class E airspace for instrument flight rules (IFR) operations by aircraft executing the GPS-A SIAP to Linden Airport.

EFFECTIVE DATE: 0901 UTC, March 25, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA-520, Air Traffic Division, Eastern Region, Federal Aviation Administration, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430, telephone: (718) 553-4521.

SUPPLEMENTARY INFORMATION:

History

On December 24, 1998, a notice proposing to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Class E airspace at Linden, NJ, was published in the **Federal Register** (63 FR 71235). The development of a GPS-A-SIAP for Linden Airport requires the amendment of the Class E airspace at Linden, NJ. The notice proposed to amend controlled airspace extending upward from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace area designations for airspace extending upward from 700 feet AGL are published in paragraph 6005 of FAA

Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) amends Class E airspace at Linden, NJ, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing the GPS-A SIAP to Linden Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedure (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA NJ E5 Linden, NJ [Revised]

Linden Airport, NJ
(Lat. 40°37'04" N., long. 74°14'40" W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Linden Airport and within a 11-mile radius of Linden Airport extending clockwise from a 200° bearing to a 244° bearing from the airport, excluding the portion that coincides with the New York, NY, and Old Bridge, NJ, Class E airspace areas.

* * * * *

Issued in Jamaica, New York, on January 25, 1999.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 99-2343 Filed 1-29-99; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98-AAL-24]

Amendment to Class E Airspace;
Anaktuvuk Pass, AKAGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule, correction.

SUMMARY: This action corrects the error in the geographic coordinates of a final rule that was published in the **Federal Register** on November 5, 1998 (63 FR 59705), Airspace Docket 98-AAL-16.

EFFECTIVE DATE: 0901 UTC, March 3, 1999.

FOR FURTHER INFORMATION CONTACT:

Robert van Haastert, Operations Branch, AAL-538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513-7587; telephone number (907) 271-5863; fax: (907) 271-2850; email: Robert.van.Haastert@faa.dot.gov. Internet address: <http://www.alaska.faa.gov/at> or at address <http://162.58.28.41/at>.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 98-29627, Airspace Docket 98-AAL-16, published on November 5, 1998, (63 FR 59705) established the Class E airspace area at Anaktuvuk Pass, AK. The geographic coordinates for the Anaktuvuk Pass Airport are in error and the Anaktuvuk Pass Non-Directional Radio Beacon (NDB) coordinates were omitted. The coordinates listed in the Notice of Proposed Rulemaking for the airport and NDB published in the **Federal Register** on August 5, 1998, (63 FR 41751) are correct. This action corrects these errors.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the geographic coordinates listed for the Anaktuvuk Pass Airport and the missing Anaktuvuk Pass NDB information as published in the **Federal Register** on November 5, 1998, (63 FR 59705), (**Federal Register** Document 98-29627, page 59705), is corrected as follows:

§ 71.1 [Corrected]

* * * * *

AAL AK E2 Anaktuvuk Pass, AK [Corrected]

By removing "(Lat. 52°13'15" N., long. 174°12'39" W.)" and substituting "(lat. 68°08'04" N., long. 151°44'30" W.)."

By adding "Anaktuvuk Pass NDB (Lat. 68°08'12" N., long. 151°44'39" W.)."

* * * * *

Issued in Anchorage, AK, on January 22, 1999.

Trent S. Cummings,

Acting Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 99-2335 Filed 1-29-99; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration****21 CFR Part 177**

[Docket No. 93F-0151]

Indirect Food Additives: Polymers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of Nylon MXD-6 as nonfood-contact layers of multilayer films and rigid plastic containers composed of polypropylene food-contact and exterior layers. This action is in response to a petition filed on behalf of Mitsubishi Gas Chemical Co., Inc.

DATES: This regulation is effective February 1, 1999; written objections and requests for a hearing by March 3, 1999.

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

FOR FURTHER INFORMATION CONTACT: Mark A. Hepp, Center for Food Safety and Applied Nutrition (HFS-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3098.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 19, 1993 (58 FR 29230), FDA announced that a food additive petition (FAP 3B4372) had been filed on behalf of Mitsubishi Gas Chemical Co., Inc., c/o 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposed to amend the food additive regulations in § 177.1390 *Laminate structures for use at temperatures of 250 °F and above* (21 CFR 177.1390) and § 177.1500 *Nylon resins* (21 CFR 177.1500) to provide for the safe use of Nylon MXD-6 as a nonfood-contact component in laminated articles for use in contact with food. However, the petition was subsequently amended to restrict the use of the subject additive to nonfood-contact layers of: (1) Multilayer films and (2) rigid plastic containers composed of polypropylene food-contact and exterior layers. This amendment is reflected in this final rule.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use of the additive as a nonfood-contact layer of: (1) Multilayer films and (2) rigid plastic containers composed of polypropylene food-contact and exterior layers is safe, that the additive will have the intended technical effect, and therefore, that the regulations in §§ 177.1390 and 177.1500 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at any time on or before March 3, 1999, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging. Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR part 177 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

2. Section 177.1390 is amended by redesignating paragraph (c)(1)(i)(e) as paragraph (c)(1)(i)(f) and adding a new paragraph (c)(1)(i)(e) to read as follows:

§ 177.1390 Laminate structures for use at temperatures of 250 °F and above.

* * * * *

(c) * * *

(1) * * *

(i) * * *

(e) Nylon MXD-6 resins that comply with item 10.3 of the table in § 177.1500(b) of this chapter when extracted with water and heptane under the conditions of time and temperature specified for condition of use A, as set

forth in Table 2 of § 176.170(c) of this chapter.
* * * *

3. Section 177.1500 is amended in the table in paragraph (b) by adding item “10.3” to read as follows:

§ 177.1500 Nylon resins.
* * * * *
(b) * * *

Nylon resins	Specific gravity	Melting point (degrees Fahrenheit)	Solubility in boiling 4.2N HCl	Viscosity No. (mL/g)	Maximum extractable fraction in selected solvents (expressed in percent by weight of resin)			
					Water	95 percent ethyl alcohol	Ethyl acetate	Benzene
10.3 Nylon MXD-6 resins for use only as nonfood-contact layers of: (1) Multilayer films and (2) rigid plastic containers composed of polypropylene food-contact and exterior layers, as defined in § 177.1520(c), item 1.1(a) and 1.1(b), of this chapter. The finished food-contact laminate, in the form in which it contacts food, when extracted with the food simulating solvent or solvents characterizing the conditions of the intended use as determined from Table 2 of § 176.170(c) of this chapter, shall yield not more than 0.5 micrograms of m-xylylenediamine-adipic acid cyclic monomer per square inch of food-contact surface, when the food simulating solvent is analyzed by any appropriate, properly validated method.	1.22±0.02	455-470	Disolves in 1 h.		1.0	1.5	0.2	0.2
* *		*	*		*	*		*

* * * *

Dated: January 20, 1999.
L. Robert Lake,
Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.
[FR Doc. 99-2230 Filed 1-29-99; 8:45 am]
BILLING CODE 4160-01-F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08-99-004]

Drawbridge Operation Regulation; Upper Mississippi River

AGENCY: Coast Guard, DOT.
ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulations governing the operation of the Dubuque Railroad Drawbridge across the Upper Mississippi River at

Mile 579.9, at Dubuque, Iowa. This deviation allows the bridge to open upon 24 hours advance notice from 12:01 a.m. on January 10, 1999, through 12:01 a.m. on March 1, 1999. This action will facilitate maintenance work on the bridge.

DATES: The deviation is effective from 12:01 a.m. on January 1, 1999, through 12:01 a.m. on March 1, 1999.

FOR FURTHER INFORMATION CONTACT: Roger K. Wiebusch, Bridge Administrator, Director, Western Rivers Operations, Eighth Coast Guard District, Bridge Branch, 1222 Spruce Street, St. Louis, MO 63103-2832; telephone: (314) 539-3900, extension 378.

SUPPLEMENTARY INFORMATION: The Dubuque Railroad Bridge across the Upper Mississippi River at Mile 579.9, at Dubuque Iowa, provides a vertical clearance of 19.9 feet above normal pool in the closed to navigation position. Navigation on the waterway is a mixture of recreational boats and commercial tows. A temporary deviation has been requested from the normal operation of the bridge in order to accommodate maintenance work. The work is

essential for the continued safe operation of the drawbridge. The deviation was coordinated with waterway users and no objections to the deviation have been made.

This deviation allows the Dubuque Railroad Drawbridge across the Upper Mississippi River at Mile 579.9, at Dubuque, Iowa to remain closed to navigation from 12:01 a.m. on January 10, 1999, to 12:01 a.m. on March 1, 1999, with openings provided upon receipt of 24 hour advance notice.

This deviation will be effective from 12:01 a.m. on January 10, 1999, until 12:01 a.m. on March 1, 1999. Presently, the draw is required to open on signal when drawbridge operation regulations are not amended by a deviation.

Dated: January 13, 1999.
Paul J. Pluta,
Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.
[FR Doc. 99-2273 Filed 1-29-99; 8:45 am]
BILLING CODE 4910-15-M

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 117****[CGD01-97-134]****RIN 2115-AE47****Drawbridge Operation Regulations;
Passaic River, NJ****AGENCY:** Coast Guard, DOT.**ACTION:** Final rule.

SUMMARY: The Coast Guard is changing the operating rules for the I-280 Bridge (Stickel Memorial), mile 5.8, over the Passaic River at Harrison, New Jersey, to permit the draw to open on signal after a twenty four hour advance notice is given due to the infrequency of requests to open the draw by vessels. It is expected that this final rule will relive the bridge owner of the responsibility to have a drawtender present and still provide for the needs of navigation.

DATES: This final rule is effective March 3, 1999.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the First Coast Guard District Office, 408 Atlantic Avenue, Boston, Ma. 02110-3350, between 7 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223-8364.

FOR FURTHER INFORMATION CONTACT: John W. McDonald, Project Officer, First Coast Guard District, (617) 223-8364.

SUPPLEMENTARY INFORMATION:**Regulatory History**

On May 18, 1998, the Coast Guard published a notice of proposed rulemaking entitled Drawbridge Operation Regulations Passaic River, New Jersey, in the **Federal Register** (63 FR 27240). The Coast Guard did not receive any comments in response to the notice of proposed rulemaking. No public hearing was request, and none was held.

On October 29, 1998, the Coast Guard published a supplemental notice of proposed rulemaking entitled Drawbridge Operation Regulations Passaic River, New Jersey, in the **Federal Register** (63 FR 57963). The Coast Guard did not receive any comments in response to the supplemental notice of proposed rulemaking. No public hearing was requested, and none was held.

Background

The Route 280 Bridge, mile 5.8, at Harrison, New Jersey, has a vertical

clearance of 35 feet at mean high water and 40 feet at mean low water.

The current operating regulations in 33 CFR 117.739(h) require the bridge to open on signal if at least eight (8) hours advance notice is given. There have been only 8 requests to open this bridge since 1987. The bridge owner, the New Jersey Department of Transportation (NJDOT), has requested relief from being required to crew the bridge since there have been so few requests to open the bridge. The general operating regulations for bridges require that the bridge owner maintain the draw in good serviceable condition.

The Coast Guard originally published a notice of proposed rulemaking to allow the bridge to need not be opened for vessel traffic. The Coast Guard, after further consideration, decided to change the rule in the notice of proposed rulemaking to a twenty four hour advance notice for bridge openings in place of the need not open requirement originally proposed. This change was made because the Coast Guard believes that since the bridge owner must maintain the draw in operable condition that the draw should still open for vessels is a request is given. The Coast guard believes that a twenty four hour advance notice requirement is a reasonable amount of time for the bridge owner to have personnel at the bridge for an opening. A supplemental notice of proposed rulemaking was then published with a twenty four hour advance notice requirement for all bridge openings.

This final rule is being published with no changes from the supplemental notice of proposed rulemaking.

Discussion of Comments and Changes

No comments were received in response to the notice of proposed rulemaking and no comments were received in response to the supplemental notice of proposed rulemaking. A public hearing was not requested and none was held. No changes have been made to this final rule.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; Feb. 26, 1979). The Coast Guard expects the economic impact of this final rule to be so minimal that a

full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that there have been only 8 requests to open this bridge in the last ten years.

Small Entities

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

Collection of Information

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

Federalism

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

Environment

The Coast Guard considered the environmental impact of this final rule and concluded that, under Figure 2-1, paragraph 32(e), of Commandant Instruction M16475.1C, this final rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found not to have a significant effect on the environment. A written "Categorical Exclusion Determination" is not required for this final rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. In § 117.739, redesignate paragraphs (j) and (k) as paragraphs (k) and (j); revise newly redesignated paragraph (k) by removing the number “6.9” and adding, in its place, the number “8.9”; and revise paragraph (h) to read as follows:

§ 117.739 Passaic River.

* * * * *

(h) The Route 280 Bridge, mile 5.8, at Harrison, New Jersey, shall open on signal if at least 24 hours notice is given by calling the number posted at the bridge.

* * * * *

Dated: January 20, 1999.

R.M. Larrabee,

*Rear Admiral, U.S. Coast Guard Commander,
First Coast Guard District.*

[FR Doc. 99–2346 Filed 1–29–99; 8:45 am]

BILLING CODE 4910–15–M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 511, 516, 542, and 552

[APD 2800.12A, CHGE 81]

RIN 3090–AG81

General Services Administration Acquisition Regulation; Streamlining Administration of Federal Supply Service (FSS) Multiple Award Schedule (MAS) Contracts and Clarifying Marking Requirements

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Interim rule with request for comments.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) is amended to clarify requirements for marking deliveries under contracts that provide for delivery to both civilian and military locations, clarify the contracting activities that are authorized to place orders under Federal Supply Service (FSS) contracts, allowing Procuring Contracting Officers (PCOs) in FSS to authorize Administrative Contracting Officers (ACOs) to issue cure or show cause notices, revise the time for submission to close-out reports under FSS multiple award schedule (MAS) contracts, and

simplify the process for deleting items from FSS MAS contracts.

DATES: Effective date: February 1, 1999. Comments should be submitted in writing to the address shown below on or before April 2, 1999.

ADDRESSES: Mail comments to General Services Administration, Office of Acquisition Policy, GSA Acquisition Policy Division (MVP), 1800 F Street, NW., Room 4012, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Gloria Sochon, GSA Acquisition Policy Division, (202) 208–6726.

SUPPLEMENTARY INFORMATION:

A. Background

GSA is amending the GSAR for clarification and to delete unnecessary review requirements. GSAR 511.204 is amended to clarify the applicability of the clause at GSAR 552.211–73, Marking, so that deliveries are properly labeled for delivery at military or civilian locations. GSAR 516.505 and 552.216–73 are amended to define activities authorized to place orders under an FSS schedule contract when the contract provides that ordering activities may place orders directly. They are also amended to reflect that schedule contracts may provide for either or both task and delivery orders. GSAR 542.302 is amended to allow FSS PCOs to authorize ACOs to issue show cause or cure notices. This will streamline FSS's internal processes and allow for quicker response to contractor performance problems. GSAR 552.238–72 is amended to change the time for submission to contract close-out reports to eliminate a potential conflict between the required report date and the final date of performance of delivery orders. GSAR 552.238–76 is amended to change the reference to “maximum order limit” to “maximum order threshold.” This is an administrative change to make 552.238–76 consistent with Federal Acquisition Regulation (FAR) subpart 8.4. GSAR 552.243–72 is amended to allow FSS MAS contractors to delete items without prior approval. This will remove a burdensome and time-consuming procedure that does not have value for the Government. GSAR 552.243–72 is also revised to give contractors the option of publishing supplemental price lists as modifications occur or on a quarterly basis. This recognizes that many contractors now issue electronic notices of changes and that modifications occur with such frequency that grouping changes to periodic updates in paper is more efficient for both contractors and the Government. GSAR 552.243–72 is

also revised to update a FAR reference and to delete a reference to an obsolete cause.

B. Executive Order 12866

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.

C. Regulatory Flexibility Act

The GSA certifies that this interim rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. The change will benefit all FSS MAS contractors, large and small, by streamlining administrative requirements.

- The change to the time for submission of contract close-out reports eliminates a potential conflict between the required report date and the final date of performance of delivery orders; this avoids placing a potentially impracticable requirement on FSS contractors.
- Updating the definition of activities authorized to place orders under FSS schedule contracts is necessary to accurately reflect current authority and avoid inconsistency with other order FSS solicitation and contract terms.
- Allowing FSS MAS contractors to delete items without prior approval will remove a burdensome and time-consuming procedure that does not have value for the Government. It allows contractors to provide potential customers the most current information on contract items.
- Contractors will have the option of publishing supplemental price lists as modifications occur or on a quarterly basis; letting them choose the most efficient method based on their individual circumstances.

D. Paperwork Reduction Act

The revised clause at 552.216–73 contains an information collection requirement subject to the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). However, the revisions to the clause made by this rule do not affect the information collection requirement which was approved previously by OMB and assigned control number 3090–0248. The revised clause at 552.238–72, Contractor's Report of Sales, also contains an information collection requirement subject to the Paperwork Reduction Act. However, the revisions to the clause made by this rule do not affect the information collection requirement which was approved

previously by OMB and assigned control number 3090-0121. The other changes in this rule do not impose recordkeeping or information collection requirements, or otherwise collect information from offerors, contractors, or members of the public that require approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

E. Determination To Issue an Interim Rule

Urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. GSA believes this rule will provide significant benefits to both the Federal government and GSA contractors:

- The change to 511.204 clarifies the applicability of the clause at 552.211-73, Marking, so that deliveries are properly labeled for delivery at military or civilian locations, helping to avoid delays or misdeliveries.
- Updating the definition of activities authorized to place orders under FSS schedule contracts is necessary to accurately reflect current authority and avoid inconsistency with other FSS solicitation and contract terms.
- Allowing FSS PCOs to authorize ACOs to issue show cause or cure notices streamlines FSS's internal processes and allows for quicker response to contractor performance problems.
- The change to the time for submission of contract close-out reports eliminates a potential conflict between the required report date and the final date of performance of delivery orders; this avoids placing a potentially impracticable requirement on FSS contractors.
- The change to allow FSS MAS contractors to delete items without prior approval will remove a burdensome and time-consuming procedure that does not have value for the Government. Preapproval of deletions is not necessary either for ascertaining cost reasonableness or to maintain control over the contract. Quicker notification of deletions will in fact help Federal agencies avoid ordering discontinued items.
- Giving contractors the option of publishing supplemental price lists as modifications occur or on a quarterly basis allows contractors to choose the most efficient method of notification and reduces the filing burden on Government users.

However, Pursuant to Pub. L. 98-577 and FAR 1.501, GSA will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 511, 516, 542, and 552

Government procurement.

Accordingly, 48 CFR is amended as follows:

1. The authority citation for 48 CFR parts 511, 516, 542, and 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 511—DESCRIBING AGENCY NEEDS

2. Section 511.204 is amended by revising paragraph (c) to read as follows:

511.204 Solicitation provisions and contract clauses.

* * * * *

(c) The contracting officer shall include the clause at 552.211-73, Marking, in solicitations and contracts for supplies when deliveries may be made to both civilian and military activities and the contract amount is expected to exceed the simplified acquisition threshold.

* * * * *

PART 516—TYPES OF CONTRACTS

3. Section 516.505 is amended by revising paragraph (a) to read as follows:

516.505 Contract clauses.

(a) The contracting officer shall insert the clause at 552.216-73, Placement of Orders, in solicitations and contracts for stock or special order program items when the contract authorizes FSS and other agencies to issue delivery orders. If only FSS will issue delivery orders under any of its supply programs, use Alternate I. If a Federal Supply Schedule contract (single or multiple award) permits other organizations to issue task or delivery orders, use Alternate II.

* * * * *

PART 542—CONTRACT ADMINISTRATION

4. Section 542.302 is amended by revising paragraph (b)(5) to read as follows:

542.302 Contract administration functions.

* * * * *

(b) * * *

* * * * *

(5) Issue cure or show cause notices (only applies to ACOs in FSS).

* * * * *

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 552.216-73 is amended by revising Alternate II to read as follows:

552.216-73 Placement of orders.

* * * * *

Alternate II (Feb. 1999). As prescribed in 516.505(a), substitute the following paragraph (a) for paragraph (a) of this basic clause:

(a) The organizations listed below may place orders under this contract. Questions regarding organizations authorized to use this schedule should be directed to the Contracting Officer.

- (1) Executive agencies.
- (2) Other Federal agencies.
- (3) Mixed-ownership Government corporations.

(4) The District of Columbia.

(5) Government contractors authorized in writing by a Federal agency pursuant to 48 CFR 51.1.

(6) Other activities and organizations authorized by statute or regulation to use GSA as a source of supply.

6. Section 552.238-72 is amended by revising the date of the clause and paragraph (e) to read as follows:

552.238-72 Contractor's report of sales.

* * * * *

CONTRACTOR'S REPORT OF SALES (FEB 1999)

* * * * *

(e) The report is due 30 days following the completion of the reporting period. The Contractor must also provide a close-out report within 120 days after the expiration of the contract. The contract expires upon physical completion of the last, outstanding task or delivery order of the contract. The close-out report must cover all sales not shown in the final quarterly report and reconcile all errors and credits. If the Contractor reported all contract sales and reconciled all errors and credits on the final quarterly report, then show zero sales in the close-out report.

(End of Clause)

7. Section 552.238-76 is amended by revising the date of the clause and paragraph (d)(1) to read as follows:

552.238-76 Price reductions.

* * * * *

PRICE REDUCTIONS (FEB 1999)

* * * * *

(d) * * *

(1) To commercial customers under firm, fixed-price definite quantity contracts with specified delivery in excess of the maximum order threshold specified in this contract;

* * * * *

8. Section 552.243-72 is amended by revising the date of the clause and paragraphs (b)(1) (v) and (vi), the first sentence of (b)(3), (c), (d) and (e) to read as follows:

552.243-72 Modifications (Multiple Award Schedule).

* * * * *

MODIFICATIONS (MULTIPLE AWARD SCHEDULE) (FEB 1999)

* * * *

(b) * * *

(1) * * *

(v) Production point(s) for the new item(s) or the item(s) under the new SIN(s) must be submitted if required by 52.215-6, Place of Performance.

(vi) Hazardous material information (if applicable) must be submitted as required by 52.223-3 (ALT I), Hazardous Material Identification and Material Safety Data.

* * * *

(3) Price Reduction, The Contractor shall indicate whether the price reduction falls under item (i), (ii), or (iii) of paragraph (c)(1) of the Price Reductions clause at 552.238-76.

* * *

(c) Effective Dates. The effective date of any modification is the date specified in the modification, except as otherwise provided in the Price Reductions clause at 552.238-76.

(d) Electronic File Updates. The Contractor shall update electronic file submissions to reflect all modifications. For additional items or SINs, the Contractor shall obtain the contracting officer's approval before transmitting changes. Contract modifications will not be made effective until the Government receives the electronic file updates. The Contractor may transmit price reductions, item deletions, and corrections without prior approval. However, the Contractor shall notify the contracting officer as set forth in the Price Reductions clause at 552.238-76.

(e) Amendments to Paper Federal Supply Schedule Price Lists.

(1) The Contractor must provide supplements to its paper price lists, reflecting the most current changes. The Contractor may either:

(i) Distribute a supplemental paper Federal Supply Schedule Price List within 15 days after the effective date of each modification.

(ii) Distribute cumulative supplements. The period covered by a cumulative supplement is at the discretion of the Contractor, but may not exceed three months from the effective date of the earliest modification. The Contractor must distribute a cumulative supplement within 15 days from the date of the latest modification covered.

(2) At a minimum, the Contractor shall distribute each supplement to those ordering activities that previously received the basic document. In addition, the Contractor shall submit two copies of each supplement to the contracting officer and one copy to the FSS Schedule Information Center.

(End of Clause)

Dated: January 21, 1999.

Ida M. Ustad,

Deputy Associate Administrator for Acquisition Policy.

[FR Doc. 99-1973 Filed 1-29-99; 8:45 am]

BILLING CODE 6820-01-M

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 981222314-8321-02; I.D. 012799A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 630 of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the interim 1999 pollock total allowable catch (TAC) for Statistical Area 630 established by the 1999 Interim Specifications and amended by the emergency interim rule implementing Steller sea lion protection measures for the pollock fisheries off Alaska.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), January 27, 1999, until superseded by the Final 1999 Harvest Specification for Groundfish, which will be published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Nick Hindman, 907-581-2062.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance

with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(c)(2)(i) and emergency provisions implemented at § 679.20(a)(5)(ii)(c) (64 FR 3437, January 22, 1999), NMFS established the interim pollock TAC in Statistical Area 630 as 9,156 metric tons (mt).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the interim TAC of pollock in Statistical Area 630 will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 8,656 mt, and is setting aside the remaining 500 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. NMFS is prohibiting directed fishing for pollock in Statistical Area 630 of the GOA.

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

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the seasonal allocation of pollock in Statistical Areas 630. Providing prior notice and an opportunity for public comment is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

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

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

Dated: January 27, 1999.

Gary C. Matlock, Ph.D.,

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

[FR Doc. 99-2327 Filed 1-27-99; 1:54 pm]

BILLING CODE 3510-22-F

Proposed Rules

Federal Register

Vol. 64, No. 20

Monday, February 1, 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. 98-NM-273-AD]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 737-200C Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the superseding of an existing airworthiness directive (AD), applicable to all Boeing Model 737-200C series airplanes, that currently requires a one-time external detailed visual inspection to detect cracks of the fuselage skin in the lower lobe cargo compartment; repetitive internal detailed visual inspections to detect cracks of the frames in the lower lobe cargo compartment; and repair of cracked parts. That AD also provides for an optional preventative modification that constitutes terminating action for the repetitive inspections. This action would require accomplishment of the previously optional terminating modification. This proposal is prompted by reports of cracking in the body frames between stringers 19 left and 25 left and at body stations 360 to 500B. The actions specified by the proposed AD are intended to prevent opening or loss of the cargo door during flight, and consequent rapid decompression of the airplane.

DATES: Comments must be received by March 18, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 98-NM-273-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00

p.m., Monday through Friday, except Federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Nenita Odesa, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2557; fax (425) 227-1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98-NM-273-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No.

98-NM-273-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

On June 25, 1993, the FAA issued AD 93-13-02, amendment 39-8615 (58 FR 36863, July 9, 1993), applicable to all Boeing Model 737-200C series airplanes, to require a one-time external detailed visual inspection to detect cracks of the fuselage skin in the lower lobe cargo compartment; repetitive internal detailed visual inspections to detect cracks of the frames in the lower lobe cargo compartment; and repair of cracked parts. That AD also provides for an optional preventative modification that constitutes terminating action for the repetitive inspections. That action was prompted by reports of cracking in the body frames between stringers 19 left and 25 left and at body stations 360 to 500B. The requirements of that AD are intended to prevent a cargo door from opening while the airplane is in flight, which could result in rapid decompression of the airplane.

Actions Since Issuance of Previous Rule

When AD 93-13-02 was issued, it contained a provision for an optional preventative modification that involves installation of doublers on the frames located between stringers 19 left and 25 left and at body stations 360 to 500B, which, if accomplished, constitutes terminating action for the required repetitive inspections. This action proposes to require accomplishment of the previously optional terminating modification in accordance with Boeing Service Bulletin 737-53A1160, Revision 1, dated April 29, 1993. (That service bulletin was referenced as the appropriate source of service information in AD 93-13-02 for accomplishment of the modification.)

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 93-13-02 to continue to require a one-time external detailed visual inspection to detect cracks of the fuselage skin in the lower lobe cargo compartment; repetitive internal detailed visual inspections to detect cracks of the frames in the lower lobe cargo compartment; and repair of cracked parts. In addition, the proposed

AD would require accomplishment of the previously optional terminating modification.

Differences Between Proposed Rule and Service Bulletin

Operators should note that this AD proposes to require the modification of certain fuselage frames, as described in Boeing Service Bulletin 737-53A1160, Revision 1, as terminating action for the repetitive inspections. Incorporation of this modification was classified as optional in that service bulletin.

The FAA has determined that long-term continued operational safety will be better assured by design changes to remove the source of the problem, rather than by repetitive inspections. Long-term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous continual inspections, has led the FAA to consider placing less emphasis on inspections and more emphasis on design improvements. The proposed modification requirement is in consonance with these conditions.

Cost Impact

There are approximately 90 airplanes of the affected design in the worldwide fleet. The FAA estimates that 18 airplanes of U.S. registry would be affected by this proposed AD.

The inspections that are currently required by AD 93-13-02, and retained in this proposed AD, take approximately 12 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the currently required inspections on U.S. operators is estimated to be \$12,960, or \$720 per airplane, per inspection cycle.

The new modification that is proposed in this AD action would take approximately 160 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. Required parts would cost approximately \$5,500 per airplane. Based on these figures, the cost impact of the modification proposed by this AD on U.S. operators is estimated to be \$271,800, or \$15,100 per airplane.

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

Regulatory Impact

The regulations proposed herein would not have 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 removing amendment 39-8615 (58 FR 36863, July 9, 1993), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 98-NM-273-AD. Supersedes AD 93-13-02, Amendment 39-8615.

Applicability: All Model 737-200C series airplanes, 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 (d)(1) of this AD. The request should include an assessment of

the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent opening or loss of the cargo door during flight, and consequent rapid decompression of the airplane, accomplish the following:

Restatement of Requirements of AD 93-13-02

(a) Prior to the accumulation of 29,000 flight cycles or within 250 flight cycles after August 9, 1993 (the effective date AD 93-13-02, amendment 39-8615), whichever occurs later, accomplish an external detailed visual inspection to detect cracks of the fuselage skin between stringers 19 left and 25 left and at body stations 360 to 540, in accordance with Boeing Alert Service Bulletin 737-53A1160, dated October 24, 1991; or Boeing Service Bulletin 737-53A1160, Revision 1, dated April 29, 1993. If any crack is found, prior to further flight, accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD.

(1) Perform an internal detailed visual inspection to detect cracks of the frames between stringers 19 left and 25 left and at body stations 360 to 500B, in accordance with either service bulletin.

(2) Repair all cracks in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(b) Within 3,000 flight cycles after completing the requirements of paragraph (a) of this AD, unless accomplished within the last 6,000 flight cycles prior to August 9, 1993, perform an internal detailed visual inspection to detect cracks of the frames between stringers 19 left and 25 left and at body stations 360 to 500B, in accordance with Boeing Alert Service Bulletin 737-53A1160, dated October 24, 1991; or Boeing Service Bulletin 737-53A1160, Revision 1, dated April 29, 1993. Thereafter, repeat the internal detailed visual inspection at intervals not to exceed 9,000 flight cycles. If any crack is found, prior to further flight, accomplish the requirements of paragraph (b)(1) or (b)(2) of this AD, as applicable.

(1) If any crack is found that does not exceed the limits specified in the Boeing 737 Structural Repair Manual (SRM), repair the crack in accordance with the Boeing 737 SRM. Repeat the internal detailed visual inspection thereafter at intervals not to exceed 9,000 flight cycles.

(2) If any crack is found that exceeds the limits specified in the Boeing 737 SRM, repair the crack in accordance with a method approved by the Manager, Seattle ACO. Repeat the internal detailed visual inspection thereafter at intervals not to exceed 9,000 flight cycles.

New Requirements of This AD

(c) Prior to the accumulation of 75,000 total flight cycles, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later, install doublers on the frames located between stringers 19 left and 25 left

and at body stations 360 to 500B, in accordance with Boeing Service Bulletin 737-53A1160, Revision 1, dated April 29, 1993. Accomplishment of this modification constitutes terminating action for the requirements of this AD.

(d)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(d)(2) Alternative methods of compliance approved previously in accordance with AD 93-13-02, amendment 39-8615, are approved as alternative methods of compliance with this AD.

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

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

Issued in Renton, Washington, on January 26, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99-2271 Filed 1-29-99; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99-AAL-1]

Proposed Revision of Class D Airspace; Fairbanks, Eielson Air Force Base (AFB), AK; Proposed Revision and Establishment of Class E Airspace; Fairbanks, Eielson AFB, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise Class D airspace operational times, revise current Class E airspace, and establish additional Class E airspace at Eielson AFB, AK. The United States Air Force (USAF) has requested this action in response to a critical Air Traffic Control (ATC) controller shortage throughout the USAF and an airspace review after redesigning their instrument approaches. Adoption of this proposal would result in the provision of a part time operation of the Class D airspace; revision of the current Class E airspace; and when the tower is closed, establishment of additional Class E

airspace for Instrument Flight Rules (IFR) and Special Visual Flight Rules (VFR) operations at Eielson AFB, AK.

DATES: Comments must be received on or before March 18, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Operations Branch, AAL-530, Docket No. 99-AAL-1, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513-7587.

The official docket may be examined in the Office of the Regional Counsel for the Alaskan Region at the same address.

An informal docket may also be examined during normal business hours in the Office of the Manager, Operations Branch, Air Traffic Division, at the address shown above and on the Internet at Alaskan Region's homepage at <http://www.alaska.faa.gov/at> or at address <http://162.58.28.41/at>.

FOR FURTHER INFORMATION CONTACT:

Derril Bergt, Operations Branch, AAL-535, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513-7587; telephone number (907) 271-2796; fax: (907) 271-2850; email: Derril.Bergt@faa.gov.

Internet address: <http://www.alaska.faa.gov/at> or at address <http://162.58.28.41/at>.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 99-AAL-1." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for

examination in the Operations Branch, Air Traffic Division, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Operations Branch, AAL-530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513-7587. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

Internet users may reach the **Federal Register's** web page for access to recently published rulemaking documents at http://www.access.gpo.gov/su_docs/aces/aces140.html.

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703-321-3339) or the **Federal Register's** electronic bulleting board service (telephone: 202-512-1661).

The Proposal

The FAA proposes to amend 14 CFR part 71 by revising the Class D airspace operational times at Eielson AFB, AK, due to a critical ATC controller shortage. Currently, the Class D airspace is operational 24 hours a day, seven days a week. This action proposes to decrease the physical dimensions of the Class D airspace from a 5.2 mile radius to a 4.7 mile radius. The following phraseology would be added to the end of the Class D airspace description: "This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory." This action would allow part time operation of the Airport Traffic Control Tower (ATCT) at Eielson AFB, AK. The USAF has proposed the Eielson AFB tower be closed between 2300 and 0700 (local times). During this closure, the Class D airspace would convert to Class E airspace which this proposal is establishing for IFR and Special VFR operations. The existing Class E airspace

would be revised to eliminate extensions and would result in a single 7.2 mile radius circle of Eielson AFB.

The Eielson AFB mission has changed in recent years. Present flight operations rarely exceed 16 hours per day, and quiet hours are in effect from 2200 to 0700 local times. Less than one percent of annual flight traffic occurs during the proposed closure times. Eielson AFB base operations and the runway will remain a 24-hour facility. Eielson Tower will retain sufficient personnel to revert to 24-hour operations in the event of a contingency. Air traffic controllers will be on a standby schedule to provide on-call services to North American Defense (NORAD) missions, approved arrivals and departures, and emergency divers. The USAF intends to meet all criteria to remain a viable alternate airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class D airspace areas are published in paragraph 5000, Class E airspace areas designated as a surface area are published in paragraph 6002, and Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 in FAA Order 7400.9F, *Airspace Designations and Reporting Points*, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1 (63 FR 50139; September 21, 1998). The Class D and Class E airspace listed in this document would be revised and published in the Order.

The FAA has determined that these proposed regulations only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore —(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, *Airspace Designations and Reporting Points*, dated September 10, 1998, and effective September 16, 1998, is to be amended as follows:

Paragraph 5000 Class D Airspace
* * * * *

AAL AK D Fairbanks, Eielson AFB, AK [Revised]

Fairbanks, Eielson AFB, AK
(Lat. 64°39'56" N., long. 147°06'05" W.)

That airspace extending upward from the surface to and including 3,000 feet MSL within a 4.7-mile radius of Eielson AFB. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E airspace designated as surface areas.
* * * * *

AAL AK E2 Fairbanks, Eielson AFB, AK [New]

Fairbanks, Eielson AFB, AK
(Lat. 64°39'56" N., long. 147°06'05" W.)

That airspace extending upward from the surface to and including 3,000 feet MSL within a 4.7-mile radius of Eielson AFB.

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.
* * * * *

AAL AK E5 Fairbanks, Eielson AFB, AK [Revised]

Fairbanks, Eielson AFB, AK
(Lat. 64°39'56" N., long. 147°06'05" W.)

That airspace extending upward from 700 feet above the surface within a 7.2-mile radius of Eielson AFB.

* * * * *

Issued in Anchorage, AK, on January 22, 1999.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 99–2338 Filed 1–29–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–1]

Proposed Modification of the Legal Description of the Class E Airspace; Sault Ste Marie, ON

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify the legal description Class E airspace at Sault Ste Marie, ON. The airspace description for the Sault Ste Marie Airport, ON, Canada, incorrectly describes the northwest extension of the controlled airspace as the northeast extension. Controlled airspace extending upward from the surface is needed to contain aircraft executing instrument approach procedures. This action proposes to correct the legal description of the existing controlled airspace for this airport in order to eliminate confusion regarding the actual configuration of the airspace.

DATES: Comments must be received on or before March 15, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 99–AGL–1, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made:

"Comments to Airspace Docket No. 99-AGL-1." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267-3484.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which described the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify the legal description of the Class E airspace at Sault Ste Marie, ON, to correctly identify the northwest extension of the existing controlled

airspace. Controlled airspace extending upward from the surface is needed to contain aircraft executing instrument approach procedures. The area would be depicted on appropriate aeronautical charts. Class E airspace designated as an extension to a Class D surface area are published in paragraph 6004 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

* * * * *

Paragraph 6004 Class E airspace areas designated as an extension to a Class D airspace area.

* * * * *

AGL ON E4 Sault Ste Marie, ON [Revised]

Sault Ste Marie Airport, ON, Canada
(Lat. 46°29'06" N., long. 84°30'34" W.)

That airspace in the United States extending upward from the surface within 1.6 miles north of the 108° bearing from the airport extending from the 4.4-mile radius of Sault Ste Marie Airport to 4.8 miles southeast of the airport, and within 1.6 miles each side of the 118° bearing from the airport extending from the 4.4-mile radius to 9.6 miles southeast of the airport, and within 1.6 miles each side of the 293° bearing from the airport extending from the 4.4-mile radius to 4.8 miles northwest of the airport.

* * * * *

Issued in Des Plaines, Illinois on January 14, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99-2342 Filed 1-29-99; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98-AGL-81]

Proposed Modification of Class E Airspace; Pontiac, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace at Pontiac, IL. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 24, has been developed for Pontiac Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action proposes to increase the radius of the existing controlled airspace for this airport.

DATES: Comments must be received on or before March 15, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL-7, Rules Docket No. 98-AGL-81, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An

informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294-7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98-AGL-81." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the

notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Pontiac, IL, to accommodate aircraft executing the proposed GPS Rwy 24 SIAP, at Pontiac Municipal Airport by modifying the existing controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approaches. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL IL E5 Pontiac, IL [Revised]

Pontiac Municipal Airport, IL
(Lat. 40°55'25" N., long. 88°37'32" W.)

That airspace extending upward from 700 feet above the surface within an 7.2-mile radius of the Pontiac Municipal Airport.

* * * * *

Issued in Des Plaines, Illinois on January 14, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99-2341 Filed 1-29-99; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99-AGL-3]

Proposed Modification of Class E Airspace; Auburn, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace at Auburn, IN. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 09, and a GPS SIAP to Rwy 27, have been developed for De Kalb County Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approaches. This action proposes to increase the radius of the existing controlled airspace for this airport.

DATES: Comments must be received on or before March 15, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL-7, Rules Docket No. 99-AGL-3, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

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

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294-7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 99-AGL-3." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA

personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267-3484.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Auburn, IN, to accommodate aircraft executing the proposed GPS Rwy 09 SIAP, and the GPS RWY 27 SIAP, at De Kalb County Airport by modifying the existing controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approaches. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL IN E5 Auburn, IN [Revised]

Auburn, De Kalb County Airport, IN (Lat. 41°18'26" N., long. 85°03'52" W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the De Kalb County Airport, excluding the airspace within the Ft. Wayne, IN, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on January 14, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99-2340 Filed 1-29-99; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. 99-AGL-2]

Proposed Modification of Class E Airspace; Watertown, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace at Watertown, WI. A Transponder Landing System

(TLS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 05 has been developed for Watertown Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action proposes to increase the radius of the existing controlled airspace for this airport.

DATES: Comments must be received on or before March 15, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL-7, Rules Docket No. 99-AGL-2, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

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

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294-7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 99-AGL-2." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified

closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267-3484.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Watertown, WI, to accommodate aircraft executing the proposed TLS Rwy 05 SIAP at Watertown Municipal Airport by modifying the existing controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approaches. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a "significant regulatory action"

under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL WI E5 Watertown, WI [Revised]

Watertown Municipal Airport, WI
(Lat. 43°10'11"N., long. 88°43'24"W.)

That airspace extending upward from 700 feet above the surface within an 8.4-mile radius of the Watertown Municipal Airport.

* * * * *

Issued in Des Plaines, Illinois on January 14, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99-2339 Filed 1-29-99; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71****[Airspace Docket No. 98–AAL–20]****Proposed Revision of Class E Airspace; Gambell, AK****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of proposed rulemaking.

SUMMARY: This action proposes to revise Class E airspace at Gambell, AK. The establishment of the Global Positioning System (GPS) instrument approaches to runway (RWY) 16 and RWY 34 and the modification of the Non-directional Radio Beacon (NDB) instrument approaches to RWY 16 and RWY 34 at Gambell, AK, have made this action necessary. Adoption of this proposal would result in the provision of adequate controlled airspace for Instrument Flight Rules (IFR) operations at Gambell, AK.

DATES: Comments must be received on or before March 18, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Operations Branch, AAL–530, Docket No. 98–AAL–20, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

The official docket may be examined in the Office of the Regional Counsel for the Alaskan Region at the same address.

An informal docket may also be examined during normal business hours in the Office of the Manager, Operations Branch, Air Traffic Division, at the address shown above and on the Internet at Alaskan Region's homepage at <http://www.alaska.faa.gov/at> or at address <http://162.58.28.41/at>.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, Operations Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863; fax: (907) 271–2850; email: Robert.van.Haastert@faa.dot.gov. Internet address: www.alaska.faa.gov/at.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments

are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98–AAL–20." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Operations Branch, Air Traffic Division, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or the **Federal Register's** electronic bulletin board service (telephone: 202–512–1661).

Internet users may reach the **Federal Register's** web page for access to recently published rulemaking documents at http://www.access.gpo.gov/su_docs/aces/aces140.html.

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Operations Branch, AAL–530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA proposes to amend 14 CFR part 71 by revising the Class E airspace at Gambell, AK, through the establishment of GPS instrument

approaches and modifications to the NDB instrument approaches to RWY 16 and RWY 34. The area would be depicted on aeronautical charts for pilot reference. The intended effect of this proposal is to provide adequate controlled airspace for IFR operations at Gambell, AK.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9F, *Airspace Designations and Reporting Points*, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1 (63 FR 50139; September 21, 1998). The Class E airspace designation listed in this document would be revised and published subsequently in the Order.

The FAA has determined that these proposed regulations only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, *Airspace Designations and Reporting Points*, dated September 10, 1998, and effective September 16, 1998, is to be amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Gambell, AK

Gambell Airport, AK
(Lat. 63°46'00" N., long. 171°43'58" W.)
Gambell NDB/DME
(Lat. 63°46'55" N., long. 171°44'12" W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Gambell Airport and within 4 miles each side of the 174° bearing of the Gambell NDB/DME extending from the NDB/DME to 23 miles south of the NDB/DME and within 4 miles each side of the Gambell NDB/DME 354° bearing extending from the 6.4-mile radius to 10.6 miles north of the airport; and that airspace extending upward from 1,200 feet above the surface within 8 miles west and 4 miles east of the 354° bearing of the Gambell NDB/DME extending from the NDB/DME to 16 miles north of the NDB/DME and within 25 miles of the NDB/DME clockwise between the 006° and 227° bearings of the NDB/DME.

* * * * *

Issued in Anchorage, AK, on January 22, 1999.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 99-2337 Filed 1-29-99; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Airspace Docket No. 98-AAL-25]

Proposed Revision of Class E Airspace; Port Heiden, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise Class E airspace at Port Heiden, AK. The establishment of a new Microwave Landing System (MLS) instrument approach to runway (RWY) 05 at Port Heiden, AK, has made this action necessary. Adoption of this proposal would result in the provision of

adequate controlled airspace for Instrument Flight Rules (IFR) operations at Port Heiden, AK.

DATES: Comments must be received on or before March 18, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Operations Branch, AAL-530, Docket No. 98-AAL-25, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513-7587.

The official docket may be examined in the Office of the Regional Counsel for the Alaskan Region at the same address.

An informal docket may also be examined during normal business hours in the Office of the Manager, Operations Branch, Air Traffic Division, at the address shown above and on the Internet at Alaskan Region's homepage at <http://www.alaska.faa.gov/at> or at address <http://162.58.28.41/at>.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, Operations Branch, AAL-538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513-7587; telephone number (907) 271-5863; fax: (907) 271-2850; email: Robert.van.Haastert@faa.dot.gov. Internet address: <http://www.alaska.faa.gov/at> or at address <http://162.58.28.41/at>.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98-AAL-25." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments

submitted will be available for examination in the Operations Branch, Air Traffic Division, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703-321-3339) or the **Federal Register's** electronic bulletin board service (telephone: 202-512-1661).

Internet users may reach the **Federal Register's** web page for access to recently published rulemaking documents at http://www.access.gpo.gov/su_docs/aces/aces140.html.

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Operations Branch, AAL-530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513-7587. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

The Proposal

The FAA proposes to amend 14 CFR part 71 by revising Class E airspace at Port Heiden, AK, through the establishment of a new MLS instrument approach to RWY 05. The intended effect of this proposal is to provide adequate controlled airspace for IFR operations at Port Heiden, AK.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas, are published in paragraph 6005 in FAA Order 7400.9F, *Airspace Designations and Reporting Points*, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1 (63 FR 50139; September 21, 1998). The Class E airspace listed in this document would be revised and published in the Order.

The FAA has determined that these proposed regulations only involve an established body of technical regulations for which frequent and

routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, *Airspace Designations and Reporting Points*, dated September 10, 1998, and effective September 16, 1998, is to be amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Port Heiden, AK

Port Heiden Airport, AK

(Lat. 56°57′32″ N., long. 158°37′57″ W.)

Port Heiden NDB

(Lat. 56°57′15″ N., long. 158°38′56″ W.)

Turnbull VOR/DME

(Lat. 56°57′04″ N., long. 158°38′27″ W.)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of the Port Heiden Airport, and within 4 miles north and 8 miles south of the Port Heiden NDB 248° bearing extending from the NDB to 20 miles west, and within 8 miles west and 4 miles east of the Port Heiden NDB 339° bearing extending from the NDB to 20 miles northwest; and that airspace extending upward from 1200 feet above the surface

within 13 miles west and 4 miles east of the Port Heiden NDB 339° bearing extending from the NDB to 25 miles north, and within 17 miles of the Turnbull VOR/DME extending clockwise from the 213° radial to the 074° radial, and within 9 miles north of the Port Heiden NDB 248° bearing extending from the NDB to 24 miles west.

* * * * *

Issued in Anchorage, AK, on January 22, 1999.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 99–2336 Filed 1–29–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–209619–93]

RIN 1545–AR82

Escrow Funds and Other Similar Funds

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to the designation of the person required to report the income earned on qualified settlement funds and certain other funds, trusts, and escrow accounts, and other related rules. The proposed regulations would affect qualified settlement funds, qualified escrow accounts and qualified trusts established in connection with deferred like-kind exchanges, escrow accounts established in connection with sales of property, disputed ownership funds, and parties to these escrow accounts, trusts, and funds. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written comments must be received by May 3, 1999. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for May 12, 1999, at 10 a.m., must be received by April 21, 1999.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–209619–93), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–209619–93), Courier’s Desk, Internal Revenue Service, 1111 Constitution

Avenue, NW., Washington, DC.

Alternatively, taxpayers may submit comments electronically via the INTERNET by selecting the “Tax Regs” option on the IRS Home Page, or by submitting comments directly to the IRS INTERNET site at <http://www.irs.ustreas.gov/prod/taxregs/comments.html>. The public hearing will be held in Room 2615, Internal Revenue Building, 1111 Constitution Avenue, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Concerning the regulations, Michael L. Gompertz of the Office of Assistant Chief Counsel (Income Tax & Accounting), (202) 622–4910; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Michael Slaughter, (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collections of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224. Comments on the collections of information should be received by April 2, 1999. Comments are specifically requested concerning:

Whether the proposed collections of information are necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collections of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collections of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collections of information in this proposed regulation are in §§ 1.468B–

1(k)(2), 1.468B-1(k)(3)(iv), 1.468B-6(e)(1), 1.468B-6(f), 1.468B-7(d), 1.468B-8(f), 1.468B-8(g)(1), 1.468B-9(c)(1), and 1.468B-9(f)(3).

The collections of information in §§ 1.468B-1(k)(3)(iv), 1.468B-6(e)(1), 1.468B-7(d), 1.468B-8(g)(1), and 1.468B-9(c)(1) are satisfied by including the required information on Forms 1099, 1041, 1120, or 1120-SF. The burden for these requirements is reflected in the burden estimates for these forms.

The other collections of information in this proposed regulation (in §§ 1.468B-1(k)(2), 1.468B-6(f), 1.468B-8(f), and 1.468B-9(f)(3)) are discussed below.

The collection of information in § 1.468B-1(k)(2) is an election statement attached to a tax return filed for a qualified settlement fund (QSF). The statement notifies the IRS that the transferor to the QSF has elected grantor trust treatment for the QSF. This collection is required to obtain a benefit.

The collections of information in §§ 1.468B-6(f) and 1.468B-8(f) are statements that third parties must provide to an escrow holder, trustee, or administrator to enable the escrow holder, trustee, or administrator to properly report the income of an escrow account or trust on Form 1099. These collections are mandatory.

The collection of information in § 1.468B-9(f)(3) is a statement that a transferor must provide with respect to the transfer of cash or property to a disputed ownership fund. This collection is mandatory.

The likely respondents are individuals, business or other for-profit institutions, small businesses or organizations, nonprofit institutions, and government entities.

Estimated total annual reporting burden: 4,650 hours.

Estimated average annual burden per respondent: .5 hours.

Estimated number of respondents: 9,300.

Estimated annual frequency of responses: on occasion.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget.

Books and records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This notice contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 468B of the Internal Revenue Code. Section 468B was added to the Code by section 1807(a)(7)(A) of the Tax Reform Act of 1986 (Public Law 99-514, 100 Stat. 2814) and was amended by section 1018(f) of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100-647, 102 Stat. 3582). Section 468B(g) provides that nothing in any provision of law shall be construed as providing that an escrow account, settlement fund, or similar fund is not subject to current income tax. Section 468B(g) further provides that the Secretary shall prescribe regulations providing for the taxation of any such account or fund whether as a grantor trust or otherwise.

On December 23, 1992, final regulations (TD 8459) under section 468B(g) were published in the **Federal Register** (57 FR 60983). The regulations provide guidance concerning qualified settlement funds, but do not address other types of funds, escrow accounts, or trusts subject to current taxation under section 468B(g).

Section 1.468B-1(c) defines a qualified settlement fund (QSF) as a fund, account, or trust meeting three requirements. A QSF is a separate taxpayer subject to tax on its modified gross income. QSF classification is not elective. The preamble to the QSF regulations (see 1993-1 C.B. 69) states that the IRS and the Treasury Department rejected an elective approach because it would result in inconsistent tax treatment for similar funds, claimants, or transferors, and accompanying complexity.

The preamble to the QSF regulations also states (see 1993-1 C.B. 73) that future regulations will address the tax treatment of funds, accounts, or trusts other than QSFs, specifically, escrow accounts used in the sale of property and section 1031 qualified escrow accounts.

Section 1031(a)(3) was added to the Internal Revenue Code by section 77 of the Tax Reform Act of 1984 (Public Law 98-369, 98 Stat. 595). On May 1, 1991, final regulations (TD 8346) under section 1031(a)(3) were published in the **Federal Register** (56 FR 19933). These regulations were amended by final regulations (TD 8535) published in the **Federal Register** for April 20, 1994 (59 FR 18747). The regulations provide four safe harbors, the use of any of which will result in a determination that the taxpayer (i.e., the party transferring the property in the exchange) is not in

actual or constructive receipt of money or other property for purposes of section 1031. In particular, the regulations provide that the taxpayer is not in actual or constructive receipt of money or other property held in a *qualified escrow account* or *qualified trust*. Section 1.1031(k)-1(g)(3) defines *qualified escrow account* and *qualified trust*.

The regulations under section 1031(a)(3) do not address the taxation of income earned on a qualified escrow or qualified trust. The preamble to these regulations (see 1991-1 C.B. 154) states that this issue will be addressed in future regulations.

Explanation of Provisions

1. Election To Treat a QSF as a Grantor Trust Under § 1.468B-1(k) of the Proposed Regulations

The proposed regulations provide that if there is only one transferor to a QSF, the transferor is allowed to make an election that results in the QSF being treated as a grantor trust all of which is treated as owned by the transferor. In general, the election is made on a statement attached to the first Form 1041 filed on behalf of the QSF. The transferor may make a grantor trust election whether or not the requirements are otherwise satisfied for classification of the QSF as a grantor trust.

In general, grantor trust treatment for a QSF is available under the proposed regulations only if the QSF is established after the date final regulations are published in the **Federal Register**. However, the proposed regulations provide a narrow exception applicable to any QSF established by the U.S. government on or before the date final regulations are published if the QSF would otherwise have been classified as a grantor trust in the absence of the QSF regulations (see Rev. Rul. 77-230 (1977-2 C.B. 214)). Under the exception, such a QSF will be automatically treated as a grantor trust for all taxable years and a grantor trust election is thus unnecessary. If a QSF is established after the date final regulations are published, a grantor trust election will be required in order for the QSF to be treated as a grantor trust. This rule applies whether or not the U.S. government is the grantor.

2. Section 1031 Qualified Escrow Accounts and Qualified Trusts Under § 1.468B-6 of the Proposed Regulations

In general, the proposed regulations treat the assets of a qualified escrow account or qualified trust established in connection with a deferred exchange

under section 1031(a)(3) as owned by the taxpayer, i.e., the party that transfers the relinquished property. Thus, the taxpayer is taxable on the income earned on these assets. However, if the transferee or the qualified intermediary has all the beneficial use and enjoyment of the assets of a qualified escrow account or qualified trust, then the assets of the escrow account or trust are treated as owned by the transferee or qualified intermediary, and the income earned on the assets is taxable to the transferee or qualified intermediary.

Further, the proposed regulations require the escrow holder of a qualified escrow account or trustee of a qualified trust to report the income of the escrow account or trust on Forms 1099 to the extent the information reporting provisions of the Code otherwise require the filing of Forms 1099. In general, the taxpayer is treated as the payee of the income of the escrow account or trust unless the parties to the transaction provide a statement to the escrow holder or trustee indicating that the transferee or qualified intermediary is the payee. Such a statement must be provided if the transferee or qualified intermediary has all the beneficial use and enjoyment of the assets of the escrow account or trust.

The proposed regulations provide that the escrow holder or trustee is not liable for penalties under sections 6721 and 6722 if the escrow holder or trustee relies on an incorrect statement provided to the escrow holder or trustee (see above) or relies on the parties' failure to provide such a statement.

The proposed regulations also provide that if the transferee or the qualified intermediary has all the beneficial use and enjoyment of the assets of a qualified escrow account or trust, the deferred exchange may involve a below-market loan of these assets from the taxpayer to the transferee or qualified intermediary subject to the provisions of section 7872.

3. Pre-closing Escrows Under § 1.468B-7 of the Proposed Regulations

A pre-closing escrow is an escrow account, trust, or fund that satisfies five requirements. First, it must be established in connection with a sale or exchange of real or personal property. Second, it must be funded with a down payment, earnest money, or similar payment prior to the sale or exchange of the property (as determined for federal income tax purposes). Third, its assets must be used to secure the purchaser's obligation to pay the purchase price (in the case of an exchange of property, the term *purchaser* means the transferee of the property and the term *purchase*

price means the required consideration for the property). Fourth, its assets (including income earned thereon) must be paid to the purchaser or otherwise used for the purchaser's benefit, for example, as a credit against the purchase price. Fifth, it must not be a qualified escrow or qualified trust established in connection with a deferred section 1031 exchange.

The proposed regulations treat the assets of a pre-closing escrow as owned by the purchaser for federal income tax purposes. Thus, the income earned on the assets is taxable to the purchaser. The escrow holder, trustee, or other person responsible for administering a pre-closing escrow must report the income of the escrow on Forms 1099 to the extent the information reporting provisions of the Code otherwise require the filing of Forms 1099.

4. Contingent At-closing Escrows Under § 1.468B-8 of the Proposed Regulations

The proposed regulations provide rules for taxing the income of a contingent at-closing escrow, which is an escrow account, trust, or fund satisfying three requirements. First, a contingent at-closing escrow must be established in connection with the sale or exchange of real or personal property used in a trade or business or held for investment (other than an exchange to which section 354, 355, or 356 applies). Second, the assets of the escrow must be distributable to the purchaser or seller based on bona fide contingencies that will be resolved after the sale or exchange (as determined for federal income tax purposes). (If a contingent at-closing escrow is established in connection with an exchange of property, rather than a sale, the term *purchaser* refers to the transferee of the property and the term *seller* refers to the transferor of the property.) Thus, for example, the agreement between the parties may provide that all or a portion of the assets of the escrow are distributable to the purchaser if specified liabilities associated with the property arise within a specified period of time after closing or if certain earnings targets are not met by a specified date. Third, the escrow must not be a qualified escrow account or qualified trust established in connection with a deferred section 1031 exchange.

Prior to the date (called the determination date) on which the specified events occur or fail to occur, thereby fixing the amounts payable from the escrow to the purchaser and seller, the proposed regulations provide that the assets of the escrow are treated as owned by the purchaser, and the

income earned on the assets is thus taxable to the purchaser.

Beginning on the determination date, the proposed regulations provide that the purchaser and the seller are taxable on the income of the escrow corresponding to their respective ownership interests in each asset of the escrow. Further, the proposed regulations require the purchaser and seller to provide the escrow holder, trustee, or other administrator of the escrow with a statement within 30 days of the determination date indicating what these ownership interests are. Also, the escrow holder, trustee, or other administrator is required to prepare Forms 1099 to report the income of a contingent at-closing escrow to the extent the information reporting provisions of the Code otherwise require the filing of Forms 1099.

In preparing the Forms 1099, the escrow holder, trustee, or other administrator may rely on the statement (discussed above) provided to the administrator within 30 days of the determination date. Also, if the statement is not provided, the escrow holder, trustee, or other administrator may rely on the parties' failure to provide a statement and continue to treat the purchaser as the owner. The administrator's ability to rely on a statement, or its absence, protects the administrator from liability for penalties under sections 6721 and 6722.

5. Disputed Ownership Funds Under § 1.468B-9 of the Proposed Regulations

A disputed ownership fund (DOF) is an escrow account, trust, or fund other than a QSF that satisfies three requirements. First, a DOF must be established to hold money or property subject to conflicting claims of ownership. Second, a DOF must be subject to the continuing jurisdiction of a court of law or equity. Third, money or property cannot be paid or distributed from a DOF to a claimant without court approval. An interpleader fund may qualify as a DOF.

In general, a DOF is taxed under the proposed regulations as if it were a qualified settlement fund if all the DOF's assets are passive investment assets, for example, cash or cash equivalents, stock, and debt obligations. However, if the DOF holds assets other than passive investment assets (for example, real estate or business property the ownership of which is in dispute), the DOF is taxed as if it were a C corporation. The claimants to the fund may, however, submit a letter ruling request proposing an alternative method of taxation if they believe that

there is a more appropriate method of taxing a DOF than under the rules stated above.

In addition to providing rules for the taxation of the income of a DOF, the proposed regulations also provide rules concerning the transfer of property to and from a DOF. In particular, a transfer of property to a DOF is not a sale or other disposition by the transferor under section 1001(a) if the transferor claims ownership of the transferred property. Also, a DOF is not allowed a deduction for a distribution of disputed property to a claimant and the distribution is not a taxable event to the DOF.

6. Request for Comments

Comments are requested on the appropriate tax treatment of a fund, account, or trust that meets the requirements for more than one type of entity subject to the proposed regulations. Comments are also requested on the appropriate tax treatment of a fund, account, or trust that changes over time so that a different portion of the proposed regulations would apply to it. For example, an escrow initially may meet the requirements for a contingent at-closing escrow, but may subsequently satisfy the requirements for a DOF. This could occur if a dispute were to arise between the purchaser and the seller concerning their respective interests in the escrow after the determination date and the administrator of the DOF files an interpleader action to resolve the dispute.

Comments are also requested concerning the appropriate tax treatment of a contingent-at-closing escrow if multiple contingencies are specified in the agreement between the purchaser and the seller. The proposed regulations provide that (1) the income of a contingent at-closing escrow is taxable entirely to the purchaser prior to the determination date, and (2) the determination date is the date on which (or by which) the last of the contingent events has either occurred or failed to occur. Therefore, if multiple contingencies are provided for in the agreement between the parties and some, but not all, of the contingencies have been resolved, the proposed regulations provide that the income of the escrow is taxable entirely to the purchaser (because the determination date has not yet occurred) regardless of the effect of the contingencies that have been resolved. The purchaser is thus taxed on all the income earned on the escrow even though it may be known (based on the resolution of one or more contingencies) that a fixed portion of the escrowed assets will be distributed to

the seller. The proposed rule is simple and easy to administer because it treats the escrow in a unitary manner and avoids the need for multiple determination dates. Arguably, however, a more complex approach should be adopted involving a separate determination date for each contingency. Under the more complex approach, as each contingency is resolved, a new determination would be made concerning the taxation of the fund's income. The income earned on the fund's assets would be taxable to the purchaser and seller in accordance with their ownership interests as determined on each determination date as each separate contingency is resolved.

Comments are also requested on the requirement that the assets of a contingent at-closing escrow must be distributable to the purchaser or seller based on bona fide contingencies that are resolved after the sale or exchange. Issues may arise as to whether a particular contingency is bona fide in at least two ways: whether the outcome is sufficiently in doubt and whether the effect of the outcome on the fund is significant. A contingency may not be bona fide if the parties can reasonably be expected to know the outcome, e.g., a contingency based on whether, in ten years, the consumer price index will be at least equal to the consumer price index today. In addition, a contingency may not be bona fide if the effect on the fund is minimal even though the outcome is uncertain.

Finally, comments are requested regarding whether there are other types of funds for which rules under section 468B are required.

7. Proposed Effective Date

In general, the regulations are proposed to be applicable for QSFs, qualified escrow accounts and qualified trusts, pre-closing escrows, contingent at-closing escrows, and DOFs established after the date final regulations are published in the **Federal Register**. However, the proposed regulations contain transition rules.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business

Administration for comment on its impact on small business. An initial regulatory flexibility analysis has been prepared for the collections of information contained in this notice of proposed rulemaking under 5 U.S.C. 603. The analysis is set forth below.

Initial Regulatory Flexibility Act Analysis

The objective of the proposed regulations is to ensure that the income of certain escrow accounts, trusts, and funds is subject to current taxation by identifying the proper party or parties subject to tax and by requiring appropriate information reporting for the income of the escrow account, trust, or fund. Section 468B(g) provides the legal basis for the requirements of the proposed regulations. The IRS and Treasury Department are not aware of any federal rules that may duplicate, overlap, or conflict with the proposed regulations.

An explanation is provided below of the burdens on small entities resulting from the requirements of the proposed regulations. Also, a description is provided of alternative rules that were considered by the IRS and the Treasury Department but rejected as too burdensome.

1. Grantor Trust Election Under § 1.468B-1(k)

Under § 1.468B-1(k), the transferor to a QSF may elect to have the QSF treated as a grantor trust all of which is treated as owned by the transferor (grantor trust election). If the transferor makes the grantor trust election, the administrator of the QSF must file Form 1041 rather than the QSF income tax return, Form 1120-SF.

Approximately 900 QSF returns are filed each year. Only a small number of these returns are filed for newly created QSFs. Because a grantor trust election may be made only for the year in which a QSF is established, and may only be made for a QSF that has one transferor, the IRS and Treasury Department believe that a very small number of grantor trust elections will be made each year.

Because of the availability of the grantor trust election, the proposed regulations provide a choice of filing Form 1041 or Form 1120-SF in certain situations. Small entities may choose the filing requirement that is less burdensome.

The alternative to the proposed regulations is to retain the current rules for QSFs and not provide qualifying taxpayers with the opportunity to make a grantor trust election.

2. Qualified Escrow Accounts and Qualified Trusts Established in Connection With Deferred Exchanges; Pre-closing Escrows; and Contingent At-Closing Escrows

Sections 1.468B-6(e)(1), 1.468B-7(d), and 1.468B-8(g)(1) require specified escrow holders, trustees, and administrators to file Forms 1099 with the IRS and furnish payee statements in accordance with the information reporting requirements of subpart B, Part III, subchapter A, chapter 61, Subtitle F of the Internal Revenue Code.

Also, § 1.468B-6(f) requires the parties to a qualified escrow account or qualified trust to provide a statement to the escrow holder or trustee if the qualified intermediary or transferee has all the beneficial use and enjoyment of the assets of the escrow account or trust. This statement facilitates the filing of Forms 1099 by the escrow holder or trustee.

Similarly, § 1.468B-8(f) requires the parties to a contingent at-closing escrow to provide statements to the escrow holder or other administrator. These statements facilitate the filing of Forms 1099 by the escrow holder or other administrator.

The IRS and Treasury Department estimate that annually there are approximately 16,000 deferred exchange transactions involving the creation of a qualified escrow account or qualified trust; approximately 200,000 transactions involving the creation of a pre-closing escrow; and approximately 10,000 transactions involving the creation of a contingent at-closing escrow.

As an alternative to the proposed regulations, the IRS and the Treasury Department considered, but rejected as too burdensome, a rule that would have required the filing of grantor trust returns (Form 1041) for qualified escrow accounts and qualified trusts, pre-closing escrows, and contingent at-closing escrows. Instead of requiring grantor trust returns, the proposed regulations require the filing of Forms 1099. This is less burdensome on small entities because, unlike Form 1041, Form 1099 is simple, does not require a signature, and requires only the reporting of gross income.

Further, the IRS and the Treasury Department considered an alternative rule for contingent at-closing escrows under which the income of the escrow for the period before the determination date would have been taxable to the purchaser or the seller depending on the required tax treatment by the purchaser and seller of the principal amount deposited into the escrow. This

alternative rule would not have provided certainty, would have required a difficult legal analysis (namely, the determination of the required tax treatment of the principal amount deposited into the escrow), and would have required the purchaser and seller to provide a signed statement to the administrator of the escrow identifying the party to whom the administrator should report the income for the period before the determination date. Under the proposed regulations, the income of the escrow is always taxable to the purchaser for the period before the determination date, thereby eliminating the need for a signed statement to be provided to the administrator and the need to determine the required tax treatment of the principal amount deposited into the escrow. This rule is simpler than the alternative.

3. Disputed Ownership Funds (DOFs)

Section 1.468B-9(c)(1) of the proposed regulations generally provides that a DOF is taxable as a QSF if all its assets are passive investment assets or taxable as a C corporation in all other cases. However, the regulations also provide that if there is a more appropriate method of taxing a DOF, the claimants to the fund may request a private letter ruling to permit the use of that method.

Section 1.468B-9(f)(3) of the proposed regulations requires that a transferor provide a statement to the administrator of a DOF that itemizes the cash or property transferred to the DOF during the calendar year. The statement must also indicate the DOF's basis and holding period in the property.

The IRS and the Treasury Department estimate that annually there are approximately 5,000 transactions involving the creation of a disputed ownership fund.

As an alternative to the proposed regulations, the IRS and the Treasury Department considered, but rejected as too burdensome, a rule that would have required all DOFs to file corporate income tax returns (Form 1120) regardless of the nature of the assets held by the DOF. This alternative was rejected because it was concluded that a QSF return (Form 1120-SF) is more appropriate than a corporate income tax return if all the assets of the DOF are passive investment assets. The proposed regulations thus impose less of an administrative burden on small entities than would have resulted from the alternative rule as Form 1120-SF is generally easier to prepare than Form 1120. Only DOFs that hold assets other than passive investment assets will be required to file Form 1120 under the

proposed regulations. In addition, the proposed regulations provide taxpayers with the additional flexibility of being able to request an alternative method of taxation if that method is more appropriate than QSF or C corporation treatment as provided under the general rule.

There are no known alternative rules that are less burdensome to small entities but that accomplish the purpose of the statute. The IRS and Treasury Department request comments from small entities concerning possible alternatives to these rules.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely (in the manner described in the ADDRESSES portion of the preamble) to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying.

A public hearing is scheduled for May 12, 1999, at 10 a.m. in Room 2615, Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons who wish to present oral comments at the hearing must submit written comments by May 3, 1999 and submit an outline of the topics to be discussed and the time devoted to each topic (signed original and eight (8) copies) by April 21, 1999.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these proposed regulations is Michael L. Gompertz of the Office of Assistant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding entries in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *
 § 1.468B–6 also issued under 26 U.S.C. 468B.
 § 1.468B–7 also issued under 26 U.S.C. 468B.
 § 1.468B–8 also issued under 26 U.S.C. 468B.
 § 1.468B–9 also issued under 26 U.S.C. 468B. * * *

Par. 2. Section 1.468B–0 is amended as follows:

1. The introductory text is revised.
2. The entry for § 1.468B–1, paragraph (k), is redesignated as paragraph (l).
3. A new entry for § 1.468B–1, paragraph (k), is added.
4. The section heading in the entry for § 1.468B–5 is revised.
5. New entries are added for §§ 1.468B–5, paragraph (c), 1.468B–6, 1.468B–7, 1.468B–8, and 1.468B–9.
6. The revised and added provisions read as follows:

§ 1.468B–0 Table of contents.

This section lists the table of contents for §§ 1.468B–1 through 1.468B–9.

§ 1.468B–1 Qualified settlement funds.

* * * * *

(k) Election to treat a qualified settlement fund as a subpart E trust.

- (1) In general.
- (2) Manner of making grantor trust election.
 - (i) In general.
 - (ii) Requirements for election statement.
 - (3) Effect of making the election.

* * * * *

§ 1.468B–5 Effective dates and transition rules applicable to qualified settlement funds.

* * * * *

- (c) Grantor trust elections under § 1.468B–1(k).
 - (1) In general.
 - (2) Qualified settlement funds established by the U.S. government on or before the date

of publication of final regulations in the **Federal Register**.

§ 1.468B–6 Qualified escrow accounts and qualified trusts used in deferred exchanges of like-kind property under section 1031(a)(3).

- (a) Scope.
- (b) Definitions.
- (c) Income of qualified escrow account or qualified trust.
 - (1) In general.
 - (2) Transferee or qualified intermediary has all the beneficial use and enjoyment of assets of a qualified escrow account or qualified trust.
- (d) Application of section 7872.
- (e) Reporting obligations of the escrow holder or trustee.
 - (1) In general.
 - (2) Person treated as payee.
 - (3) Relief from penalties for filing incorrect information return or payee statement.
- (f) Statement provided to escrow holder or trustee.
 - (g) Effective date.
 - (1) In general.
 - (2) Transition rule.
 - (h) Examples.

§ 1.468B–7 Pre-closing escrows.

- (a) Scope.
- (b) Definition.
- (c) Taxation of pre-closing escrows.
- (d) Reporting obligations of the administrator.
 - (e) Effective date.
 - (1) In general.
 - (2) Transition rule.
 - (f) Example.

§ 1.468B–8 Contingent at-closing escrows.

- (a) Scope.
- (b) Definitions.
- (c) Tax liability of purchaser and seller for the period prior to the determination date.
- (d) Transfer of interest in the assets of the escrow on the determination date.
- (e) Tax liability of purchaser and seller for the period beginning on the determination date.
- (f) Statement required to be provided to administrator within 30 days after the determination date.
- (g) Reporting obligations of the administrator.
 - (1) In general.
 - (2) Person treated as payee.
 - (3) Relief from penalties for filing incorrect information return or payee statement.

- (h) Effective date.
 - (1) In general.
 - (2) Transition rule.
- (i) [Reserved]
- (j) Example.

§ 1.468B–9 Disputed ownership funds.

- (a) In general.
- (b) Definitions.
- (c) Taxation of a disputed ownership fund.
 - (1) In general.
 - (2) Exception.
 - (3) Special rules.
- (d) Basis of property held by a disputed ownership fund.
 - (e) Request for prompt assessment.
 - (f) Rules applicable to the transferor.
 - (1) Transfer of property.

- (i) In general.
- (ii) Exceptions.
 - (2) Economic performance.
 - (i) In general.
 - (ii) Obligations of the transferor.
- (3) Statement to the disputed ownership fund and the Internal Revenue Service.
 - (i) In general.
 - (ii) Information required on statement.
 - (A) In general.
 - (B) Combined statements.
 - (4) Distributions to transferors.
 - (i) In general.
 - (ii) Exception.
 - (iii) Deemed distributions.
 - (g) Distribution to a claimant other than a transferor.
 - (h) Effective date.
 - (1) In general.
 - (2) Transition rule.
 - (i) [Reserved].
 - (j) Examples.

Par. 3. Section 1.468B–1 is amended by redesignating paragraph (k) as paragraph (l) and adding a new paragraph (k) to read as follows:

§ 1.468B–1 Qualified settlement funds.

* * * * *

(k) *Election to treat a qualified settlement fund as a subpart E trust*—(1) *In general.* If a qualified settlement fund has only one transferor (see paragraph (d)(1) of this section for the definition of transferor), the transferor may make an irrevocable election (grantor trust election) to treat the qualified settlement fund as a trust all of which is treated as owned by the transferor under section 671 and the regulations thereunder. A grantor trust election may be made whether or not the qualified settlement fund would be classified, in the absence of paragraph (b) of this section, as a trust all of which is treated as owned by the transferor under section 671 and the regulations thereunder.

(2) *Manner of making grantor trust election*—(i) *In general.* To make a grantor trust election, a transferor must attach an election statement satisfying the requirements of paragraph (k)(2)(ii) of this section to a timely filed (including extensions) Form 1041 that the administrator files on behalf of the qualified settlement fund for the taxable year in which the qualified settlement fund is established. However, if a Form 1041 would not otherwise be required to be filed (for example, because the provisions of § 1.671–4(b) are applicable), then the transferor makes a grantor trust election by attaching an election statement satisfying the requirements of paragraph (k)(2)(ii) of this section to a timely filed (including extensions) income tax return of the transferor for the taxable year in which the qualified settlement fund is established.

(ii) *Requirements for election statement.* The election statement must include a statement by the transferor that the transferor will treat the qualified settlement fund as a grantor trust. The election statement must also include the transferor's name, signature, address, taxpayer identification number, and the legend, "§ 1.468B-1(k) Election". The election statement and the statement described in § 1.671-4(a) may be combined into a single statement.

(3) *Effect of making the election.* If a grantor trust election is made—

(i) Paragraph (b) of this section, and §§ 1.468B-2, 1.468B-3, and 1.468B-5 do not apply to the qualified settlement fund. However, this section (except for paragraph (b) of this section) and § 1.468B-4 apply to the qualified settlement fund;

(ii) The qualified settlement fund is treated for federal income tax purposes as a trust all of which is treated as owned by the transferor under section 671 and the regulations thereunder;

(iii) The transferor must take into account in computing the transferor's income tax liability all items of income, deduction, and credit (including capital gains and losses) of the qualified settlement fund in accordance with § 1.671-3(a)(1); and

(iv) The reporting obligations imposed by § 1.671-4 on the trustee of a trust apply to the administrator.

* * * * *

Par. 4. Section 1.468B-5 is amended by revising the section heading and adding paragraph (c) to read as follows:

§ 1.468B-5 Effective dates and transition rules applicable to qualified settlement funds.

* * * * *

(c) *Grantor trust elections under § 1.468B-1(k)*—(1) *In general.* A transferor may make a grantor trust election under § 1.468B-1(k) only if the qualified settlement fund is established after the date of publication of final regulations in the **Federal Register**.

(2) *Qualified settlement funds established by the U.S. government on or before the date of publication of final regulations in the Federal Register.* If the U.S. government, or any agency or instrumentality thereof, establishes a qualified settlement fund on or before the date of publication of final regulations in the **Federal Register**, and the fund would have been classified as a trust all of which is treated as owned by the U.S. government under section 671 and the regulations thereunder without regard to the regulations under section 468B, then the U.S. government is deemed to have made a grantor trust

election under § 1.468B-1(k), and the election is effective for all taxable years of the fund.

Par. 5. Sections 1.468B-6 through 1.468B-9 are added to read as follows:

§ 1.468B-6 Qualified escrow accounts and qualified trusts used in deferred exchanges of like-kind property under section 1031(a)(3).

(a) *Scope.* This section provides rules under section 468B(g) relating to the current taxation of income of a qualified escrow account or qualified trust established in connection with a deferred exchange under section 1031(a)(3).

(b) *Definitions.* As used in this section, *deferred exchange*, *relinquished property*, *replacement property*, *qualified escrow account*, *qualified trust*, *qualified intermediary*, *exchange period*, and *escrow holder* have the same meanings as in § 1.1031(k)-1. Also, as used in this section, *taxpayer* means the transferor of the relinquished property, and *transferee* means the person who is treated as owning the relinquished property for federal income tax purposes after its transfer by the taxpayer. Further, *owner* means the person treated as owning the assets of the qualified escrow account or qualified trust under paragraph (c) of this section.

(c) *Income of qualified escrow account or qualified trust*—(1) *In general.* Except as otherwise provided in paragraph (c)(2) of this section, and except for purposes of determining whether a transaction qualifies as a deferred exchange, the taxpayer is the owner. Thus, the taxpayer must take into account in computing the taxpayer's income tax liability all items of income, deduction, and credit (including capital gains and losses) of the qualified escrow account or qualified trust.

(2) *Transferee or qualified intermediary has all the beneficial use and enjoyment of assets of a qualified escrow account or qualified trust.* If the transferee or the qualified intermediary has all the beneficial use and enjoyment of assets of a qualified escrow account or qualified trust, the transferee or qualified intermediary is the owner. Thus, the transferee or qualified intermediary must take into account in computing its income tax liability all items of income, deduction, and credit (including capital gains and losses) of the account or trust. The following factors, and other relevant facts and circumstances in a particular case, will be considered in determining whether the transferee or the qualified intermediary, rather than the taxpayer,

has the beneficial use and enjoyment of assets of an account or trust and thus is the owner—

(i) Which person enjoys the use of the earnings of the account or trust;

(ii) Which person receives the benefit from appreciation, if any, in the value of the assets of the account or trust; and

(iii) Which person is subject to a risk of loss from a decline, if any, in the value of the assets of the account or trust.

(d) *Application of section 7872.* If the transferee or the qualified intermediary is the owner under paragraph (c)(2) of this section, section 7872 may apply if the deferred exchange involves a below-market loan from the taxpayer to the owner. See section 7872(c)(1) for the loans to which section 7872 applies.

(e) *Reporting obligations of the escrow holder or trustee*—(1) *In general.* The escrow holder of a qualified escrow account and the trustee of a qualified trust must, for each calendar year (or portion thereof) that the account or trust is in existence, report the income of the account or trust on Forms 1099 in accordance with the information reporting requirements of subpart B, Part III, subchapter A, chapter 61, Subtitle F of the Internal Revenue Code. The Forms 1099 must show the escrow holder or trustee as the payor and must show the proper payee. See paragraph (e)(2) of this section for the determination of the proper payee.

(2) *Person treated as payee.* In satisfying the reporting obligations of paragraph (e)(1) of this section, the following rules apply to the escrow holder of a qualified escrow account and the trustee of a qualified trust—

(i) If no written statement described in paragraph (f) of this section is provided to the escrow holder or trustee, the escrow holder or trustee must treat the taxpayer as the owner and the payee of the income of the account or trust; and

(ii) If a written statement described in paragraph (f) of this section is provided to the escrow holder or trustee, the escrow holder or trustee must treat the person specified on the statement (see paragraph (f)(3) of this section) as the owner and the payee of the income of the account or trust.

(3) *Relief from penalties for filing incorrect information return or payee statement.* For purposes of sections 6721 and 6722, the escrow holder of a qualified escrow account or trustee of a qualified trust will not be treated as failing to file or furnish a correct information return or payee statement solely because, in preparing a Form 1099, the escrow holder or trustee relies on a statement described in paragraph (f) of this section and therefore treats the

person specified on the statement (see paragraph (f)(3) of this section) as the owner and the payee of the income of the account or trust. If a statement described in paragraph (f) of this section is not provided to the escrow holder or trustee, the escrow holder or trustee will not be treated as failing to file or furnish a correct information return or payee statement solely because, in preparing a Form 1099, the escrow holder or trustee relies on the absence of the statement and therefore treats the taxpayer as the owner and the payee of the income of the account or trust.

(f) *Statement provided to escrow holder or trustee.* If under paragraph (c)(2) of this section, the qualified intermediary or transferee is the owner, the taxpayer and the owner must furnish to the escrow holder or trustee a statement that—

(1) Is signed by the taxpayer and the owner;

(2) Is furnished to the escrow holder or trustee within 30 days after the taxpayer transfers the relinquished property; and

(3) Specifies the person treated as the owner and thus as the payee of the income of the account or trust.

(g) *Effective date*—(1) *In general.* This section applies to qualified escrow accounts and qualified trusts established after the date of publication of final regulations in the **Federal Register**.

(2) *Transition rule.* With respect to a qualified escrow account or qualified trust established after August 16, 1986, but on or before the date of publication of final regulations in the **Federal Register**, the Internal Revenue Service will not challenge a reasonable, consistently applied method of taxation for income earned by the account or trust. The Internal Revenue Service will also not challenge a reasonable, consistently applied method for reporting such income.

(h) *Examples.* The provisions of this section may be illustrated by the following examples in which T is the taxpayer, B is the transferee, and QI is the qualified intermediary:

Example 1. (i) T uses the calendar year as the taxable year and the cash receipts and disbursements method of accounting. T enters into a deferred exchange agreement with B. Under the agreement, T will transfer property (the relinquished property) to B, and B must transfer to T within the exchange period consideration (cash or replacement property or both) having the same market value as that of the relinquished property. B's obligations under the agreement are secured by the assets of a qualified escrow account. The deferred exchange does not involve the use of a qualified intermediary.

(ii) Under the agreement, B must deposit cash into the qualified escrow account equal to the agreed upon fair market value of the relinquished property on the date the property is transferred to B. The agreement provides that the cash deposited into the escrow account must be invested in a money market fund.

(iii) The agreement provides that B is entitled to receive the interest earned on the escrow account in consideration for B's performance of services in connection with the exchange.

(iv) On September 1, 1999, T transfers the relinquished property to B. The property is unencumbered and has a fair market value of \$100,000 on September 1, 1999. B deposits \$100,000 into a qualified escrow account. The \$100,000 is invested in accordance with the exchange agreement in a money market fund. During 1999, \$2,000 of interest is earned on the escrow account. During January 2000, an additional \$400 of interest is earned on the escrow account. On February 1, 2000, B uses \$100,000 of the funds in the escrow account to purchase replacement property identified by T, and on this same date B transfers the replacement property to T. The interest earned on the escrow account, \$2,400, is paid to B from the escrow account in consideration for B's performance of services.

(v) Paragraph (c)(1) of this section applies and T must take into account in computing T's income tax liability for 1999 and 2000 the \$2400 of interest earned on the escrow account in those years even though the interest is paid to B as compensation for B's services. Paragraph (c)(1) of this section applies for the following reasons. T, rather than B, enjoys the use of the earnings of the escrow account since the earnings are used to discharge T's obligation to pay B for B's services. B is not considered to have all the beneficial use and enjoyment of the assets of the escrow account merely because the compensation that B is entitled to receive is based on the earnings of the escrow account.

(vi) The escrow holder must file Forms 1099 for 1999 and 2000 and furnish T with payee statements with respect to the interest earned on the escrow in 1999 and 2000. See paragraph (e)(1) of this section.

Example 2. (i) The facts are the same as in *Example 1* except that the agreement between B and T requires B to pay \$100,000 to QI; under the agreement between T and QI, QI is obligated to transfer to T within the exchange period consideration (cash or replacement property or both) equal to \$100,000 plus interest thereon at 4 percent compounded semiannually; QI's obligation to transfer this consideration is secured by the \$100,000 received from B, which QI must deposit into a qualified escrow account; the assets of the escrow account must be invested in a money market fund; and, as compensation for QI's performance of services to facilitate the deferred exchange, QI is entitled to receive the excess of the interest earned on the escrow account over the amount of interest (computed at 4 percent compounded semiannually) payable to T in cash or property.

(ii) QI deposits the \$100,000 received from B into a qualified escrow account, and the

\$100,000 is invested in a money market fund earning interest at 4.8 percent compounded semiannually. During 1999, \$1,600 of interest is earned on the escrow account. During January 2000, an additional \$400 of interest is earned on the escrow account. On February 1, 2000, QI uses \$101,667 of the funds in the escrow account to purchase replacement property, which is transferred to T. This transfer satisfies QI's obligations under the agreement because \$1,667 is the amount of interest that is earned on \$100,000 at 4 percent compounded semiannually for 5 months. Of the \$2,000 in interest earned on the escrow account in 1999 and 2000, \$1,667 is used to purchase replacement property, and the remaining \$333 is paid in cash to QI as compensation for QI's services.

(iii) Paragraph (c)(1) of this section applies and T must take into account in computing T's income tax liability for 1999 and 2000 the \$2000 of interest earned on the escrow account in those years even though \$333 of the interest is paid to QI as compensation for QI's services.

(iv) The escrow holder must file Forms 1099 and furnish T with payee statements with respect to the \$2000 of interest earned on the escrow in 1999 and 2000. See paragraph (e)(1) of this section.

§ 1.468B-7 Pre-closing escrows.

(a) *Scope.* This section provides rules under section 468B(g) for the taxation of income earned on pre-closing escrows.

(b) *Definition.* A *pre-closing escrow* is an escrow account, trust, or fund—

(1) Established in connection with the sale or exchange of real or personal property;

(2) Funded with a down payment, earnest money, or similar payment that is deposited into the escrow prior to the sale or exchange of the property;

(3) Used to secure the obligation of the purchaser to pay the purchase price for the property (in the case of an exchange, *purchaser* means the transferee of the property, and *purchase price* means the required consideration for the property);

(4) The assets of which, including the income earned thereon, will be paid to the purchaser or otherwise distributed for the purchaser's benefit when the property is sold or exchanged (for example, by being distributed to the seller as a credit against the purchase price); and

(5) Which is not a qualified escrow account or qualified trust established in connection with a deferred exchange under section 1031(a)(3).

(c) *Taxation of pre-closing escrows.* The purchaser is treated for federal income tax purposes as owning the assets of a pre-closing escrow. Thus, the purchaser must take into account in computing the purchaser's income tax liability all items of income, deduction, and credit (including capital gains and losses) of the escrow.

(d) *Reporting obligations of the administrator.* For each calendar year (or portion thereof) that a pre-closing escrow is in existence, the escrow agent, escrow holder, trustee, or other person responsible for administering the escrow (the *administrator*) must report the income of the escrow on Forms 1099 in accordance with the information reporting requirements of subpart B, Part III, subchapter A, chapter 61, Subtitle F of the Internal Revenue Code. The Form 1099 must show the administrator as the payor and the purchaser as the payee.

(e) *Effective date*—(1) *In general.* The provisions of this section apply to pre-closing escrows established after the date of publication of final regulations in the **Federal Register**.

(2) *Transition rule.* With respect to a pre-closing escrow established after August 16, 1986, but on or before the date of publication of final regulations in the **Federal Register**, the Internal Revenue Service will not challenge a reasonable, consistently applied method of taxation for income earned by the escrow. The Internal Revenue Service will also not challenge a reasonable, consistently applied method for reporting such income.

(f) *Example.* The provisions of this section may be illustrated by the following example:

Example. P enters into a contract with S for the purchase of residential property owned by S for the price of \$200,000. P is required to deposit \$10,000 of earnest money into an escrow. At closing, the \$10,000 and the interest earned thereon will be credited against the purchase price of the property. The escrow is a pre-closing escrow. P is treated as owning the assets of the escrow, and P is taxable on the interest earned on the escrow prior to closing. The escrow holder must report the income earned on the escrow on Forms 1099 and furnish payee statements to P. The Forms 1099 must show the escrow holder as the payor and P as the payee.

§ 1.468B-8 Contingent at-closing escrows.

(a) *Scope.* This section provides rules under section 468B(g) for the taxation of income earned on a contingent at-closing escrow, which is defined in paragraph (b) of this section. No inference should be drawn from this section concerning the tax treatment of a contingent at-closing escrow, or of parties to the escrow, under sections of the Internal Revenue Code other than section 468B. See also paragraph (d) of this section.

(b) *Definitions.* For purposes of this section, the following definitions apply—

Administrator means an escrow agent, escrow holder, trustee, or other person responsible for administering an escrow

account, trust, or fund (the purchaser or the seller may be the administrator);

Contingent at-closing escrow means an escrow account, trust, or fund that satisfies the following requirements—

(1) The escrow is established in connection with the sale or exchange (other than an exchange to which section 354, 355, or 356 applies) of real or personal property used in a trade or business or held for investment (including stock in a corporation or an interest in a partnership);

(2) Depending on whether events specified in the agreement between the purchaser and the seller that are subject to bona fide contingencies (not including events that are certain, or reasonably certain, to occur, such as the passage of time, or that are certain, or reasonably certain, not to occur) either occur or fail to occur, the escrow's assets (except for assets set aside for taxes or expenses) will be distributable—

(i) Entirely to the purchaser;

(ii) Entirely to the seller; or

(iii) In part, to the purchaser with the remainder to the seller; and

(3) The escrow is not a qualified escrow account or qualified trust established in connection with a deferred exchange under section 1031(a)(3);

Determination date means the date on which (or by which) the last of the events subject to a bona fide contingency specified in the agreement between the purchaser and the seller (referred to in the definition of *contingent at-closing escrow*) has either occurred or failed to occur;

Purchaser means, in the case of an exchange of property, the transferee of the property; and

Seller means, in the case of an exchange of property, the transferor of the property.

(c) *Tax liability of purchaser and seller for the period prior to the determination date.* For the period prior to the determination date, the purchaser is treated as owning the assets of the contingent at-closing escrow for federal income tax purposes. Thus, in computing the purchaser's income tax liability, the purchaser must take into account all items of income, deduction, and credit (including capital gains and losses) of the escrow until the determination date.

(d) *Transfer of interest in the assets of the escrow on the determination date.* No inference should be drawn from this section whether, for purposes of Internal Revenue Code sections other than 468B, there is a transfer of ownership of the assets of a contingent at-closing escrow on the determination date from the

purchaser to the seller or from the seller to the purchaser, or the tax consequences of such a transfer. Thus, for example, if there is a transfer of ownership of the assets of the escrow from the purchaser to the seller on the determination date for purposes of other Code sections, no inference should be drawn from this section whether any portion of the amount transferred is unstated interest. See § 1.483-4.

(e) *Tax liability of purchaser and seller for the period beginning on the determination date.* For the period beginning on the determination date, the purchaser and the seller must each take into account in determining their income tax liabilities the income, deductions, and credits (including capital gains and losses) corresponding to their ownership interests in the assets of the escrow.

(f) *Statement required to be provided to administrator within 30 days after the determination date.* Within 30 days after the determination date, the purchaser and the seller must provide the administrator with a written statement that—

(1) Is signed by the purchaser and the seller;

(2) Specifies the determination date; and

(3) Specifies the purchaser's and seller's ownership interests in each asset of the escrow.

(g) *Reporting obligations of the administrator*—(1) *In general.* The administrator of a contingent at-closing escrow must, for each calendar year (or portion thereof) that the escrow is in existence, report the income of the escrow on Forms 1099 in accordance with the information reporting requirements of subpart B, Part III, subchapter A, chapter 61, Subtitle F of the Internal Revenue Code. The Forms 1099 must show as payor the administrator of the escrow and as payee the person (or persons) treated as the payee (or payees) under paragraph (g)(2) of this section.

(2) *Person treated as payee.* In satisfying the reporting obligations of paragraph (g)(1) of this section, the following rules apply to the administrator—

(i) For the period prior to the determination date, the administrator must treat the purchaser as the payee of the income of the escrow;

(ii) For the period beginning on the determination date, if the written statement described in paragraph (f) of this section is timely provided to the administrator, the administrator must treat as the payee (or payees) of the income of the escrow the purchaser or seller (or both) in accordance with their

respective ownership interests as shown on the statement; and

(iii) If the written statement described in paragraph (f) of this section is not provided to the administrator, the administrator must continue to treat the purchaser as the payee of the income of the escrow.

(3) *Relief from penalties for filing incorrect information return or payee statement.* For purposes of sections 6721 and 6722, the administrator will not be treated as failing to file or furnish a correct information return or payee statement solely because, in preparing a Form 1099, the administrator relies on a statement described in paragraph (f) of this section and therefore treats the purchaser or seller (or both) as the payee (or payees) of the income of the escrow in accordance with their respective ownership interests in the assets of the escrow as shown on the statement. If a statement described in paragraph (f) of this section is not provided to the administrator, the administrator will not be treated as failing to file or furnish a correct information return or payee statement solely because, in preparing a Form 1099, the administrator relies on the absence of the statement and therefore treats the purchaser as the payee.

(h) *Effective date*—(1) *In general.* The provisions of this section apply to contingent at-closing escrows that are established after the date of publication of final regulations in the **Federal Register**.

(2) *Transition rule.* With respect to a contingent at-closing escrow established after August 16, 1986, but on or before the date of publication of final regulations in the **Federal Register**, the Internal Revenue Service will not challenge a reasonable, consistently applied method of taxation for income earned by the escrow. The Internal Revenue Service will also not challenge a reasonable, consistently applied method for reporting such income.

(i) [Reserved]

(j) *Example.* The provisions of this section may be illustrated by the following example:

Example. (i) P and S are corporations. In 1999, P enters into a contract with S for the purchase of rental real estate. On October 1, 1999, the date of sale, S transfers the real estate to P, and P pays S a portion of the purchase price, \$9,000,000. P deposits the remaining portion of the purchase price, \$850,000, into an escrow account as required by the contract. H is the escrow holder.

(ii) The contract provides that the escrow balance as of November 1, 2000, is payable entirely to P, entirely to S, or partially to P and partially to S depending on the amount, if any, by which the average rental income from the real estate during a specified testing

period ending on September 30, 2000, exceeds one or more specified earnings targets.

(iii) According to the terms of the contract, the income earned on the escrow must be accumulated and is not currently distributable to P or S during the period prior to November 1, 2000.

(iv) During the testing period specified in the contract between P and S, the average rental income earned on the property exceeds one (but not all) of the specified earnings targets. As a result, on September 30, 2000, the end of the testing period, P became entitled to 40% of the escrow assets and S became entitled to 60% of the escrow assets.

(v) On October 30, 2000, P and S provide H with the written statement described in paragraph (f) of this section. The written statement is thus provided within 30 days of September 30, 2000. The statement indicates that P's ownership interest in each asset of the escrow is 40 percent and S's ownership interest in each asset is 60 percent.

(vi) The escrow is a contingent at-closing escrow. September 30, 2000, is the determination date because this is the date on which the testing period ends. As of this date, all contingencies specified in the contract are resolved.

(vii) P must take into account all of the income, deductions, and credits (including capital gains and losses) of the escrow in computing P's income tax liability for the period prior to September 30, 2000. See paragraph (c) of this section.

(viii) For the period beginning on September 30, 2000, P must take into account in computing P's income tax liability 40 percent of each item of income, deduction, and credit of the escrow (including capital gains and losses), and S must take into account in computing S's income tax liability 60 percent of these items. See paragraph (e) of this section.

(ix) H is subject to the information reporting requirements of paragraph (g)(1) of this section. H must file Forms 1099 and furnish payee statements to reflect the fact that prior to September 30, 2000, P is the payee of all the income of the escrow, and for the period beginning on September 30, 2000, P is the payee of 40 percent of the income, and S is the payee of 60 percent of the income.

§ 1.468B-9 Disputed ownership funds.

(a) *In general.* An escrow account, trust, or fund that is not a qualified settlement fund is a disputed ownership fund if—

(1) It is established to hold money or property subject to conflicting claims of ownership;

(2) The escrow account, trust, or fund is subject to the continuing jurisdiction of a court; and

(3) Money or property cannot be paid or distributed from the escrow account, trust, or fund to, or on behalf of, a claimant or a transferor without the approval of the court.

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

(1) *Administrator* means the person designated as such by the court having jurisdiction over a disputed ownership fund. If no person is designated, the administrator is the escrow agent, escrow holder, trustee, receiver, or other person responsible for administering the fund;

(2) *Claimant* means a person, including a transferor, who claims ownership of, or a legal or equitable interest in, money or property held by a disputed ownership fund;

(3) *Court* means a court of law or equity of the United States, any state (including the District of Columbia), territory, possession, or political subdivision thereof;

(4) *Related person* means any person who is related to the transferor within the meaning of section 267(b) or 707(b)(1);

(5) *Transferor* means, in general, a person that transfers to a disputed ownership fund money or property that is subject to conflicting claims of claimants. However, a payor of interest or other income earned by a disputed ownership fund is not a transferor (unless the payor is also a claimant). A transferor may also be a claimant.

(c) *Taxation of a disputed ownership fund*—(1) *In general.* For federal income tax purposes, a disputed ownership fund is treated as the owner of all assets that it holds. A disputed ownership fund is treated as a C corporation for purposes of subtitle F of the Internal Revenue Code, and the administrator of the fund must obtain an employer identification number for the fund, make all required income tax and information returns, and deposit all payments of tax. Also, except as otherwise provided in this section, a disputed ownership fund is taxable as if it were either—

(i) A qualified settlement fund under § 1.468B-2 if all the assets transferred to the fund by or on behalf of transferors are passive investment assets, for example, cash or cash equivalents, stock, and debt obligations; or

(ii) A C corporation in all other cases.

(2) *Exception.* If there is a more appropriate method of taxing a disputed ownership fund than as provided in paragraph (c)(1) of this section, the claimants to the fund may submit a private letter ruling request proposing an alternative method of taxation.

(3) *Special rules.* (i) In general, money or property subject to conflicting claims of claimants (disputed property) that is transferred to a disputed ownership fund by, or on behalf of, a transferor is excluded from the gross income of the fund. However, this exclusion does not

apply to income earned on assets of the fund such as—

(A) Payments to a disputed ownership fund made in compensation for late or delayed transfers of money or property;

(B) Dividends on stock of a transferor (or a related person) held by the fund; and

(C) Interest on debt of a transferor (or a related person) held by the fund.

(ii) A distribution to a claimant of disputed property by a disputed ownership fund is not a taxable event to the fund.

(iii) A disputed ownership fund is not allowed a deduction for a distribution of disputed property to, or on behalf of, a transferor or a claimant.

(iv) Upon the termination of a disputed ownership fund, if the fund has an unused net operating loss carryover under section 172, an unused capital loss carryover under section 1212, or an unused tax credit carryover, or if the fund has, for its last taxable year, deductions in excess of gross income, the claimant to whom the fund's net assets are distributable will succeed to and take into account the fund's unused net operating loss carryover, unused capital loss carryover, unused tax credit carryover, or excess of deductions over gross income for the last taxable year of the fund. If the fund's net assets are distributable to more than one claimant, the unused net operating loss carryover, unused capital loss carryover, unused tax credit carryover, or excess of deductions over gross income for the last taxable year must be allocated among the claimants in proportion to the value of the assets distributable to each claimant from the fund.

(v) In the case of a disputed ownership fund taxable as if it were a C corporation under paragraph (c)(1)(ii) of this section, this section does not, in general, restrict the fund's use of an otherwise allowable method of accounting or taxable year.

(vi) Appropriate adjustments must be made by a disputed ownership fund or transferors to the fund to prevent the fund and the transferors from taking into account the same item of income, deduction, gain, loss, or credit more than once or from omitting such items.

(d) *Basis of property held by a disputed ownership fund.* In general, the initial basis of property transferred by, or on behalf of, a transferor to a disputed ownership fund is the fair market value of the property on the date of transfer to the fund as determined by the transferor for purposes of the rules in paragraph (f)(1)(i) of this section. However, if paragraph (f)(1)(ii) of this section applies, the fund's initial basis

in the property is the same as the basis of the transferor immediately before the transfer to the fund.

(e) *Request for prompt assessment.* A disputed ownership fund is eligible to request the prompt assessment of tax under section 6501(d). For purposes of section 6501(d), a disputed ownership fund is treated as dissolving on the date the fund no longer has any assets (other than a reasonable reserve for potential tax liabilities and related professional fees) and will not receive any more transfers.

(f) *Rules applicable to the transferor—*

(1) *Transfer of property—(i) In general.* A transferor must treat a transfer of property to a disputed ownership fund as a sale or other disposition of that property for purposes of section 1001(a). In computing the gain or loss, the amount realized by the transferor is the fair market value of the property on the date the transfer is made to the disputed ownership fund.

(ii) *Exceptions.* A transfer of property to a disputed ownership fund is not a sale or other disposition of the property for purposes of section 1001(a) if—

(A) The transferor claims ownership of the transferred property immediately before and immediately after the transfer to the fund; or

(B) The transferor is an agent, fiduciary, or other person acting in a similar capacity acting on behalf of a person claiming ownership of the transferred property immediately before and immediately after the transfer to the fund.

(2) *Economic performance—(i) In general.* For purposes of section 461(h), if a transferor has a liability to one or more claimants for which economic performance would otherwise occur under § 1.461–4(g) when the transferor makes a payment to the claimant or claimants, economic performance occurs with respect to the liability to the extent the transferor makes a transfer to a disputed ownership fund to resolve or satisfy that liability, but only if the transferor and related persons are not claimants and have no right to receive payments or distributions from the fund.

(ii) *Obligations of the transferor.* With respect to a transferor described in paragraph (f)(2)(i) of this section, economic performance does not occur when the transferor transfers to a disputed ownership fund its debt (or the debt of a related person). Instead, economic performance occurs as the transferor (or related person) makes principal payments on the debt. Similarly, economic performance does not occur when the transferor transfers to a disputed ownership fund its

obligation (or the obligation of a related person) to provide property in the future or to make a payment described in § 1.461–4(g). Instead, economic performance occurs with respect to such an obligation as property or payments are provided or made to the disputed ownership fund or a claimant.

(3) *Statement to the disputed ownership fund and the Internal Revenue Service—(i) In general.* By February 15 of the year following each calendar year in which a transferor (or other person acting on behalf of a transferor) makes a transfer to a disputed ownership fund, the transferor (or other person) must provide a statement to the administrator of the fund setting forth the information described in paragraph (f)(3)(ii) of this section. The transferor must attach a copy of the statement to (and as part of) its timely filed income tax return (including extensions) for the taxable year of the transferor in which the transfer is made.

(ii) *Information required on statement—(A) In general.* The statement required by paragraph (f)(3)(i) of this section must include the following information—

- (1) A legend, “§ 1.468B–9(f) Statement”, at the top of the first page;
- (2) The transferor's name, address, and taxpayer identification number;
- (3) The disputed ownership fund's name, address, and employer identification number;
- (4) The date of each transfer;
- (5) The amount of cash transferred;
- (6) A description of property transferred, the disputed ownership fund's basis in the property as provided in paragraph (d) of this section, and, if the rules of paragraph (f)(1)(ii) of this section apply, the fund's holding period on the date of transfer; and
- (7) Whether or not the transferor is also a claimant.

(B) *Combined statements.* If a disputed ownership fund has more than one transferor, any two or more of the transferors may provide a combined statement to the administrator that does not identify the amount of cash or the property transferred by a particular transferor. If a combined statement is used, however, each transferor must include with its copy of the statement that is attached to its income tax return a schedule describing each asset that the transferor transferred to the disputed ownership fund.

(4) *Distributions to transferors—(i) In general.* A transferor must include in gross income any distribution to a transferor (including a deemed distribution described in paragraph (f)(4)(iii) of this section) from a disputed

ownership fund. If property is distributed, the amount includible in gross income and the basis in that property is generally the fair market value of the property on the date of distribution.

(ii) *Exception.* The gross income of a transferor does not include a distribution to the transferor of property from a disputed ownership fund if the transferor previously transferred the property to the fund and paragraph (f)(1)(ii) of this section applied to that transfer. Also, the transferor's gross income does not include a distribution of money from the disputed ownership fund equal to the net income earned on that property while it was held by the fund. Further, the transferor's basis in the property is the same as the disputed ownership fund's basis in the property immediately before the distribution to the transferor.

(iii) *Deemed distributions.* If a disputed ownership fund makes a distribution on behalf of a transferor to a person that is not a claimant, the distribution is deemed made by the fund to the transferor. The transferor, in turn, is deemed to have made a payment to the actual recipient.

(g) *Distribution to a claimant other than a transferor.* Whether a claimant other than a transferor must include in gross income a distribution of money or property from a disputed ownership fund is generally determined by reference to the claim in respect of which the distribution is made. If a disputed ownership fund distributes property to a claimant other than a transferor in satisfaction of the claimant's claim of ownership to that property, the claimant's basis in the property must be adjusted to reflect the adjustments to the basis of the property required under section 1016 for the period the property was held by the fund.

(h) *Effective date—(1) In general.* This section applies to disputed ownership funds established after the date of publication of final regulations in the **Federal Register**.

(2) *Transition rule.* With respect to a disputed ownership fund established after August 16, 1986, but on or before the date of publication of final regulations in the **Federal Register**, the Internal Revenue Service will not challenge a reasonable, consistently applied method of taxation for income earned by the fund, transfers to the fund, and distributions made by the fund.

(i) [Reserved].

(j) *Examples.* The following examples illustrate the rules of this section:

Example 1. (i) Prior to A's death, A was the insured under a life insurance contract (policy) issued by X, an insurance company. A's current spouse and A's former spouse each claim to be the beneficiary under the policy and thus entitled to the policy proceeds (\$1 million). In 1999, X files an interpleader action and deposits the policy proceeds into the registry of the court. On June 1, 2000, a final determination is made that A's current spouse is the beneficiary under the policy and thus entitled to the funds held in the registry of the court. These funds are distributed to A's current spouse.

(ii) The funds held in the registry of the court consisting of the policy proceeds and the earnings thereon are a disputed ownership fund taxable as if it were a qualified settlement fund. See paragraph (c)(1)(i) of this section. The fund's gross income does not include the \$1 million transferred to the fund by X.

Example 2. (i) Two unrelated individuals, A and B, claim ownership of certain rental property. A claims to have purchased the property from B's father. However, B asserts that the purported sale to A was ineffective and that B acquired ownership of the property through intestate succession upon the death of B's father. For several years, A has maintained the property and received the rent from the property.

(ii) Pending the resolution of the title dispute between A and B, the title to the property is transferred into a court-supervised escrow on February 1, 2000. Also, on that date the court appoints R as receiver for the property. R collects the rent earned on the property and hires employees necessary for the maintenance of the property. The rents paid to R cannot be distributed to A or B without the court's approval.

(iii) On June 1, 2001, the court makes a final determination that the rental property is owned by B. The court orders B to refund to A the purchase price paid by A to B's father plus interest on that amount from February 1, 2000. Also, the court orders that a distribution be made to B of all funds held in the court registry consisting of the rent collected by R and the income earned thereon. In addition, title to the property is returned to B.

(iv) The rental property and the funds held by the court registry are held in a disputed ownership fund.

(v) A is the transferor to the fund. A does not realize gain or loss under section 1001(a) on A's transfer of the property to the disputed ownership fund.

(vi) The fund is taxable as if it were a C corporation because the rental property is not a passive investment asset. See paragraph (c)(1)(ii) of this section. The fund is not taxable upon receipt of the property. The fund's initial basis in the property is the same as A's adjusted basis immediately before the transfer to the fund. The fund's gross income includes the rents paid to R and the income earned thereon. For the period between February 1, 2000, and June 1, 2001, the fund may be allowed deductions for depreciation and for the costs of maintenance of the property because the fund is treated as owning the property during this period. See sections 162, 167, and 168.

(vii) The fund is not allowed a deduction for the distribution to B of the rent earned on the property while held by the fund (or the income earned thereon). No tax consequences to the fund result from this distribution or from the fund's transfer of the rental property to B pursuant to the court's determination that B owns the property.

Par. 6. Section 1.1031(k)-1 is amended by adding a sentence at the end of paragraphs (g)(3)(i) and (h)(2) to read as follows:

§ 1.1031(k)-1 Treatment of deferred exchanges.

* * * * *

(g) * * *

(3) * * * (i) * * * For rules under section 468B(g) relating to the current taxation of income of a qualified escrow account or qualified trust, see § 1.468B-6.

* * * * *

(h) * * *

(2) * * * For rules under section 468B(g) relating to the current taxation of income of a qualified escrow account or qualified trust, see § 1.468B-6.

* * * * *

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

[FR Doc. 99-1515 Filed 1-29-99; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD01-98-155]

RIN 2115-AE46

Special Local Regulations: Hudson Valley Triathlon, Hudson River, Kingston, New York

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish permanent special local regulations for the annual Hudson Valley Triathlon. This action is necessary to provide for the safety of life on navigable waters during the event. This event is intended to restrict vessel traffic in the Hudson River, in the vicinity of Kingston Point Reach.

DATES: Comments must be received on or before April 2, 1999.

ADDRESSES: Comments may be mailed to the Waterways Oversight Branch (CGD01-98-155), Coast Guard Activities New York, 212 Coast Guard Drive, Staten Island, New York 10305, or deliver them to room 205 at the same address between 8 a.m. and 3 p.m.,

Monday through Friday, except Federal holidays.

The Waterways Oversight Branch of Coast Guard Activities New York maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room 205, Coast Guard Activities New York, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Lieutenant J. Lopez, Waterways Oversight Branch, Coast Guard Activities New York (718) 354-4193.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD01-98-155) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Waterways Oversight Branch at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The New York Triathlon Club sponsors this annual triathlon with approximately 500 swimmers competing in this event. The sponsor expects no spectator craft for this event. The race will take place on the Hudson River in the vicinity of Kingston Point Reach. The regulated area encompasses all waters of the Hudson River within a 1000 yard radius of approximate position 41°56'06" N 073°57'57" W (NAD 1983). This area encompasses approximately 1,800 yards of Kingston

Point Reach, from just south of Lighted Buoy 74 (LLNR 38285) north to Lighted Buoy 77 (LLNR 38300). The proposed regulation is effective annually from 7 a.m. until 9 a.m. on the first Sunday after July 4th. The proposed regulation prohibits all vessels, swimmers, and personal watercraft not participating in the event from transiting this portion of the Hudson River during the race. It is needed to protect swimmers and boaters from the hazards associated with 500 swimmers competing in a confined area of the Hudson River. Recreational vessels are not precluded from transiting the Hudson River in the vicinity of the regulated area because an alternate route is available. They can transit on the east side of the Hudson River and return to the west side at Ulster Landing or Turkey Point to the north, or at the mouth of Rondout Creek to the south of the local regulated area. Recreational vessels can not simply transit around the area because there are many mid-river shoals, with depths less than 3 feet, north of the local regulated area. Commercial vessels will be precluded from transiting the area because the local regulated area encompasses 1,800 yards of Kingston Point Reach and there is no viable alternative route.

Discussion of Proposed Rule

The proposed special local regulation is for the annual Hudson Valley Triathlon held on the Hudson River in the vicinity of Kingston Point Reach. This event is held annually on the first Sunday after July 4th. This rule is being proposed to provide for the safety of life on navigable waters during the event, to give the marine community the opportunity to comment on the regulated area, and to decrease the amount of annual paperwork required for this event.

Regulatory Evaluation

This proposed 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 proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Although this regulation prevents traffic from transiting a portion of the Hudson River

during the race, the effect of this regulation will not be significant for several reasons: the limited duration on a Sunday morning that the regulated area will be in effect, recreational vessels will be able to transit to the east of the regulated area, commercial vessels can plan their transits up the river around the time the regulated area is in effect as they will have advance notice of the event, it is an annual event with local support, and advance notifications will be made to the local maritime community by the Local Notice to Mariners and marine information broadcasts.

Small Entities

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

For the reasons stated in the Regulatory Evaluation section above, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

Collection of Information

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

Federalism

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

Unfunded Mandates

Under the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), the Coast Guard must consider whether this rule will result in an annual expenditure by state, local, and tribal

governments, in the aggregate of \$100 million (adjusted annually for inflation). If so, the Act requires that a reasonable number of regulatory alternatives be considered, and that from those alternatives, the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule be selected. No state, local, or tribal government entities will be affected by this rule, so this rule will not result in annual or aggregate costs of \$100 million or more. Therefore, the Coast Guard is exempt from any further regulatory requirements under the Unfunded Mandates Act.

Environment

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

List of Subjects in 33 CFR Part 100

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

Proposed Regulation

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 100 as follows:

PART 100—[AMENDED]

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

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

2. Add § 100.121 to read as follows:

§ 100.121 Hudson Valley Triathlon, Hudson River, Kingston, New York.

(a) *Regulated Area.* All waters of the Hudson River within a 1000 yard radius of approximate position 41°56'06" N 073°57'57" W (NAD 1983). This area encompasses approximately 1,800 yards of Kingston Point Reach, from just south of Lighted Buoy 74 (LLNR 38285) north to Lighted Buoy 77 (LLNR 38300).

(b) *Regulations.* (1) Vessels, swimmers, and personal watercraft of any nature not participating in this event are prohibited from entering or moving within the regulated area unless authorized by the Patrol Commander.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel

include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(c) *Effective period.* This section is in effect annually from 7 a.m. until 9 a.m. on the first Sunday after July 4th.

Dated: January 20, 1999.

R.M. Larrabee,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 99-2275 Filed 1-29-99; 8:45 am]

BILLING CODE 4910-15-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD01-98-163]

Special Local Regulations: Fleet's Albany Riverfest, Hudson River, New York

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposed to establish permanent special local regulations for the annual Fleet's Albany Riverfest. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in the Hudson River, in the vicinity of Albany, New York.

DATES: Comments must be received on or before April 2, 1999.

ADDRESSES: Comments may be mailed to the Waterways Oversight Branch (CGD01-98-163), Coast Guard Activities New York, 212 Coast Guard Drive, Staten Island, New York 10305, or deliver them to room 205 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The Waterways Oversight Branch of Coast Guard Activities New York maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room 205, Coast Guard Activities New York, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Lieutenant J. Lopez, Waterways Oversight Branch, Coast Guard Activities New York (718) 354-4193.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD01-98-163) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Waterways Oversight Branch at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The city of Albany sponsors this annual festival which includes a water ski show, speedboat demonstration, and other marine activities on the Hudson River. The sponsor expects no spectator craft for this event. The regulated area for this festival encompasses all waters of the Hudson River from the Dunn Memorial Bridge (river mile 145.4) to the Albany Rensselaer Swing Bridge (river mile 146.2). The proposed regulation is effective annually from 12 p.m. until 4 p.m. on the third Saturday and Sunday of July. The proposed regulation prohibits all vessels, swimmers, and personal watercraft not participating in the event from transiting this portion of the Hudson River during the festival. It is needed to protect boaters from the hazards associated with a water ski show, speedboat demonstration, and other marine activities being held in the area. Marine traffic will be able to transit through the regulated area for 30 minutes during the event. Public notifications for the transit time will be made prior to the event via the Local Notice to Mariners and marine information broadcasts.

Discussion of Proposed Rule

The proposed special local regulation is for the annual Fleet's Albany Riverfest held on the Hudson River in the vicinity of Albany, New York. This event is held annually on the third Saturday and Sunday of July. This rule is being proposed to provide for the safety of life on navigable waters during the event, to give the marine community the opportunity to comment on the regulated area, and to decrease the amount of annual paperwork required for this event.

Regulatory Evaluation

This proposed 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 proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Although this regulation prevents traffic from transiting a portion of the Hudson River during the event, the effect of this regulation will not be significant for several reasons: the limited duration that the regulated area will be in effect, marine traffic will be able to transit through the regulated area for 30 minutes during the event, the Port Commissioner's office for the Port of Albany has stated there is infrequent commercial traffic north of the Dunn Memorial Bridge (river mile 145.4), commercial vessels can plan their transits up the river around the time the regulated area is in effect as they will have advance notice of the event, it is an annual event with local support, and advance notifications will be made to the local maritime community by the Local Notice to Mariners and marine information broadcasts.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and

governmental jurisdictions with populations of less than 50,000.

For the reasons stated in the Regulatory Evaluation section above, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see ADDRESSES) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

Collection of Information

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

Federalism

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

Unfunded Mandates

Under the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), the Coast Guard must consider whether this rule will result in an annual expenditure by state, local, and tribal governments, in the aggregate of \$100 million (adjusted annually for inflation). If so, the Act requires that a reasonable number of regulatory alternatives be considered, and that from those alternatives, the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule be selected. No state, local, or tribal government entities will be affected by this rule, so this rule will not result in annual or aggregate cost of \$100 million or more. Therefore, the Coast Guard is exempt from any further regulatory requirements under the Unfunded Mandates Act.

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that under figure 2-1, paragraph 34(g), of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the

docket for inspection or copying where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 100

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

Proposed Regulation

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 100 as follows:

PART 100—[AMENDED]

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

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

2. Add § 100.122 to read as follows:

§ 100.122 Fleet's Albany Riverfest, Hudson River, New York.

(a) *Regulated Area.* All waters of the Hudson River from the Dunn Memorial Bridge (river mile 145.4) to the Albany Rensselaer Swing Bridge (river mile 146.2).

(b) *Regulations.* (1) Vessels, swimmers, and personal watercraft of any nature not participating in this event are prohibited from entering or moving within the regulated area unless authorized by the Patrol Commander.

(2) Marine traffic will be able to transit through the regulated area for 30 minutes during the event. Public notifications for the transit time will be made prior to the event via the Local Notice to Mariners and marine information broadcasts.

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

(c) *Effective period.* This section is in effect annually from 12 p.m. until 4 p.m. on the third Saturday and Sunday of July.

Dated: January 20, 1999.

R.M. Larrabee,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 99-2274 Filed 1-29-99; 8:45 am]

BILLING CODE 4910-15-M

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 173****[USCG 98-3386]****RIN 2115-AF62****Adjustment of Fees for Issuing Numbers to Undocumented Vessels in Alaska****AGENCY:** Coast Guard, DOT.**ACTION:** Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to increase the fees it charges for issuing numbers to undocumented vessels in Alaska, to a rate enabling full-cost recovery. It proposes this measure because the fees it now charges fall far short of covering the cost of issuing numbers there. This measure should bring it into full compliance with the general Federal statute on user fees and, not incidentally, should increase convenience to the public by allowing more means of payment.

DATES: Comments must reach the Docket Management Facility on or before April 2, 1999.

ADDRESSES: You may mail comments to the Docket Management Facility, (USCG 1998-3323), U. S. Department of Transportation, room PL-401, 400 Seventh Street SW, Washington, DC 20590-0001, or deliver them to room PL-401 on the Plaza Level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366-9329.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and documents, as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building at the same address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at <http://dms.dot.gov>. You may obtain a copy of this notice by calling the U. S. Coast Guard Infoline at 1-800-368-5647, or read it on the Internet, at the Web Site for the Office of Boating Safety, at <http://www.uscgboating.org> or at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: For questions on this rulemaking, contact Mrs. Janice B. Giles, Program Development and Implementation Division, Office of Boating Safety, Coast Guard, telephone 202-267-0911 (email: jgiles@comdt.uscg.mil), or Sue Hargis, Seventeenth Coast Guard District

(Alaska) Boating Safety Specialist, (907) 463-2297 (email: shargis@cgalaska.uscg.mil). For questions on viewing, or submitting material to, the docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202-366-9329.

SUPPLEMENTARY INFORMATION:**Request for Comments**

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking [USCG 1998-3386] and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing to the Docket Management Facility at the address under **ADDRESSES**. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments.

The Coast Guard plans no public meeting. Persons may request a public hearing by writing to the Docket Management Facility at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Title 33, Part 173, of the Code of Federal Regulations (CFR) governs the issuance of certificates of number to owners of vessels that need not be documented (generally, recreational boats). The issuing and reporting authority for these certificates is the State where the vessel is principally operated, with one exception: Alaska does not act as this authority. Under sub-section 12301(a) of Title 46, United States Code (U.S.C.), when a State does not act as the issuing authority, the Coast Guard must.

This proposed rule would raise the fees the Coast Guard charges for numbering undocumented vessels in Alaska, as well as revise the methods of payment of the fees. The current fees, promulgated in 1972 (33 CFR 173.85, CGD 72-54R, 37 FR 21399, October 7,

1972), fall far short of covering costs the Coast Guard incurs on numbering vessels. The Coast Guard must set these fees in accordance with the criteria specified in section 9701 of Title 31, U.S.C., and Revised OMB Circular A-25, which establishes guidelines by which Federal agencies are to assess fees for Government services and for the sale or use of Government property or resources. The current fees have not affected Coast Guard appropriations from year to year. They have gone into the general fund of the U. S. Treasury as offsetting receipts of the department in which the Coast Guard is operating, and are ascribed to activities of the Coast Guard. Under the provisions of 46 U.S.C. 2110, the new fees proposed would become available to reimburse the Coast Guard for most, if not all, of the costs of collection. The proposed rule should result in an increased fee that more nearly approximates the current costs for the Coast Guard to issue numbers to vessels in Alaska.

Discussion of Proposed Rule

The issuance of numbers by the Coast Guard to undocumented vessels is unique to the State of Alaska and the 17th Coast Guard District. In all other parts of the nation, State or Territorial authorities act as the issuing authorities. The Coast Guard retains the responsibility for Alaska under 33 CFR part 173, because the government of Alaska has not sought Coast Guard approval of a system for numbering vessels.

This proposed rule would amend 33 CFR 173.85 so that the fees charged would cover the costs incurred for the number-issuing service the Coast Guard must provide in Alaska. The increased fees would affect those people who own vessels to which 33 CFR 173.11 applies (undocumented vessels) and which are principally operated in Alaska.

Discussion of fees. The current fee, set in 1972, is \$6.00 for a three-year vessel number. Under the general Federal statute on user fees (31 U.S.C. 9701), Federal agencies required to charge user fees for services must charge fees sufficient to enable recovery of the full cost of providing the services. 46 U.S.C. 2110 mandated the establishment of a fee or charge for a service or thing of value provided by the Secretary under this subtitle, in accordance with section 9701 of title 31. Since the issuance of numbers to vessels is a labor-intensive service, and since the Coast Guard receives no appropriated funds for it, the Coast Guard has diverted resources from other programs to provide this service to the Alaskan boating public. The fee that the Coast Guard collects

does not accrue to the Coast Guard; it goes into miscellaneous receipts of the Federal Treasury. But even if it did accrue to the Coast Guard it would cover barely 25 percent of the cost of providing the service. It has remained unchanged for 26 years.

The Coast Guard recently employed KPMG Peat Marwick LLP, through a contract with Computer Sciences Corporation of Falls Church, Virginia, to analyze the processes associated with all user fees collected by the Coast Guard, including the issuance of certificates of number in Alaska, and to develop a methodology for determining user fees that would enable the Coast Guard to fully recover its costs for providing these services. A copy of the analysis is in the docket for this rulemaking.

The analysis concluded that the Coast Guard was not applying the resources needed to efficiently provide the Alaskan boating public with this service and that, at the 26-year-old rate, it could never recover the cost of providing the service. Based on that analysis, the report proposed a rationale and methodology for calculating the appropriate user fees that would allow it to fully recover its cost for providing this unique service in Alaska.

Cost methodology. Acting on the recommendations of KPMG, the Coast Guard adopted a costing methodology that is based in part on Activity-Based Costing (ABC). ABC differs from traditional cost accounting in that it assigns costs according to the activities required to produce an output, rather than according to categories of expenses. In addition, the staff of the

17th Coast Guard District conducted a study of its costs for issuing certificates of number: direct labor hours for providing these services, plus costs of material such as forms, validation stickers (decals), mailing, office equipment, and other supplies.

Fee calculations. No automated system of the Coast Guard distinctly records direct hours of labor spent on issuance of certificates of number. The Coast Guard calculated its indirect costs for general and administrative (G&A) expenses and allocated these costs based on resource labor hours used to process the four types of transactions comprising undocumented vessel numbering (certificates issued or transferred, certificates renewed, certificates duplicated; and decals replaced). District staff reconstructed the numbers of each of these types of transactions, using data consistently recorded in worksheets.

The steps employed to calculate the user fees for numbering undocumented vessels are as follows:

1. Determine the annual hours of labor spent on numbering undocumented vessels. Staff determined these by using the Personnel Allowance List (PAL) for the District and conducting interviews with personnel of the District.

2. Determine the percentage of annual hours of labor spent providing each of the four types of transactions comprising this numbering. Staff multiplied the annual number of each of the transactions by the average time required to perform each of those transactions to determine the total annual time spent performing each

transaction. Staff determined the annual time to perform each of the four transactions by the percentage of the total annual time attributable to each transaction type.

3. Determine the annual labor cost for each of the four types of transactions by prorating the annual salary of the numbers and grades of personnel of the Coast Guard employed in direct support of vessel numbering. Staff prorated salaries using the factors developed in steps 1 and 2.

4. Determine the total direct costs of undocumented vessel numbering. Again, staff provided detailed information on direct costs incurred for numbering undocumented vessels that no system of the Coast Guard distinctly records. These direct costs comprise labor (as determined in steps 1–3, above), the cost for vessel numbering materials used, and mailing expenses.

5. Determine the general and administrative (G&A) costs attributable to issuing undocumented vessels numbers. These indirect costs comprise the Coast Guard's general and administrative expenses for administering the services, and were allocated based upon labor hours.

6. Determine the amount for each user fee by dividing the annual cost for each of the four types of transactions by the number of transactions accomplished. Figure 1 outlines the number of transactions, and the direct and indirect costs associated with each of the four types of transactions comprising undocumented vessels' numbering, provided in Alaska during fiscal year 1997, as well as the user fee derived with this methodology.

FIGURE 1.—DERIVED USER FEES FOR VESSEL NUMBERING

Service	Transactions	Direct costs	G&A costs	Total cost	Computed fee
Certificates issued or transferred	6,377	129,066	28,774	157,840	24.75
Certificates renewed	5,053	68,087	15,179	83,266	16.48
Certificates duplicated or decals replaced	602	4,766	1,062	5,828	9.68

We have rounded the fees proposed down to the nearest whole dollar amount to simplify collection and accounting and to conform with 46 U.S.C. 2110(a)(3).

Changes to 33 CFR 173.85

The three-year fee for original and transferred certificates of number would increase from \$6.00 to \$24.00. The fee for renewal of a certificate of number would increase from \$6.00 to \$16.00. The fee for a duplicate certificate of number would increase from \$1.00 to \$9.00. The fee for replacement of a lost or destroyed Validation Sticker would

increase from \$0.25 to \$9.00. The Coast Guard would accept payment of fees by check, money-order, major credit card (MasterCard or Visa), or cash.

Regulatory Evaluation

This proposed 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 proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The prospective increase in number-issuing fees (which are paid by owners of recreational boats only once every three years) would be less than \$25.00, and would affect a minority of the State's population.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard

considers whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Records of the Coast Guard indicate that as of December 31, 1997, there were 32,414 undocumented vessels numbered by the Coast Guard in Alaska. Of those, 7,107 vessels (23 percent) are owned by commercial entities (4,945 commercial fishing vessels, 1,656 commercial passenger-carrying vessels, and 506 rental or livery vessels), some of which may qualify as "small entities." Also, in 1997, the Coast Guard issued 6,377 original certificates of number, 5,053 renewal certificates of number, and 601 duplicate certificates of number or replacement validation stickers. The proposed fees would increase the cost of three-year original and renewal certificates of number by \$18.00 and \$10.00, respectively, for an annual rise in cost of about \$6.00 and \$3.33, respectively, where the fees applied at all. The fees would increase the cost of duplicate certificates of number and replacement validation stickers by \$8.00 and \$8.75, respectively, when needed. The Coast Guard estimates that the fees could increase costs about \$36,000, or about \$12,000 annually, for the entire fleet of currently numbered commercial-use vessels in Alaska. Again, however, under the general Federal statute on user fees, the Coast Guard is bound to recover its costs. But, under 5 U.S.C. 610 and Circular A-25, the Coast Guard is bound to review these fees every two years.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this rule would have a significant economic impact on your business or organization, please submit a comment to the Docket Management Facility explaining why you think it qualifies and in what way and to what degree this rule would economically affect it.

Collection of Information

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

Federalism

The Coast Guard has analyzed this proposed rule under the principles and criteria contained in Executive Order 12612 and has determined that this proposed rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment. The Coast Guard is complying with the general Federal statute on user fees, and the specific Federal statute for services provided under subtitle II of title 46.

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that under figure 2-1, paragraph (34)(a), of Commandant Instruction M16475.IC, this proposed rule is categorically excluded from further environmental documentation. The rulemaking merely adjusts the fee amounts charged to owners of undocumented vessels for issuing vessel numbers and validation stickers. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 173

Marine Safety, Reporting and Recordkeeping Requirements.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 173 as follows:

PART 173—VESSEL NUMBERING AND CASUALTY AND ACCIDENT REPORTING

1. Revise the authority citation for Part 173 to read as follows:

Authority: 5 U.S.C. 610; 31 U.S.C. 9701; 46 U.S.C. 2110, 6101, 12301, 12302; OMB Circular A-25; 49 CFR 1.46.

2. Revise § 173.85 to read as follows:

§ 173.85 Fees levied by the Coast Guard.

(a) In a State where the Coast Guard is the issuing authority, the fees for issuing certificates of number are:

(1) Original or transferred certificate of number and two validation stickers—\$24.00;

(2) Renewal of certificate of number and two validation stickers—\$16.00;

(3) Duplicate certificate of number—\$9.00; and

(4) Replacement of lost or destroyed validation stickers—\$9.00.

(b) Fees are payable by check or money-order made payable to the "U.S. Coast Guard"; by major credit card (MasterCard or Visa); or, when the owner applies in person, in cash.

Dated: January 13, 1999.

Ernest R. Riutta,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Operations.

[FR Doc. 99-1986 Filed 1-29-99; 8:45 am]

BILLING CODE 4910-15-P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1228

Facility Standards; Notice of Meeting

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of meeting.

SUMMARY: NARA will hold a public meeting to discuss its plans to revise regulations on facility standards for records centers used to store Federal records (36 CFR part 1228, subpart K). Additional background information on the planned regulation may be found in the October 1998 Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions, at page 61388 of the November 9, 1998, **Federal Register** (63 FR 61388).

DATES: The meeting will be held on February 18, 10 a.m. to noon.

ADDRESSES: The meeting will be held in Lecture Rooms B, C, and D, in NARA's College Park facility at 8601 Adelphi Road, College Park, MD 20740-6001.

FOR FURTHER INFORMATION CONTACT: Nancy Allard (301) 713-7360.

Dated: January 27, 1999.

Richard L. Claypoole,

Assistant Archivist for Regional Records Services.

[FR Doc. 99-2355 Filed 1-29-99; 8:45 am]

BILLING CODE 7515-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 262

[FRL-6227-8]

RIN 2050-AE60

180-Day Accumulation Time for Waste Water Treatment Sludges From the Metal Finishing Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: As part of the Common Sense Initiative (CSI), the Environmental Protection Agency (EPA) is today proposing a cleaner, cheaper, and smarter opportunity for environmental

protection for the Metal Finishing Industry. EPA is proposing to allow generators of F006 waste (sludges from the treatment of electroplating wastewaters) up to 180 days (or up to 270 days, if applicable) to accumulate F006 waste without a hazardous waste storage permit or interim status, provided that these generators meet certain conditions. The first condition is that F006 waste generators have implemented pollution prevention practices that reduce the volume or toxicity of the F006 waste or that make it more amenable for metals recovery. The second condition is that they recycle the F006 waste by metals recovery. The third condition is that they accumulate no more than 16,000 kilograms of F006 waste at any one time. The final condition is that they comply with the applicable management standards. EPA believes that the 180-day accumulation time for F006 waste is protective of human health and the environment. The 180-day accumulation time would minimize economic barriers to the recycling of F006 waste through metals recovery, thus providing generators of F006 waste with an incentive to choose metals recovery over treatment and land disposal as their waste management option for F006 waste.

DATES: Written comments on this proposed rule should be submitted on or before April 2, 1999.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F-1999-F06P-FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, SW, Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA, address below. Comments may also be submitted electronically to: rcra-docket@epamail.epa.gov. Comments in electronic format should also be identified by the docket number F-1999-F06P-FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

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

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway One, First

Floor, 1235 Jefferson Davis Highway, Arlington, VA 22202. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603-9230. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost \$0.15 per page. The index and some supporting materials are available electronically. See the **SUPPLEMENTARY INFORMATION** section for information on accessing them.

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

For more detailed information on specific aspects of this rulemaking, contact Jeffery S. Hannapel (5304-W), Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (703) 308-8826, hannapel.jeff@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The index and some supporting materials are available on the Internet. Follow these instructions to access the information electronically: www.epa.gov/oswer/hazwaste/gener/f006acum.htm

FTP: <ftp.epa.gov>

Login: anonymous

Password: your Internet address

Files are located in /pub/oswer

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

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

I. Authority

This proposed rule is issued under authority of sections 2002, 3001, 3002, 3003, 3004 and 3005 of the Solid Waste Disposal Act, as amended by the

Resource Conservation and Recovery Act of 1976, and as amended by the Hazardous and Solid Waste Amendments of 1984. 42 U.S.C. 6906, 6912, 6921-6925, 6937 and 6938.

II. Background

A. Purpose and Context for Proposed Rule

The Resource Conservation and Recovery Act (RCRA) directs EPA to promulgate standards for generation of hazardous waste as necessary to protect human health and the environment. RCRA Section 3002. Section 1003 of RCRA establishes a national objective of "minimizing the generation of hazardous waste and the land disposal of hazardous waste by encouraging process substitutions, materials recovery, properly conducted recycling and reuse, and treatment." In response to these provisions, EPA has endeavored to develop regulations that promote legitimate recycling of solid and hazardous waste while protecting human health and the environment against the development and use of unsafe or sham recycling practices. Today's proposed rule is an effort to promote the legitimate metals recovery of F006 wastes and to reduce the volume of F006 wastes that is land disposed. The Agency is proposing to provide flexibility in the RCRA regulations governing accumulation time limits for generators who accumulate wastewater treatment sludges from electroplating operations (i.e., the listed hazardous waste, F006) and process these sludges for metals recovery.

Today's proposed rule would allow generators of F006 waste up to 180 days to accumulate F006 waste on site, without a RCRA permit or interim status, as an incentive to encourage metals recovery and pollution prevention practices for this waste. Under the rule as proposed today, F006 wastes that are not recycled by metals recovery would not be eligible for the 180-day accumulation time. In order to ensure that on-site accumulation of F006 waste is protective of human health and the environment, the management standards for 180-day on-site accumulation of F006 waste would be the same as those that currently apply to 90-day on-site accumulation.

This proposed rule is limited to generators of F006 waste. In 40 CFR 261.31, F006 waste is defined as:

Wastewater treatment sludges generated from electroplating operations, except from the following processes: (1) sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated

basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.

In listing electroplating wastewater treatment sludges as hazardous waste, EPA identified several hazardous constituents, including cadmium, hexavalent chromium, nickel, and complexed cyanides that could pose a substantial hazard to human health or the environment if the sludge was mismanaged. The potential hazards associated with the constituents of concern in the sludge and the potential for improper management of the electroplating wastewater treatment sludges served as the basis for listing the sludge as the hazardous waste, F006. The listing status of the waste would not be affected by this proposed rule.

The physical form of F006 waste can generally be described as a mixed metal hydroxide wastewater treatment precipitate, which is 24 to 50 percent solids by weight. Other physical forms of this material can include spent ion exchange columns or iron precipitation solids. F006 sludges may contain metals with commercial value that can be recovered from the sludges. The metals recovered from these sludges are most often concentrates and intermediate materials that require further processing before a commercially usable metal is produced. Often, the metals contained in these industrial sludges are recovered in the form of a metal oxide or salt (*e.g.*, lead oxide, lead chloride, lead sulfate) through High Temperature Metals Recovery (HTMR), such as smelting operations.

Currently, generators who generate greater than 1,000 kilograms of hazardous waste in a calendar month (*i.e.*, large quantity generators) may accumulate hazardous waste on-site, without having to obtain a RCRA permit for the on-site accumulation activities, for a period of up to 90 days. Many generators of F006 wastewater treatment sludges indicate that this 90-day accumulation limit restricts their ability to generate a large enough volume of F006 sludge to make recycling more economically feasible when compared to treatment and land disposal. This is principally because of: (1) The relatively high cost of transportation of the hazardous sludge from a generator's establishment to a recycling or smelting facility (due, in part, to the longer distances to metals recovery facilities and the fact that generators are shipping partial truck loads) and (2) the surcharge that metals recovery facilities generally charge generators and waste brokers for

managing small quantities of F006 waste.

In today's proposed rule, EPA is proposing to allow generators of F006 electroplating sludge to accumulate F006 waste on site for up to 180 days in tanks, containers or containment buildings without a RCRA permit, if the generator: (1) Has implemented pollution prevention practices that reduce the volume or toxicity of the F006 waste or that make the F006 waste more amenable for metals recovery, (2) recycles the F006 waste through metals recovery, (3) accumulates no more than 16,000 kilograms of F006 waste at any one time, and (4) complies with the applicable management standards in the rule. This proposal would not change any other requirements applicable to generators of hazardous waste. EPA believes that the 180-day accumulation period will allow generators of F006 waste to ship the waste off site less frequently (*e.g.*, twice a year rather than four times a year under the existing 90-day accumulation rule), and thereby, reduce the costs associated with transporting F006 sludges to metals recovery facilities. Because generators can accumulate F006 waste on site for 180 days only if the waste is sent off site for metals recovery, EPA expects that the quantities of F006 waste that are recycled, rather than treated and land disposed, will increase. F006 waste metals recovery also promotes resource conservation because metals recovered from the sludges may serve as alternative feedstocks for primary metals in production and manufacturing processes.

EPA is basing this proposal, in part, on discussions under the Agency's Common Sense Initiative for the Metal Finishing Industry. The Common Sense Initiative, as well as broader changes in the regulation of F006 waste being considered as part of the Common Sense Initiative, are discussed in more detail below. The Agency notes that today's proposed rule only affects the amount of time generators of F006 waste may accumulate that waste on site, without a RCRA permit, prior to having it processed for metals recovery. At this time, EPA is proposing no other changes to the hazardous waste management standards governing generator activities. All other provisions governing hazardous waste management activities for large quantity generators under 40 CFR part 262 (*e.g.*, unit specific standards, recordkeeping and reporting, and manifesting requirements) would remain unchanged and in effect with respect to large quantity generators of F006 waste.

B. Common Sense Initiative (CSI) for Metal Finishing Industry

Today's proposal is an outgrowth of activities conducted under the EPA's Common Sense Initiative (CSI), an innovative approach to environmental protection and pollution prevention. The CSI was established on October 17, 1994, through a charter pursuant to the Federal Advisory Committee Act (FACA). The goal of the CSI is to use consensus decision-making to recommend policy and program changes to the CSI Council and the EPA Administrator. EPA selected six industries to serve as CSI pilot industries: automobile manufacturing, computer and electronics, iron and steel, metal finishing, petroleum refining, and printing. These six industries comprise over 11 percent of the U.S. Gross Domestic Product, employ over 4 million people, and account for over 12 percent of the toxic releases reported by United States industry. As such, they offer excellent opportunities to test and refine CSI concepts, to create environmental solutions that can operate across industries, and to identify opportunities to expand CSI concepts to other relevant industries.

CSI is organized through an advisory committee referred to as the "CSI Council," that is comprised of high-level representatives from various stakeholder groups, including all involved industries. For each industry, known as a "sector" in CSI, the CSI Council establishes a subcommittee of stakeholders to look for cleaner, cheaper, and smarter opportunities for environmental protection in that sector. Sector subcommittees and work groups meet frequently to develop and discuss progress in various projects, policy considerations, and other issues. Team options, proposals, issues, and data are forwarded to the CSI Council for further action. The CSI Council considers matters from the sector subcommittees and makes recommendations to the Administrator. The CSI process is producing better, more applicable environmental protection strategies that are developed, in part, by the regulated community, and in concert with regulatory agencies and public interest groups.

Since beginning their work in January 1995, the sector subcommittees have developed nearly 40 projects involving more than 150 stakeholders who actively participate in sector subcommittees and subcommittee workgroups. Some of the projects are specific to individual sectors. Other projects explore solutions to common

issues such as alternative flexible regulatory systems, pollution prevention, reporting, compliance, permitting, and environmental technology.

Today's proposal stems primarily from CSI efforts in the metal finishing industry sector. The metal finishing industry consists of more than three thousand "job shops" (*i.e.*, independent metal plating firms that complete jobs on contract), which are mostly small businesses with limited capital and personnel, and more than eight thousand "captive" metal finishing operations within larger manufacturing facilities. The industry is geographically diverse, but concentrated in heavily industrialized states. Because of the cross-media impacts of their operations, metal finishers face a broad range of federal, state, and local environmental requirements (especially with regard to water use and waste disposal).

The CSI metal finishing subcommittee has 24 members representing metal finishing companies, trade associations, suppliers, environmental and community groups, organized labor, and state and local governments. Some of the representative organizations include the American Electroplaters and Surface Finishers Society, the National Association of Metal Finishers, the Natural Resources Defense Council, the AFL-CIO, the Barrio Planners of Los Angeles, the Water Environment Federation, and the Association of Metropolitan Sewerage Agencies. As part of its work under CSI, the metal finishing sector has developed a set of ambitious voluntary performance goals to promote pollution prevention and environmental management beyond what is currently required for the industry under federal regulations (*i.e.*, the Strategic Goals Program). The goals address resource utilization, hazardous emissions, economic pay backs, and compliance costs.

As a means towards meeting these goals, the metal finishing subcommittee has endorsed 14 projects, and supports an additional CSI small business sector project. In addition to these 14 projects, the action plan also contains "enabling actions" that all stakeholders have committed to undertake to help the industry meet the Strategic Goals. Allowing generators of F006 waste to accumulate the sludge for up to 180 days is one of the enabling actions to help remove unnecessary barriers to recycling and to promote the goals of the CSI effort.

Another one of the enabling actions includes a study conducted by EPA to examine whether the physical nature of F006 waste has changed as a result of

process improvements in the last twenty years, and if so, whether some type of regulatory, administrative, or other relief for the management of F006 waste is warranted. Phase I of this study (*i.e.*, sampling of F006 sludge from 30 metal finishing facilities in three cities) is expected to be completed shortly with the issuance of a report. Phase II of the study (*i.e.*, identifying additional data needs, if any, and examining potential regulatory and administrative strategies that may promote metals recovery of F006 waste, encourage pollution prevention practices related to the generation of F006 waste, and reduce or remove possible RCRA barriers to metals recovery of F006 waste) is now in process.

C. Current Accumulation Time for Large Quantity Generators

The current standards under 40 CFR part 262 for generators of hazardous waste who generate greater than 1,000 kilograms of hazardous waste per month limit the amount of time hazardous waste can be accumulated without a RCRA permit at the generator's site. Under the existing 40 CFR 262.34, generators of greater than 1,000 kilograms of hazardous waste per month may accumulate hazardous waste on site for up to 90 days without having to obtain a RCRA permit. This provision was established to provide generators sufficient time in all reasonable situations for waste accumulation to occur prior to waste management, without interfering with generator manufacturing processes. 51 FR 25487 (July 14, 1986).

Under the existing 90-day accumulation rule, the generator must comply with certain unit-specific standards (*e.g.*, tank, container, containment building, and drip pad standards) for accumulation units, marking and labeling requirements, preparedness and emergency procedure requirements, and release response requirements. 40 CFR 262.34(a). Generators may also petition the EPA Regional Administrator to grant an extension, up to 30 days, to the 90-day accumulation time limit due to unforeseen, temporary, and uncontrollable circumstances, on a case-by-case basis under 40 CFR 262.34(b).

As outlined above, and explained below in Section III, the Agency is proposing to allow generators of F006 wastewater treatment sludges to accumulate the waste prior to metals recovery for up to 180 days without a RCRA permit, provided the generators comply with certain conditions, as explained below. For the reasons explained below, the Agency believes

that the proposed 180-day accumulation time is appropriate for generators of F006 waste, without interfering with the generator's manufacturing processes. Today's proposed rule makes no changes to the requirements for 90-day accumulation under the current regulations.

D. Current Accumulation Time for Small Quantity Generators

The current federal RCRA regulations governing waste management requirements for hazardous waste generators provide for accumulation time limits for generators who generate more than 100 kilograms of hazardous waste, but less than 1,000 kilograms of hazardous waste in a calendar month, who are known as small quantity generators (SQGs). Section 262.34(d) of 40 CFR provides that SQGs may accumulate hazardous waste on site for 180 days or less without a permit or without having interim status, provided that the generator complies with certain provisions. These existing provisions include a restriction that the generator never accumulates more than 6,000 kilograms of hazardous waste on site. In addition, the generator must comply with certain unit-specific standards (*e.g.*, tank and container standards) for accumulation units, marking and labeling requirements, preparedness and emergency procedure requirements, and release response requirements. The Agency is not proposing in this action to change the current provisions governing the accumulation time periods for SQGs.

1. Transport More Than 200 Miles

Section 262.34(e) of 40 CFR provides that SQGs who must transport the waste, or offer the waste for transport, over a distance of 200 miles or more for off-site treatment, storage, disposal or recycling may accumulate hazardous waste on site for 270 days or less, without a permit or having interim status. Again, the generator must comply with certain unit-specific standards for accumulation units (*e.g.*, tank and container standards), marking and labeling requirements, preparedness and emergency procedure requirements, and release response requirements.

The Agency is not proposing, as part of today's proposal, to change the current provisions governing the accumulation time periods for SQGs that must transport the waste greater than 200 miles for treatment, storage, disposal, or recycling.

2. Unforeseen, Temporary, and Uncontrollable Circumstances

There may be instances, due to unforeseen, temporary, and uncontrollable circumstances, in which SQGs may need to accumulate hazardous wastes on site for a greater period of time than 180 days (or 270 days if the generator must transport waste more than 200 miles for off-site management). In such cases, the generator may petition the EPA Regional Administrator to grant an extension, up to 30 days, to the accumulation time limit due to unforeseen, temporary, and uncontrollable circumstances, on a case-by-case basis under 40 CFR 262.34(f). Today's proposed rule makes no changes to this provision for SQGs.

III. Discussion

A. Overview of Proposed Rule

1. Proposed Approach

Under the current regulatory scheme (*i.e.*, the 90-day accumulation time limit), many generators of F006 waste do not send their F006 waste off site for metals recovery due to economic reasons. Today's rule provides generators of F006 waste with incentives to minimize costs associated with off-site metals recovery so that these generators will be more likely to choose metals recovery over treatment and land disposal as their management option for F006 waste.

Of the approximately 6,000 generators of F006 waste in the metal finishing industry, at least an estimated 1,317 generators produce F006 waste in amounts that exceed the regulatory requirements for small quantity generators. Nonetheless, the amounts generated by this group of 1,317 metal finishers are generally not enough for a full truck load within 90 days. These generators are required to ship the F006 waste off site within 90 days (otherwise a RCRA storage permit would be required for the facility), so their shipments are partial truck loads. The transportation costs for these partial loads are disproportionately higher than they would be for full loads. There is generally some fixed cost associated with having a truck pick up a load of F006 waste regardless of whether the truck is picking up a partial or full load. For the fixed cost portion of the truck, the cost per unit of F006 waste for shipping the waste is more for partial loads than full loads (*e.g.*, the cost per unit of F006 waste for the fixed cost portion of the truck is twice as much for a half-filled truck compared to a full truck). Allowing generators of F006 waste to accumulate a full truck load of

F006 waste would, therefore, decrease the cost per unit of F006 waste associated with shipping F006 waste off site for metals recovery.

Similarly, smelters often charge generators proportionately more for small loads of F006 waste (due, in part, to the fixed administrative and transportation costs associated with handling such small loads).¹ Accordingly, the cost per unit of F006 waste sent to a smelter is more for small loads of F006 waste than for larger loads. Allowing generators of F006 waste to accumulate more F006 waste would, therefore, decrease the cost per unit of F006 associated with sending F006 waste to a smelter for metals recovery.

In addition, because of the usual per mile charge for transportation, transporting wastes longer distances costs more. Accordingly, many facilities seek to minimize shipping costs by finding the nearest RCRA permitted treatment, storage or disposal facility, which is most often a landfill. In the United States, there are significantly more landfills than metals recovery facilities that handle F006 wastes. Because there are fewer recycling facilities in the U.S. that can recover metals from F006 waste than landfills that accept F006 waste for disposal, the distances from generator's facilities to metals recovery facilities are generally greater than to landfills. Thus, many generators may not choose metals recovery for their F006 waste due to the higher costs associated with having to transport these wastes longer distances to recycling facilities as compared to landfills.

Under this proposed rule, generators of F006 waste would be allowed to accumulate the waste on site in tanks, containers, or containment buildings for 180 days or less without a RCRA permit, only if they meet the pollution prevention, metals recovery, and 16,000 kilogram accumulation limit conditions of the rule. An accumulation time of 180 days was chosen because it provided sufficient time for most of the F006 waste generators affected by this proposed rule to accumulate a full truck load of F006 waste. Metal finishing stakeholders in the CSI process also indicated that the 180-day (or the 270-day, if applicable) accumulation time would be sufficient time to accumulate F006 waste on site and make metals recovery a more cost effective management option for F006 waste. EPA requests comments on whether 180 days (or 270 days, if applicable) is the

appropriate accumulation time for F006 waste. The proposed rule would reduce a generator's overall hazardous waste transportation costs associated with shipping F006 waste off site for metals recovery. If a generator can accumulate enough F006 waste to fill a truck load, then its relative transportation costs would be less. Specifically, if the generator can store the F006 waste for twice as long as before (*i.e.*, 180 days as opposed to 90 days), then it would only have to ship the waste half as many times, thereby decreasing the associated transportation costs. Thus, with today's proposed rule generators of F006 waste would have an incentive to send the F006 waste off site for metals recovery (because generators can accumulate up to 180 days only if the F006 waste is sent off site for metals recovery).

In today's proposed rule, generators of F006 waste would be allowed up to 180 days (or up to 270 days, if applicable) time to accumulate F006 waste on site in tanks, containers or containment buildings without a RCRA permit, provided that the generator: (1) Has implemented pollution prevention practices that reduce the volume or toxicity of the F006 waste or that make it more amenable for metals recovery, (2) recycles the F006 waste by metals recovery, (3) accumulates no more than 16,000 kilograms of F006 waste at any one time, and (4) complies with the applicable management standards in this rule. A brief discussion of these conditions is provided below.

a. Pollution Prevention Practices

As part of the proposed rule, generators must implement pollution prevention practices that reduce the volume or toxicity of the F006 waste or that make it more amenable for metals recovery. Within the metal finishing industry, facilities have implemented a variety of pollution prevention practices including: product substitution, drag-out and counter-current flow rinse systems, flow restrictors, evaporation recovery systems, plating bath reuse, filter press, sludge drying systems, ion exchange systems, and segregation of wastewater streams. Many companies have implemented pollution prevention measures to improve process efficiency, cut waste generation and waste management costs, and improve compliance. Table 1 summarizes several categories of pollution prevention practices that are commonly used within the metal finishing industry. These practices reduce the volume and toxicity of the F006 waste generated or make the F006 waste more amenable for metals recovery, albeit in varying degrees.

¹ NCMS/NAMF Pollution Control Assessment, ¶ 4 (1993).

Individual pollution prevention measures may reduce the toxicity or the volume of F006 waste generated from wastewater treatment. For example, rinse water reduction techniques reduce the volume of effluents discharged from metal finishing process. Drag-out reduction measures reduce the volume and can reduce the toxicity of effluents discharged from metal finishing processes. Implementation of these pollution prevention practices is protective of human health and the environment because the F006 sludge produced is reduced in volume or toxicity. Pollution prevention measures such as these may, however, also increase the concentration of pollutants in F006 sludge, including recyclable metals (*e.g.*, copper, zinc, nickel) and non-recyclable toxic pollutants (*e.g.*, cyanide, cadmium). Increasing the concentration of recoverable metals in F006 sludge can increase the sludge's value as a secondary material, but increasing the concentration of non-recyclable pollutants (*e.g.*, cyanide, cadmium), which pass through the recovery process and must be properly managed and disposed in the environment, can pose potential problems for the management and handling of recycling residues.

Chemical substitution pollution prevention measures reduce or eliminate toxic substances used in the plating process and found in the wastes, and therefore, are desirable from an environmental perspective, wherever they can appropriately be applied. For example, trivalent chromium can be substituted for highly toxic hexavalent chromium in a few applications. In many applications, this substitution may not be possible. Many metal finishers have reduced or eliminated cyanide and cadmium use by substituting other materials, or by ceasing certain plating operations. Chemical substitution pollution prevention practices are generally more protective of human health and the environment because they eliminate or reduce the amount of toxic pollutants in the sludge, and produce sludge that is more amenable for metals recovery (by reducing the amount of non-recyclable toxic pollutants in the sludge).

Pollution prevention practices protect human health and the environment because they reduce the volume and toxicity of F006 sludge and make it more amenable for metals recovery. For example, dewatering F006 sludge makes the waste safer to manage (reduction in free liquids in waste reduces the potential for releases into the environment in the event of a spill) and more amenable for metals recovery

(because smelters generally have a moisture limit for incoming secondary materials such as F006 waste). In addition, chemical substitution pollution prevention measures can reduce, or eliminate, the toxic substances that do not get recycled in the metals recovery processes.

Based on available data, EPA believes that most metal finishing facilities have implemented at least one pollution prevention measure and many facilities have implemented several. The number and category of pollution prevention measures used at individual facilities vary broadly. The most common pollution prevention measures include drag-out and rinse water reduction methods, which may improve effluent quality and the amount of metals recovered from F006 sludge. The data available to EPA suggest that chemical substitution pollution prevention measures are used less frequently than rinse water and drag-out reduction techniques.

Today's proposed rule provides an incentive to encourage more metals recovery and less land disposal of F006 wastes by allowing 180 days to accumulate F006 waste, but only for those generators of F006 waste who recycle the F006 waste by metals recovery and have implemented pollution prevention practices that reduce the volume or toxicity of F006 waste or that make it more amenable for metals recovery. At the same time, EPA wishes to encourage facilities to make greater progress in reducing the quantity of non-recyclable toxic pollutants that pass through recovery processes and are ultimately disposed of in landfills. The Agency, therefore, urges facilities (although not specifically required by the proposed rule) to implement at least one chemical substitution pollution prevention measure that reduces or eliminates the amount of toxic pollutants (*e.g.*, cadmium, cyanide, arsenic, hexavalent chromium, or halogenated or chlorinated solvents) contained in F006 sludge that are not economically recoverable from F006 waste. Nonetheless, any facility that already has pollution prevention practices in place that meet the requirements of this proposed rule would not be required to implement additional pollution prevention practices.

The Agency believes that a general condition requiring pollution prevention practices as part of the proposed rule is preferable to a more specific pollution prevention requirement. The technical and economic variables that affect the feasibility of using one or more specific

pollution prevention practices at a particular facility are so broad and complex that it would not be possible to specify by rule the best approach for all facilities. Accordingly, the Agency believes that it is appropriate to allow the facilities that want the 180-day accumulation time to implement pollution prevention practices that are best suited to individual facilities, based on their specific metal finishing processes and plating operations. With this approach, facilities can implement those pollution prevention practices that best facilitate metals recovery and protect human health and the environment. EPA requests comments on the general condition requiring pollution prevention practices and whether more specific pollution prevention requirements should be part of this rule.

The proposed rule requires both metals recovery and pollution prevention practices as conditions to accumulate F006 waste on site for up to 180 days without a RCRA storage permit. The rationale for the pollution prevention requirement is to encourage generators to make the F006 waste less hazardous for subsequent management and more amenable for metals recovery. While both pollution prevention and metals recovery are laudable goals, there is a potential tension between pollution prevention practices and metals recovery. For example, if a pollution prevention practice is successful in eliminating, or significantly reducing, the metals in the metal finishing waste stream, then the resulting F006 sludge could have relatively low metal values and could be less amenable to metals recovery. Of course, this tension between pollution prevention practices and metals recovery is highly dependent on the specific pollution prevention practice that is employed. For example, some recovery technologies such as ion exchange work better on dilute wastewaters than on wastewaters with higher metal content.

As alluded to above, the metal finishing industry can implement a wide variety of pollution prevention practices. Some pollution prevention practices can actually enhance the metals recovery process by concentrating metals in the F006 waste or by segregating waste streams into mono-metal or bi-metal sludges that can be more amenable to metals recovery. The use of several pollution prevention measures such as rinse water reduction techniques, chemical substitution, and waste stream separation can produce a sludge that is less hazardous to manage and more amenable to metals recovery. The Agency believes that requiring both

pollution prevention practices and metals recovery as conditions for the 180-day accumulation time is compatible with environmentally responsible metal finishing, is consistent with efforts of the metal

finishing industry to improve F006 sludge quality (i.e., reduce the toxicity of the sludge and make it more amenable to metals recovery), and is protective of human health and the environment. The Agency requests

comments on how pollution prevention practices and metals recovery can best be used together to promote environmentally sound metals recovery and to protect human health and the environment.

TABLE 1.—EXAMPLES OF POLLUTION PREVENTION MEASURES

Method	Pollution prevention benefits
Improved Operating Practices	
Remove cadmium and zinc anodes from bath when it is idle. Anode baskets can be placed on removable anode bars that are lifted from tank by an overhead hoist.	• Eliminates cadmium/zinc buildup causing decanting of solution due to galvanic cell set up between steel anode basket and cadmium/zinc anodes. • Maintains bath within narrow Cd/Zn concentration providing more predictable plating results. • Reduces risks associated with hazardous chemicals.
Eliminate obsolete processes and/or unused or infrequently used processes.	• Creates floor space to add countercurrent rinses or other P2 methods. • Creates safer and cleaner working environment. • Eliminates dilution of process water prior to treatment which can increase treatment efficiency. • Reduces treatment reagent usage and operating costs. • Prevents discarding process solutions due to incorrect formulations or contamination. • Improves plating solution and work quality consistency. • Improves shop safety. • Minimizes potential for catastrophic loss of process solution via overflow. • Prevents loss of expensive chemicals. • Identifies process solution overflows and leaks before total loss occurs. • Alerts treatment operators to potential upset condition. • Reduces losses of expensive plating solutions. • Reduces hazardous waste generation. • Reduces chemical purchases. • Prevents discarding of solutions prematurely.
Waste stream segregation of contact and non-contact wastewaters	
Establish written procedures for bath make-up and additions. Limit chemical handling to trained personnel. Keep tank addition logs.	
Install overflow alarms on all process tanks to prevent tank overflow when adding water to make up for evaporative losses.	
Conductivity and pH measurement instruments and alarm system for detecting significant chemical losses.	
Control material purchases to minimize obsolete material disposal	
Use process baths to maximum extent possible before discarding. Eliminate dump schedules. Perform more frequent chemical analysis.	• Reduces chemical costs. • Improves work quality with chemical adjustments of baths. • Extends bath life.
Reduce bath dumps by using filtration to remove suspended solids contamination.	• Reduces solid waste generation by reusing filter cartridges. • Improves bath performance.
Process/Chemical Substitution	
Substitute cyanide baths with alkaline baths when possible	• Eliminates use of CN. • Reduces/eliminates use of hexavalent chromium.
Substitute trivalent chromium for hexavalent chromium when product specifications allow.	
Eliminate use of cadmium plating if product specifications allow	• Eliminates the use of cadmium.
Drag-Out Reduction Methods That Reduce Waste Generation	
Install fog rinses or sprays over process tanks to remove drag out as rack/part exits bath.	• Can inexpensively recover a substantial portion of drag out and does not require additional tankage. • Reduces pollutant mass loading on treatment processes, treatment reagent usage, and resultant sludge generation.
Minimize the formation of drag out by: redesigning parts and racks/barrels to avoid cup shapes, etc. that hold solution; properly racking parts; and reducing rack/part withdraw speed.	• May improve treatment operation/removal efficiency. • Reduces chemical purchases and overall operating costs.
Rinse Water Reduction Methods That Reduce Waste Generation	
Install flow restrictors to control the flow rate of water	• Reduces water use and aids in reducing variability in wastewater flow. • Is very inexpensive to purchase and install. • Coordinates water use and production when properly implemented.
Install conductivity or timer rinse controls to match rinse water needs with use.	• Provides automatic control of water use. • Can achieve major water reduction.
Use counter-current rinse arrangement with two to four tanks in series depending on drag-out rate.	• Has high impact on water bills.

TABLE 1.—EXAMPLES OF POLLUTION PREVENTION MEASURES—Continued

Method	Pollution prevention benefits
Track water use with flow meters and accumulators. Keep logs on water use for individual operations.	• May reduce the size of recovery/treatment equipment that is needed. • Identifies problem areas including inefficient processes or personnel. • Helps management to determine cost for individual plating processes.

Source: NCMS/NAMF. *Pollution Prevention and Control Technology for Plating Operations*. 1994

b. Metals Recovery

Today's rule would allow the 180-day accumulation time for generators who store F006 waste on site and recycle F006 waste by metals recovery off site. Accordingly, the proposed rule supports a preference of metals recovery over treatment and land disposal for F006 waste by allowing up to 180 days accumulation time only for those generators who engage in F006 waste metals recovery. The benefit of this provision would be available only if the accumulated F006 waste is sent off site for metals recovery, thereby providing an incentive for recycling of F006 waste over treatment and land disposal. The Agency requests comments on whether the 180-day accumulation time should be available only to those F006 waste generators that pursue F006 waste metals recovery and not to those who manage their F006 waste through treatment and land disposal.

Today's proposed rule distinguishes between metals recovery that is done on site or off site. If the metals recovery is done on site, the generator would not need additional time to accumulate the waste to reduce shipping costs associated with metals recovery. It may, however, be necessary to accumulate enough F006 waste to make some type of on-site batch metals recovery process or other type of on-site metals recovery more cost effective. Furthermore, if accumulating F006 waste for 180 days poses little, if any, potential harm to human health and the environment, as the damage incident history of F006 storage would suggest (a copy of which is in the docket for this rulemaking), then allowing 180-day accumulation for both on-site and off-site metals recovery could be justified. The Agency requests comments on whether the additional accumulation time should be allowed for both on-site and off-site metals recovery or, if so, under what circumstances would a generator need more than 90 days to accumulate F006 waste prior to on-site metals recovery.

c. Limit on the Amount of F006 Waste That Can Be Accumulated

As stated above, one rationale for allowing the 180-day accumulation time for F006 waste is to allow generators to

accumulate a full truck load before having to ship it off site. Accordingly, the proposed rule sets a limit of 16,000 kilograms (approximately 17.6 tons) of F006 waste that can be accumulated on site at any one time. This amount is equivalent to slightly more than a full truck load of F006 waste. Once a generator has accumulated a truck load of F006 waste (regardless of whether the waste has been accumulated for less than 180 days), the generator would be required to ship the F006 waste off site for metals or to obtain a RCRA storage permit. EPA believes that it is appropriate to set a quantity limit for accumulation because the permit exemption should be for the shortest time reasonably necessary to advance the recycling objectives of the proposal. Also, this is consistent with the underlying rationale of the land disposal restrictions (LDR) storage prohibition provision in which generators may store LDR restricted hazardous wastes in "tanks, containers or containment buildings [on site] solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment or disposal. * * *." (emphasis added) 40 CFR 268.50. In today's proposed rule, EPA has identified the quantity of F006 waste necessary to facilitate metals recovery to be one full truck load (i.e., 16,000 kilograms). The Agency requests comments on whether a limit on the amount of F006 waste that can be accumulated is an appropriate condition and, if so, whether the 16,000 kilogram limit is the appropriate limit (as opposed to a different amount).

Furthermore, generators of F006 waste may implement pollution prevention practices whereby the metal constituents in the F006 sludge are isolated in separate waste streams (as opposed to an F006 sludge with several metals which is generally the case). Generating such mono-metal sludges makes the F006 waste more amenable to metals recovery, but each of the mono-metal sludges would need to go to different metals recovery facilities (e.g., chromium F006 sludge to a chromium recovery facility and copper F006 sludge to a copper smelter).

Accordingly, the Agency asks whether a generator of F006 waste should be allowed to accumulate quantities of mono-metal F006 sludges that are necessary to facilitate proper metals recovery of that mono-metal sludge (i.e., up to 16,000 kilograms of each mono-metal sludge). The Agency requests comments on whether the 16,000 kilogram accumulation limit should apply to the total quantity of F006 waste accumulated on site or to the quantity of separate F006 waste streams such as mono-metal sludges that must be sent off site to separate metals recovery facilities.

2. Additional Accumulation Time Under Certain Circumstances

a. 200 Miles or More

Under today's proposal, generators of F006 waste would have up to 270 days to accumulate F006 waste on site without a RCRA permit under certain conditions. If the generator must transport the waste, or offer the waste for transport, over a distance of 200 miles or more for off-site metals recovery, the generator would be able to accumulate the F006 waste on site for up to 270 days without a permit or without having interim status, provided the generator has implemented pollution prevention practices that reduce the volume or toxicity of the F006 waste or that make it more amenable for metals recovery, recycles the F006 waste by metals recovery, does not accumulate more than 16,000 kilograms of F006 waste at any one time, and complies with the applicable management standards in the proposed rule. This provision is analogous to the provision for small quantity generators in the existing generator accumulation regulations at 40 CFR 262.34(e).

As with the rest of the proposed provisions of this rule, this requirement is intended to allow generators sufficient time to accumulate enough F006 waste to make shipment of this waste off site more cost effective. Shipping F006 waste to a metals recovery facility that is located more than 200 miles away would cost more than shipping F006 waste to a local (i.e.,

less than 200 miles away) hazardous waste landfill. For those generators of F006 waste that do not accumulate enough F006 waste to fill a truck load (i.e., 16,000 kilograms of F006 waste) within 180 days and are located more than 200 miles from a metals recovery facility, treatment and disposal of the F006 waste in the local hazardous waste landfill may be the generator's preferred management option over metals recovery. For those generators of F006 waste that are located long distances from an appropriate metals recovery facility, the 270-day accumulation period is reasonable to allow generators to accumulate more F006 waste for a larger load being shipped off site. The generator would, however, still be subject to the pollution prevention condition, the metals recovery requirement, and the accumulation limit of 16,000 kilograms in this proposed rule. Accordingly, the 270-day accumulation period will be particularly helpful for generators of relatively small amounts of F006 waste (i.e., those that do not accumulate more than 16,000 kilograms of F006 waste in 180 days and that must ship the F006 off site more than 200 miles to a metals recovery facility) and may allow them to send their F006 waste to a metals recovery facility rather than to a treatment and disposal facility. The Agency requests comments on whether this additional accumulation time is warranted and appropriate for generators of F006 waste who must ship their F006 waste 200 miles or more to an off-site metals recovery facility.

b. Unforeseen, Temporary, and Uncontrollable Circumstances

This proposed rule also provides for an extension of the accumulation period, if the generator's F006 waste must remain on site for longer than 180 days (or 270 days, if applicable) due to unforeseen, temporary, and uncontrollable circumstances. The generator would be able to, under these circumstances, request that the EPA Regional Administrator or authorized state grant an extension up to 30 days. This provision is intended to provide the generator with some temporary relief until the unforeseen, temporary, and uncontrollable circumstances can be rectified. The Agency has previously identified the following circumstances as possible rationales for granting this extension: facility's refusal to accept waste, transportation delays, or labor strikes. See 47 FR 1248, 1249 (January 11, 1982). These extensions may, however, be granted at the discretion of the EPA Regional Administrator or the authorized state on a case-by-case basis.

This provision is analogous to the provision for other generators in the existing regulations at 40 CFR 262.34(b).

Because the proposed rule sets an accumulation limit of 16,000 kilograms of F006 waste that can be accumulated on site at any one time, the proposed rule would also allow a generator to request permission to accumulate more than 16,000 kilograms of F006 waste, if more than 16,000 kilograms must remain on site due to unforeseen, temporary, and uncontrollable circumstances. The rationale that is applicable for needing additional time to accumulate F006 waste on site due to unforeseen, temporary, and uncontrollable circumstances would be equally applicable for accumulating more than the set accumulation limit of 16,000 kilograms under certain conditions. EPA requests comments on these extensions due to unforeseen, temporary, and uncontrollable circumstances.

B. Rationale for Proposed Accumulation Rule for F006 Waste

In today's proposed rule, EPA is allowing only generators of F006 waste up to 180 days (or up to 270 days, if applicable) to accumulate F006 waste on site without a RCRA permit or interim status, provided that the generator has complied with the requirements of the rule. As part of the CSI for the Metal Finishing Industry, EPA and the other participating stakeholders have been examining the generation and management of F006 waste. Today's proposed rule is a product of the CSI stakeholders' efforts, has the support of the participating stakeholders, and is designed to encourage more recycling of F006 waste through metals recovery.

Given the large number of smaller waste generators in the metal finishing industry and the fact that F006 waste has recoverable amounts of metals, the Agency believes that today's proposal will encourage more recycling of F006 waste. While most F006 sludge contains recoverable amounts of metals, approximately only 20% of F006 sludge is currently being recycled through metals recovery. In addition, F006 waste is a diverse waste stream in which a number of different metals can be found, depending on the plating operations at a facility. The different metals are often subject to different economic factors (e.g., market value of metals) and technical feasibility issues that can impact metals recovery of F006 waste. Based on the information presented to the Agency on this matter, EPA believes that metals recovery will increase if metal finishers are given

sufficient time to accumulate full truck loads of F006 waste on site. Allowing the 180-day accumulation time for generators of F006 waste should help minimize economic barriers posed by the existing accumulation rule and is, therefore, likely to increase F006 waste recycling through metals recovery.

The 180-day accumulation time proposed in today's rule may be particularly helpful for generators of relatively small amounts of F006 waste, many of whom are small businesses. These small businesses, however, generate more than the regulatory limits for small quantity generators, and therefore, cannot take advantage of the 180-day accumulation provided for small quantity generators under the existing federal regulations. In many instances, it is these small businesses that are not recycling their F006 waste through metals recovery due, in part, to economic factors (e.g., increased costs associated with metals recovery). The 180-day accumulation time can make F006 waste metals recovery more cost effective, particularly for the small businesses that may generate smaller amounts of F006 waste.

In order to facilitate more F006 waste metals recovery, EPA has, in this proposed rule, set an accumulation limit (i.e., 16,000 kilograms of F006 waste) that would, based on waste generation patterns in the industry, allow generators of F006 waste to accumulate a full truck load for transport. Having a full load of F006 waste for transport will make F006 waste metals recovery more cost effective, thereby encouraging more F006 waste metals recovery. Although the 180-day accumulation time may allow individual F006 waste generators to accumulate more F006 waste on site at any one time, the total cumulative amount of F006 waste that is accumulated on site nationally at any one time will not increase substantially because of the accumulation limit. Based on F006 waste generation data, the Agency expects a slight increase in the cumulative amount of F006 waste accumulated on site nationally just after 90 days. Many generators will accumulate a full truck load of F006 waste shortly after 90 days. As individual generators accumulate the proposed limit of F006 waste (i.e., 16,000 kilograms), the F006 waste generator would have to ship that amount off site for metals recovery. At that point (i.e., just after 90 days) the amount of F006 waste accumulated on site nationally at any one time would remain relatively constant because the amount of F006 waste being shipped off site would be roughly equivalent to the additional amount of F006 waste being

generated and accumulated during the 180-day (or 270-day, if applicable) accumulation period. The accumulation limit is designed to encourage more F006 waste metals recovery (e.g., by allowing accumulation of a full truck load) and to ensure that the amount of F006 waste accumulated on site nationally at any one time does not increase significantly. Accordingly, the 180-day accumulation time, with the 16,000 kilogram accumulation limit, would not significantly increase the potential cumulative harm to human health and the environment resulting from the on-site accumulation of F006 waste.

The F006 waste would have to be accumulated on site in tanks, containers, or containment buildings that meet the applicable management standards.² These units are designed to minimize loss of hazardous waste to the environment. These are the same requirements that currently apply to generators under the existing accumulation rule. Most F006 waste generators accumulate the F006 waste in super sacks (sacks that are reinforced woven resin and designed to accommodate bulk shipments) or bulk storage containers. These super sack containers are designed to minimize loss to the environment. See 62 FR 25998, 26013 (1997). Allowing generators of F006 waste to accumulate the waste for a longer period of time in such containers does not pose any significantly increased potential harm to human health or the environment.

In addition, the 180-day accumulation time is expected to decrease the potential for releases of hazardous constituents from the handling of F006 waste. A recent review of damage incidents associated with the management of F006 waste (the damage incidents report was prepared as background for this proposed rulemaking) suggested that most of the reported incidents of releases of F006 waste were associated with the transfer of F006 waste from accumulation to transport vehicle, from transport vehicle to receiving facility, or while in transport. Because the 180-day accumulation time will mean that the F006 waste is transferred from generator to transporter to receiving facility less often and that fewer shipments of F006 waste will be made, today's rule should decrease the potential for releases of

F006 waste into the environment. Similarly, workers will be required to handle the F006 waste less often (because transfers will occur less often), thereby decreasing their potential exposure to the F006 waste.

In the event of a spill of a dewatered F006 sludge during the 180-day accumulation period (e.g., release caused by a rip or tear in a super sack), the potential risk of harm to human health and the environment would appear to be minimal as compared to a spill of a free liquid or dust. First, with the low moisture content of F006 sludge (a cake-like material resulting from dewatering), a spill of F006 waste could be contained relatively easily. Spilled F006 waste generally retains its shape and is not likely to run off as a free liquid or disperse in the wind like a dust. Second, the metals recovery requirement in today's rule would act as an incentive to recover any spilled F006 waste so that the material can be processed for metals recovery. Third, under the management standards applicable to the accumulation units in today's rule, spills and releases of F006 waste must be contained and remedied as soon as practicable. Accordingly, today's proposed rule includes sufficient safeguards to minimize the potential harm to human health and the environment that may be associated with spills of F006 waste during the 180-day accumulation period.

When more F006 waste is accumulated at a facility, the potential exists for bigger releases of F006 waste at a facility. Bigger releases of F006 waste during the proposed accumulation period would not be expected because F006 waste is generally accumulated in super sacks. A bigger release of F006 waste would, therefore, occur only if several super sacks failed (i.e., ripped or tore) at the same time. The likelihood of multiple failures of super sacks occurring simultaneously is fairly remote. In addition, the potential for a bigger release of F006 waste during the 180-day accumulation period is limited because the amount of F006 waste that can be accumulated at a facility under today's rule is restricted to 16,000 kilograms. In contrast, the existing 90-day accumulation rule has no limit on the amount of hazardous waste that can be accumulated (and, therefore, no limit on the amount of hazardous waste that could potentially be released during the 90-day accumulation period). Accordingly, the potential for bigger releases of F006 waste during the 180-day accumulation period would appear to be minimal.

Finally, the 180-day accumulation time in today's rule is consistent with the rationale for the 90-day accumulation rule. In promulgating the 90-day accumulation rule, EPA allowed generators to accumulate waste on site without a RCRA permit or interim status, in part, because such activity was consistent with typical generator activities. The 180-day accumulation time in today's proposed rule would facilitate generators of F006 waste in appropriately managing the F006 waste off site for metals recovery. EPA believes that accumulating F006 waste on site up to 180 days (to encourage more recycling through metals recovery) is more like typical generator activity than typical treatment, storage, or disposal facility activities, because the 180-day accumulation is an on-site accumulation activity, prior to waste management activities. Today's proposed rule maintains the rationale of the 90-day accumulation rule.

C. Applicable Management Standards

Under today's proposed rule, the same hazardous waste management requirements governing 90-day on-site accumulation of hazardous waste under 40 CFR 262.34, other than the length of time that generators of F006 waste can accumulate the waste on site without a RCRA permit,³ would apply to 180-day accumulation of F006 waste. These requirements include technical standards for units used to accumulate hazardous wastes, recordkeeping standards to document the length of time hazardous wastes are accumulated and stored on site, and preparedness and emergency response procedures. The existing management standards as they would apply to generators of F006 waste under this proposed rule are summarized below. The Agency requests comments on these standards only as they apply to 180-day on-site accumulation of F006 waste.

1. Accumulation Units

A generator of F006 waste may accumulate the hazardous waste on site for up to 180 days in specified units without obtaining a RCRA permit. These accumulation units must comply with the unit-specific technical standards of 40 CFR Part 265 for containers (subpart I), tanks (subpart J), and containment buildings (subpart DD).

The unit-specific standards in 40 CFR Part 265 include provisions for the design, installation and general condition of each unit. The

² Today's proposed rule does not allow accumulation of F006 waste in drip pads (as is provided in the existing accumulation regulations in 40 CFR 262.34) because F006 waste is not managed in drip pads, nor does the Agency believe that it would be appropriate to accumulate F006 waste in drip pads.

³ Today's proposed rule would not affect any RCRA Subtitle C requirements for generators of F006 waste, other than the changes to 40 CFR § 262.34 specified in this proposed rule.

requirements governing each type of unit include standards for ensuring the compatibility of the waste and the unit and special requirements for ignitable, reactive or incompatible wastes. In addition, there are provisions for performing inspections to monitor for leaks and deterioration of the unit and for proper response to and containment of releases. Generators of F006 waste that comply with the applicable regulatory requirements may also treat the waste in the accumulation unit without a RCRA permit during the 180-day accumulation period that is proposed in today's rule.

2. Documentation of Accumulation Time

Generators of F006 waste must also comply with documentation requirements to indicate the length of time that wastes remain on site in accumulation units and to ensure that wastes remain on site for no more than 180 days from the date the waste is generated. Today's proposal does not impose documentation requirements for generators of F006 waste in addition to those already required for generators accumulating F006 waste up to 90 days under the existing regulations.

3. Labeling and Marking Accumulation Units

Generators of F006 waste are required to mark or label all units used to accumulate F006 wastes to indicate that the units contain hazardous waste and to document the date upon which the period of accumulation began. The labeling and marking requirements specify that the date upon which accumulation begins must be clearly marked on each tank or container and that each tank or container used to accumulate hazardous waste must be labeled with the words "Hazardous Waste." The Agency is not proposing any changes or amendments for accumulation units, other than clarifying that these requirements apply to generators of F006 waste accumulating the waste up to 180 days.

4. Preparedness and Prevention (40 CFR Part 265, Subpart C)

Under today's proposed rule, generators of F006 waste who accumulate F006 waste on site for up to 180 days must comply with subpart C of Part 265 which contains requirements for facility preparedness and prevention. These generator facilities must be maintained and operated in a manner that minimizes the possibility of fire, explosion, or any unplanned release of hazardous waste or hazardous waste constituents to the environment.

The requirements specify that generator facilities must generally be equipped with emergency devices, such as an internal communications or alarm system, a telephone or other device capable of summoning emergency assistance, and appropriate fire control equipment, unless none of the wastes handled at the facility require a particular kind of equipment. Equipment must be tested and maintained, as necessary, to assure its proper functioning. All persons involved in hazardous waste handling operations must have immediate access to either an internal or external alarm or communications equipment, unless such a device is not required.

Additionally, the generator is also required to maintain sufficient aisle space to allow for the unobstructed movement of personnel and equipment to any area of the facility operations in an emergency, unless aisle space is not needed for any of these purposes. Generators also must attempt to make arrangements with police, fire departments, state emergency response teams, and hospitals, as appropriate, to familiarize these officials with the layout of the generator's site and the properties of each type of waste handled at the facility in preparation for the potential need for the services of these organizations. If state or local authorities decline to enter into such arrangements, the owner or operator must document the refusal.

The Agency is not proposing any changes or amendments to the existing preparedness and prevention requirements, other than clarifying that the existing requirements apply to generators of F006 waste accumulating the waste on site up to 180 days.

5. Contingency Plan and Emergency Procedures (40 CFR Part 265, Subpart D)

Generators of F006 waste who accumulate that waste on site for up to 180 days under today's proposed rule must comply with the contingency plan and emergency procedures provisions of 40 CFR part 265, subpart D. A generator's contingency plan must include, where necessary: a description of the generator's planned response to emergencies at the facility, any arrangements with local and state agencies to provide emergency response support, a list of the facility's emergency response coordinators, a list of the facility's emergency equipment, and an evacuation plan. Requirements for distributing and amending the contingency plan are specified. In addition, a facility emergency coordinator must be either present, or

on call, whenever the facility is in operation.

Provisions for emergency procedures specified in subpart D of Part 265 include: immediate notification of employees and local, state, and Federal authorities of any imminent or actual emergencies, measures to preclude the spread of fires and explosions to other wastes, proper management of residues, rehabilitation of emergency equipment and notification of authorities before operations are resumed, and record keeping and reporting to EPA on the nature and consequences of any incident that requires implementing the contingency plan.

The Agency is not proposing any changes or amendments to the existing contingency plans and emergency procedure requirements, other than clarifying that the existing requirements apply to generators of F006 waste accumulating the waste on site up to 180 days.

6. Personnel Training (40 CFR 265.16)

As proposed in today's rule, generators of F006 waste who accumulate on site for up to 180 days are subject to the provisions for personnel training in 40 CFR 265.16. These requirements are designed to ensure that personnel are adequately prepared to manage hazardous waste and respond to any emergencies that are likely to arise. Personnel training can be in the form of on-the-job or classroom training, but must be performed by an instructor who is trained in hazardous waste management procedures. Personnel training must be performed within six months of initial employment and must be renewed annually. The owner or operator of a facility also must maintain records in accordance with 40 CFR 265.16(d) to document completion of the training requirements for employees. The Agency is not proposing any changes or amendments to the existing personnel training requirements, other than clarifying that the existing requirements apply to generators of F006 waste accumulating the waste on site for up to 180 days.

7. Waste Analysis and Record Keeping (40 CFR 268.7(a)(4))

Under today's proposed rule, generators of F006 wastes who accumulate F006 waste on site for up to 180 days and treat their wastes in an accumulation tank, container, or containment building, located at the generator's site to meet the applicable land disposal treatment standards under 40 CFR part 268, subpart D, must prepare and follow a written waste analysis plan. The waste analysis plan

must describe the procedures the generator will use to comply with the treatment standards for the waste. The waste analysis plan must be based upon a chemical and physical analysis of a representative sample of the generator's waste stream. Hazardous waste generators are required to submit a copy of their waste analysis plans for hazardous wastes treated in 180-day accumulation units to either the authorized state or EPA Regional office prior to conducting treatment. Generators also are required to retain a copy of the waste analysis plan in the generator's files.

The Agency is not proposing any changes or amendments to the generator waste analysis plan or record keeping requirements, other than clarifying that such standards apply to generators of F006 waste accumulating the waste on site for up to 180 days.

IV. State Authority

A. Applicability of Rules in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified states to administer and enforce the RCRA hazardous waste program within the state. (See 40 CFR part 271 for the standards and requirements for authorization.) Following authorization, EPA retains enforcement authority under sections 3008, 7003, and 3013 of RCRA, although authorized states have primary enforcement responsibility.

Prior to the Hazardous and Solid Waste Amendments (HSWA) of 1984, a state with final authorization administered its hazardous waste program entirely in lieu of EPA administering the federal program in that state. The federal requirements no longer applied in the authorized state and EPA could not issue permits for any facility in the state that the state was authorized to permit. When new, more stringent federal requirements were promulgated or enacted, the state was obliged to enact equivalent authority within specified time frames. New federal requirements did not take effect in an authorized state until the state adopted the requirements as state law.

In contrast, under section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed under the HSWA take effect in authorized states at the same time that they take effect in non-authorized states. EPA is directed to implement HSWA requirements and prohibitions in an authorized state, including the issuance of permits, until the state is granted authorization to do so. While states must still adopt HSWA-related

provisions as state law to retain final authorization, HSWA applies in authorized states until the states revise their programs and receive authorization for the new provision.

B. Effect of State Authorizations

Today's proposal, if finalized, will promulgate regulations that are not effective under HSWA in authorized states. This rule would, therefore, be applicable only in those states that do not have final authorization.

Authorized states are only required to modify their programs when EPA promulgates federal regulations that are more stringent or broader in scope than the authorized state regulations. For those changes that are less stringent than the federal programs, states are not required to modify their programs. This is a result of section 3009 of RCRA, which allows states to impose more stringent regulations than the federal program. Today's proposal for additional accumulation time for generators of F006 waste would be considered less stringent than the existing federal regulations because it allows more than the existing 90 days of accumulation time that is in the existing regulations. Authorized states are not, therefore, required to modify their programs to adopt regulations consistent with, and equivalent to, today's proposal.

Even though states are not required to adopt the additional accumulation time for generators of F006 waste in today's proposal, EPA strongly encourages states to do so as quickly as possible. As discussed above, the proposed rule is intended to encourage and facilitate recycling of F006 waste. In addition, states have been participating as stakeholders in the CSI process and efforts are being made to get as many states as possible to join in on the CSI goals and implementation programs. States are, therefore, urged to consider the adoption of today's proposal, when promulgated, and EPA is committed to making efforts to expedite review of authorized state program revision applications that incorporate today's proposal.

V. Regulatory Requirements

A. Regulatory Impact Analysis Pursuant to Executive Order 12866

Executive Order No. 12866 requires agencies to determine whether a regulatory action is "significant." The Order defines a "significant" regulatory action as one that "is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect, in a material

way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order."

The Agency estimated the costs of today's final rule to determine if it is a significant regulation as defined by the Executive Order. The analysis considered compliance costs and economic impacts for F006 wastes affected by this rule. EPA estimates the total cost of the rule to be a savings in the range of \$3.9 to \$4.9 million annually, and concludes that this rule is not economically significant according to the definition in E.O. 12866. Moreover, the Agency believes that this rule is not significant because it does not create serious inconsistency with actions taken or planned by another agency, materially alter budgetary impact or rights and obligations of recipients. The Office of Management and Budget, however, has deemed this rule to be significant for novel policy reasons and has reviewed this rule.

Detailed discussions of the methodology used for estimating the costs, economic impacts and the benefits attributable to today's proposed rule for on-site accumulation of F006 wastes, followed by a presentation of the cost, economic impact and benefit results, may be found in the background document: "Regulatory Impact Analysis of the Proposed Rule for a 180-Day Accumulation Time for F006 Wastewater Treatment Sludges," which was placed in the docket for today's proposed rule.

1. Methodology Section

The Agency examined reported values for F006 waste generation from the 1995 Biennial Reporting Systems (BRS) database to estimate the volumes of F006 waste affected by today's rule, to determine the national level incremental costs (for both the baseline and post-regulatory scenarios), economic impacts (including first-order measures such as the estimated percentage of compliance cost to industry or firm revenues), and benefits.

2. Results

a. Volume Results

The BRS database reports that in 1995 there were 1,317 metal finishing firms potentially affected by today's rule. The data report that these firms generated 24,000 tons of F006 waste annually that are eligible to benefit from today's proposed rule. EPA is aware that this estimate on the number of firms that could benefit from today's proposal probably underestimates the total number of firms affected by today's rulemaking. In 1994, EPA estimated that there were approximately 13,400 metal finishing establishments in the United States.⁴ Of the total, approximately 10,000 metal finishing facilities are estimated to be "captive" shops where the metal finishing operation is contained inside a larger manufacturing operation. The balance of 3,400 metal finishing facilities are "job shops" or "independent" metal finishing operations. Job shops are usually small businesses that operate on a contract basis. In contrast, the most recent BRS data only account for about three thousand of this total. Thus, it is likely that cost savings and benefits associated with this rulemaking are greater than estimated below.

b. Cost Results

For today's proposed rule, EPA has estimated a cost savings associated with a 180-day accumulation time for large quantity generators of F006 waste. The total incremental savings estimated is between \$3.9 million and \$4.9 million per year. These savings result from being able to reduce the total number of shipments of F006 waste off-site for recycling. Savings also result from a lower cost per ton of transportation because generators are able to accumulate more F006 waste for a shipment off site and the cost per unit of F006 waste transportation (for the fixed cost portion of the transportation) is less for a full truck as compared to a partial truck load. In addition, literature reviewed in the development of this rulemaking indicates that recyclers sometimes assess a surcharge for small volumes of material due to increased handling and administrative costs.⁵ It is possible that a 180-day (or 270-day, if

applicable) accumulation time will allow some F006 waste generators to reduce this surcharge.

c. Economic Impact Results

To estimate potential economic impacts resulting from today's proposed rule, EPA has used first order economic impacts measures such as the estimated cost savings of today's proposed rule as a percentage of sales/revenues. EPA has applied this measure to affected F006 waste generators. For affected F006 waste generators, EPA has estimated the cost savings to be less than one percent of a typical metal finisher's sales or revenues. More detailed information on this estimate can be found in the regulatory impact analysis placed into today's docket.

d. Benefits Assessment

The Agency has performed a qualitative benefits assessment for today's proposed rule. EPA believes that a relatively small, but significant percentage of total F006 waste generated would be diverted from land disposal to off-site recycling. This shift from land disposal to recycling should result in a conservation of natural resources associated with primary mineral extraction including reduced water, energy inputs as well as reduced solid waste (e.g., slag, tailings, overburden) outputs. Other benefits expected from today's proposed rule include conservation of hazardous waste landfill capacity, reduced balance of payments for nonferrous mineral commodities, and conservation of strategic metals⁶.

B. Regulatory Flexibility

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities.

SBREFA amended the Regulatory Flexibility Act to require Federal

agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. The following discussion explains EPA's determination.

Data indicate that virtually all independent electroplaters or job shops are small entities.⁷ Captive shops contain both large and small entities. Data on captive plating operations are, however, more limited. The regulatory impact analysis completed for this proposed rule indicated that of 3,296 job shops, all but 2 are small entities. BRS data indicate that a total of 1,934 plating facilities including both captive and independent operations generate F006 waste with 1,317 of these firms affected by this proposed rule. Although the BRS data do not indicate what proportion of these affected facilities are small entities, it is likely that the majority of these affected facilities are small entities, because the plating firms affected by this proposed rule generate the smallest quantities of F006 (which is related to both facility size and product output). This proposed rule would not have a significant economic impact on a substantial number of small entities because today's proposed rule would relieve regulatory burden for metal finishers and captive operations by allowing them up to 180 days (instead of 90 days) to accumulate F006 wastes on site. In addition, the Agency estimates that this proposed rule would lead to an overall cost savings in the range of \$3.9 to \$4.9 million annually. The rule does not impose new burdens on small entities. Therefore, I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. This rule, therefore, does not require a regulatory flexibility analysis.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under Section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "federal mandates" that may result in expenditures to state, local, and tribal

⁴ U.S.E.P.A., Office of Policy, Planning and Evaluation, IEC, *SUSTAINABLE INDUSTRY: Promoting Environmental Protection in the Industrial Sector, Phase 1 Report*, June 1994, pp. 4-7, 4-8.

⁵ George C. Cushnie Jr., National Center for Manufacturing Sciences & National Association of Metal Finishers, *Pollution Prevention and Control Technology for Plating Operations* (Ann Arbor, MI: National Center for Manufacturing Sciences, 1994), p. 312.

⁶ For more information on balance of trade for nonferrous minerals and conservation of strategic metals, see U.S. Environmental Protection Agency, *Report to Congress on Metal Recovery, Environmental Regulation and Hazardous Wastes* (Washington DC, U.S.EPA, 1994), Chapter 7.

⁷ See Small Business Size Standards, 61 FR 3280, 3289 (January 31, 1996) stating that manufacturing firms with less than 500 employees are considered to be small entities. See also U.S.E.P.A. Office of Solid Waste and Emergency Response, *Regulatory Impact Analysis of Extending 90 Day Accumulation Rule for F006 Wastewater Treatment Sludges*, May 22, 1998, pp.5-10.

governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative, if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not include a federal mandate that may result in estimated costs of \$100 million or more to either state, local, or tribal governments in the aggregate. The rule would not impose any federal intergovernmental mandate because it imposes no enforceable duty upon state, tribal or local governments. States, tribes and local governments would have no compliance costs under this rule. It is expected that states will adopt similar rules, and submit those rules for inclusion in their authorized RCRA programs, but they have no legally enforceable duty to do so. For the same reasons, EPA also has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. In addition, as discussed above, the private sector is not expected to incur costs exceeding \$100 million. EPA has fulfilled the requirement for analysis under the Unfunded Mandates Reform Act.

D. Executive Order 12875: Enhancing the Intergovernmental Partnership

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal

government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

For the reasons described above, today's proposed rule would not impose any enforceable duty or contain any unfunded mandate upon any state, local, or tribal government; therefore Executive Order 12875 does not apply to this action.

E. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

For the reasons described above, today's proposed rule does not create a mandate on State, local or tribal

governments, nor does it impose any enforceable duties on these entities. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

F. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that (1) is "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that an agency has reason to believe may disproportionately affect children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children; and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This proposed rule is not subject to E.O. 13045, because this is not an economically significant regulatory action as defined by E.O. 12866. The Agency does not have reason to believe the environmental health risks or safety risks addressed by this action concern a disproportionate risk to children.

Because this rulemaking retains current container standards for generators accumulating hazardous wastes on site without a permit (40 CFR 262.34), EPA believes that the extended 180-day accumulation period will not result in increased exposures to children. Generators that accumulate F006 waste on site typically place the waste in containers such as 55-gallon drums or "super sacks" (sacks that are reinforced woven resin and designed to accommodate bulk shipments). The current container standards (40 CFR part 265, Subpart I) referenced in the generator regulations (40 CFR 262.34) require that waste handlers, including generators, to keep containers in good condition (subject to remedial action if leaks are found), have containers closed during usage except when adding or removing waste and inspect the containers at least weekly. In addition, for these containers, waste handlers are required under Subpart I to comply with Subpart CC air emission standards for containers. 40 CFR 265.178, 265.1087. EPA believes that these container requirements are protective to minimize the likelihood of exposure to hazardous waste managed in these units.

*G. Executive Order 12898:
Environmental Justice*

EPA is committed to addressing environmental justice concerns and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all populations in the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income bears disproportionately high and adverse human health or environmental impacts as a result of EPA's policies, programs, and activities, and that all people live in safe and healthful environments. In response to Executive Order 12898 and to concerns voiced by many groups outside the Agency, EPA's Office of Solid Waste and Emergency Response formed an Environmental Justice Task Force to analyze the array of environmental justice issues specific to waste programs and to develop an overall strategy to identify and address these issues (OSWER Directive No. 9200.3-17).

Today's proposed rule covers F006 wastes from metal finishing operations. It is not certain whether the environmental problems addressed by this rule could disproportionately affect minority or low-income communities, due to the location of some metal finishing operations. Metal finishing operations are distributed throughout the country and many are located within highly populated areas. Because today's proposed rule retains requirements for F006 waste generators to store F006 waste in protective Subpart J tanks, Subpart I containers or Subpart DD container buildings, the Agency does not believe that today's rule will increase risks from F006 waste. It is, therefore, not expected to have any disproportionately high adverse human health or environmental effects on minority or low-income communities relative to affluent or non-minority communities.

H. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2050-0035. An Information Collection Request (ICR) document has been prepared by EPA (ICR Control Number 0820.07) and a copy may be obtained from Sandy Farmer by mail at OP Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., SW., Washington, DC

20460, by e-mail at farmer.sandy@epamail.epa.gov, or by calling (202) 260-2740. A copy may also be downloaded off the internet at <http://www.epa.gov/icr>.

EPA believes the changes in this proposed rule to the information collection do not constitute a substantive or material modification. This proposed rule would not change any of the information collection requirements that are currently applicable to generators of F006 waste that accumulate the waste on site. The recordkeeping and reporting requirements of this rule are identical to requirements already promulgated and covered under the existing Information Collection Request (ICR). There is no net increase in recordkeeping and reporting requirements. As a result, the reporting, notification, or recordkeeping (information) provisions of this rule will not need to be submitted for approval to the Office of Management and Budget (OMB) under section 3504(b) of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

The Agency estimates total projected burden hours associated with the information collection requirements of this proposed rule to be approximately 13.19 hours per year for each generator. This is the same burden associated with the information collection requirements for large quantity generators who currently accumulate waste on site for less than 90 days under the existing regulations. These information collection requirements include: (1) Pre-transport informational requirements specific to large quantity generators (*e.g.*, personnel training, contingency planning and emergency procedures, tank systems, containment buildings, and requests for extension of accumulation period); (2) air emission standards for process vents; (3) air emission standards for equipment leaks; and (4) record keeping and reporting. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of

information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Pub L. 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. EPA is not, therefore, considering the use of any voluntary consensus standards. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

List of Subjects in 40 CFR Part 262

Environmental protection, Hazardous waste, Labeling, Packaging and containers, Waste treatment and disposal.

Dated: January 22, 1999.

Carol M. Browner,
Administrator.

For reasons set forth in the preamble, EPA proposes to amend 40 CFR part 262 as follows:

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

1. The authority citation for part 262 continues to read as follows:

Authority: 42 U.S.C. 6906, 6912, 6922-6925, 6937, and 6938.

2. In § 262.34, add paragraphs (g), (h), and (i) to read as follows:

§ 262.34 Accumulation time.

* * * * *

(g) A generator who generates wastewater treatment sludges from electroplating operations that meet the listing description for the RCRA hazardous waste code F006 waste may accumulate F006 waste on site for 180 days or less without a permit or without having interim status provided that the generator complies with the following requirements:

(1) The generator has implemented pollution prevention practices that reduce the volume or toxicity of the F006 waste or that make it more amenable for metals recovery;

(2) The F006 waste is sent off site for metals recovery;

(3) No more than 16,000 kilograms of F006 waste is accumulated on site at any one time; and

(4) The F006 waste is managed in accordance with the following requirements:

(i) The F006 waste is placed:

(A) In containers and the generator complies with subpart I of 40 CFR part 265; and/or

(B) In tanks and the generator complies with subpart J of 40 CFR part 265, except §§ 265.197(c) and 265.200; and/or

(C) In containment buildings and the generator complies with subpart DD of 40 CFR part 265, and has placed its professional engineer certification that the building complies with the design standards specified in 40 CFR 265.1101 in the facility's operating record prior to operation of the unit. The owner or operator shall maintain the following records at the facility:

(I) A written description of procedures to ensure that the F006 waste remains in the unit for no more than 180 days, a written description of the waste generation and management practices for the facility showing that they are consistent with the 180-day limit, and documentation that the procedures are complied with; or

(2) Documentation that the unit is emptied at least once every 180 days.

(ii) In addition, such a generator is exempt from all the requirements in subparts G and H of 40 CFR part 265, except for §§ 265.111 and 265.114.

(iii) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

(iv) While being accumulated on site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste;" and

(v) The generator complies with the requirements for owners or operators in subparts C and D in 40 CFR part 265, with 40 CFR 265.16, and with 40 CFR 268.7(a)(4).

(h) A generator who generates wastewater treatment sludges from electroplating operations, RCRA hazardous waste code F006, and who must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more for off-site metals recovery may accumulate F006 waste on site for 270 days or less without a permit or without having interim status provided that the generator complies with the requirements of paragraph (g) of this section.

(i) A generator who generates wastewater treatment sludges from electroplating operations, RCRA hazardous waste code F006, who accumulates F006 waste on site for more than 180 days (or for more than 270 days if the generator must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more) or who accumulates more than 16,000 kilograms of F006 waste on site is an operator of a storage facility and is subject to the requirements of 40 CFR parts 264 and 265 and the permit requirements of 40 CFR part 270 unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period or the 16,000 kilogram accumulation limit. Such extensions may be granted by EPA if F006 waste must remain on site for longer than 180 days (or 270 days if applicable) or if more than 16,000 kilograms of F006 waste must remain on site due to unforeseen, temporary, and uncontrollable circumstances. An extension of the accumulation time up to 30 days or the accumulation limit of more than 16,000 kilograms of F006 waste may be granted at the discretion of the Regional Administrator on a case-by-case basis.

[FR Doc. 99-2323 Filed 1-29-99; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 244

[FRA Docket No. FRA-1999-4985, Notice No. 2]

RIN 2130-AB24

Regulations on Safety Integration Plans Governing Railroad Consolidations, Mergers, Acquisitions of Control, and Start Up Operations; Correction

AGENCY: Federal Railroad Administration, DOT.

ACTION: Proposed rule; correction.

SUMMARY: The Federal Railroad Administration (FRA) corrects the docket number entry identified in the proposed rule that was published in the **Federal Register** on December 31, 1998, 63 FR 72225, Dec. 31, 1998, regarding Regulations on Safety Integration Plans Governing Railroad Consolidations, Mergers, Acquisitions of Control, and Start Up Operations. The previous docket number for the agency's proposed rule was "FRA Docket No. SIP-1." The new docket number is "FRA-1999-4985." FRA informs the public that it will nevertheless receive and file comments from interested persons in the administrative record for this rulemaking action that identified the proposed rule as FRA Docket No. SIP-1. FRA also advises the regulated community that this notice does not affect the Surface Transportation Board's (STB or Board) docket number for comments on the Board's proposed rule in the joint rulemaking proceeding.

FOR FURTHER INFORMATION CONTACT: Jon Kaplan, Trial Attorney, Office of Chief Counsel, FRA, 1120 Vermont Avenue, Mailstop 10, Washington, DC 20590 (telephone: (202) 493-6053).

SUPPLEMENTARY INFORMATION: On December 18, 1998, FRA and the STB issued a joint rule proposing regulations for the development and implementation of safety integration plans (SIPs) by railroads seeking to engage in certain specified merger, consolidation, or acquisition of control transactions with another railroad. 63 FR 72225, Dec. 31, 1998. FRA identified the docket number corresponding to its rulemaking action as "FRA Docket No. SIP-1" in the caption and address section of the document. Due to consolidation of FRA's docket facilities with those of other DOT operating administrations into a centralized docket management system, however, FRA's docket numbering system has changed. The central docket facility styles dockets received in its electronic docket system as, for example, "FRA-1999-xxxx." For this reason, the docket number assigned to FRA's portion of the SIP rule is now "FRA-1999-4985," and commenters should use this docket number when commenting on FRA's proposed rule. (Interested parties should continue to refer to STB Ex Parte No. 574 when commenting on the Board's proposed rule.) FRA will, however, receive and docket comments filed by interested persons responding to the agency's proposed rule that identified the action as "FRA Docket No. SIP-1."

Issued in Washington, DC on January 26, 1999.

Michael T. Haley,

Deputy Chief Counsel.

[FR Doc. 99-2253 Filed 1-29-99; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-99-5025]

Federal Motor Vehicle Safety Standards (FMVSS); Child Restraint Systems

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

ACTION: Request for public comments.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) is conducting a review of Federal Motor Vehicle Safety Standard (FMVSS) No. 213, Child Restraint Systems, in order to determine, consistent with Executive Order 12866, Regulatory Planning and Review, and Section 610 of the Regulatory Flexibility Act, whether this rule¹ should be maintained without change, rescinded, or modified in order to make it more effective or less burdensome in achieving its objectives. This review also is being conducted to determine whether the rule can become more consistent with the objectives of the Regulatory Flexibility Act to achieve regulatory goals while imposing as few burdens as possible on small entities.

DATES: Comments must be received on or before April 2, 1999.

ADDRESSES: Comments must refer to the docket number cited at the beginning of this notice and be submitted to the Docket Management, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590. It is requested, but not required, that one original plus two copies of the comments be provided. The Docket hours are from 10:00 a.m. to 5:00 p.m., Monday through Friday (telephone 202-366-9324).

FOR FURTHER INFORMATION CONTACT: Nita Kavalauskas, Office of Regulatory Analysis and Evaluation, Office of Plans and Policy, National Highway Traffic Safety Administration, Room 5208, 400 Seventh Street, SW, Washington, DC 20590, (telephone 202-366-2584, fax 202-366-2559).

SUPPLEMENTARY INFORMATION: Federal Motor Vehicle Safety Standard (FMVSS) No. 213 (49 CFR 571.213) ("the rule") specifies minimum performance requirements for child restraint systems (both built-in and add-on) used in motor vehicles and aircraft. The purpose of the rule is to reduce the number of children killed or injured in motor vehicle and aircraft crashes. The rule applies to passenger cars, multipurpose passenger vehicles, trucks and buses, and to child restraint systems for use in motor vehicles and aircraft.

The rule evaluates the performance of child restraint systems in dynamic tests performed in a simulated 30-mph frontal impact system. The rule tests built-in child restraints either in the specific vehicles or in the specific vehicle shell. Add-on child restraint systems are tested on a standard test seat, restrained either by a lap belt or (in the case of a belt positioning seat) by a lap/shoulder belt. In addition, the rule requires labeling both belt-positioning booster seats and shield-type booster seats to indicate which type of belt system (lap belt only or lap/shoulder belt) can be used with that particular booster seat.²

The rule sets specific dummy testing requirements by weight and height, so that an add-on or a built-in child restraint recommended for a specific weight/height class will be tested using dummies representative of that weight/height class. The rule also establishes other requirements for child restraints with respect to such factors as the height and width of the seat back surface, padding on surfaces contacted by the child's head, the locations of fixed or movable surfaces in front of the seated child, belt buckles and their releases, seat belt material, and labeling requirements.

The rule requires child restraint manufacturers to state on a label the heights and weights of children for whom the system is designed to protect. The rule also requires manufacturers of child restraints to provide warning labels on rear-facing child restraints to alert parents of the potential negative consequences of using rear-facing child restraint systems in the front seat of vehicles with passenger-side air bags.

Also included in the rule is a requirement that child restraint manufacturers supply, at the time of sale of the child restraint, a postage-paid registration card that the purchaser can fill in with his/her name and address

and mail back to the manufacturer so that the purchaser could be notified in the event of a recall. Providing this information on the label allows subsequent owners of child restraints to register their restraints with the manufacturer so that they can be contacted in the event of a recall. Manufacturers must record a list or maintain records of the owners in a form suitable for inspection, such as computer information storage devices or card files. Manufacturers are required to retain the records of owners for six years from the date of manufacture of the child restraint. The rule also requires that each child restraint be permanently labeled with the manufacturer's address or toll-free telephone number and the U.S. Government's Auto Safety Hotline toll-free telephone number.

At the present time, NHTSA has selected FMVSS No. 213 for review in accordance with the regulatory review provisions at Section 5 of the Executive Order 12866 on Regulatory Planning and Review (58 FR 51735, 51739, Oct. 4, 1993) and the directive of Section 610 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Section 610(a) of the Regulatory Flexibility Act requires the periodic review of rules to determine which ones have a significant economic impact on a substantial number of small businesses. The agency determined in August 1998 that FMVSS No. 213 (the rule) may have a significant economic impact on a substantial number of small businesses and pursuant to section 610(c) is conducting this review of FMVSS No. 213. The purpose of the review is to determine whether the rule should be continued without change, rescinded, or amended to make it more effective or less burdensome in achieving its objectives, and to bring it into better alignment with the objectives of the Regulatory Flexibility Act to achieve regulatory goals while imposing as little burden as possible on small entities. In the event the Agency determines, based on the results of this review, that the rule should be rescinded or modified, appropriate rulemaking will be initiated.

An important step in the review process involves the gathering and analysis of information from affected parties about their experience with the rule and any material changes in circumstances since issuance of the standard. This notice provides an opportunity for interested parties to comment on the continuing need for, adequacy or inadequacy of, and small business impacts of the rule. Comments concerning the following subjects would assist the Agency in determining

¹ This document refers to FMVSS No. 213 as a "rule" consistent with Section 610 of the Regulatory Flexibility Act, Public Law 96-354, September 19, 1980 (see Section 601(2)).

² The agency has issued a proposal to standardize child restraint anchorages. The agency would prefer not to receive comments on this issue unless they relate to small business impacts.

whether to retain the rule unchanged or to initiate rulemaking for purposes of revision or rescission:

1. The benefits and utility of the rule in its current form and, if amended, in its amended form;
2. The continued need for the rule;
3. The complexity of the rule;
4. Whether and to what extent the rule overlaps, duplicates or conflicts with other Federal, State, and local governmental rules;

5. Information on any new developments in technology, economic conditions, or other factors affecting the ability of affected firms to comply with the rule;

6. Alternatives to the rule or portions of the rule that would minimize significant impacts on small businesses while achieving the objectives of the National Highway Traffic Safety Administration.

In essence, the agency would like to know what sections of FMVSS No. 213 significantly affect small business costs, unnecessarily affect costs, are particularly burdensome for small entities, or could be rewritten to minimize burdens on small entities. In addition, NHTSA would like to know which sections of the rule could be written more clearly and in plain English.

Comments

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may

attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

How can I be sure that my comments were received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

Will the agency consider late comments?

We will consider all comments that Docket Management received before the close of business on the comment closing date indicated above under

DATES. To the extent possible, we will also consider comments that Docket Management receives after that date.

How can I read the comments submitted by other people?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

1. Go to the Docket Management System (DMS) Web page of the Department of Transportation (<http://dms.dot.gov/>).
2. On that page, click on "search."
3. On the next page (<http://dms.dot.gov/search/>), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were "NHTSA-1998-1234," you would type "1234." After typing the docket number, click on "search."

4. On the next page, which contains docket summary information for the docket you selected, click on the desired comments.

You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments are not word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

William H. Walsh,

Associate Administrator for Plans and Policy.
[FR Doc. 99-2313 Filed 1-29-99; 8:45 am]

BILLING CODE 4910-59-P

Notices

Federal Register

Vol. 64, No. 20

Monday, February 1, 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.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Announcement of the Market Access Program for Fiscal Year 1999

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: This notice announces the availability of funds for the Fiscal Year 1999 Market Access Program (MAP).

DATES: All applications must be received by 5:00 p.m. Eastern Standard Time, March 26, 1999.

FOR FURTHER INFORMATION CONTACT: Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, STOP 1042, 1400 Independence Ave., SW., Washington, DC 20250, (202) 720-4327.

SUPPLEMENTARY INFORMATION:

Introduction

The Commodity Credit Corporation (CCC) announces that applications are being accepted for participation in the Fiscal Year 1999 MAP. The MAP is designed to encourage the development, maintenance, and expansion of commercial export markets for U.S. agricultural commodities and products. Cost share assistance is provided to eligible applicants to implement approved market development programs. Financial assistance under the MAP will be made available on a competitive basis and applications will be reviewed against the evaluation criteria contained herein. The MAP is administered by personnel of the Foreign Agricultural Service (FAS).

Under the MAP, CCC enters into agreements with eligible participants to share the costs of certain overseas marketing and promotion activities. MAP participants may receive assistance for either generic or brand promotion activities. The MAP

generally operates on a reimbursement basis.

Authority

The MAP is authorized under section 203 of the Agricultural Trade Act of 1978, as amended, and MAP regulations are set forth in 7 CFR part 1485.

Eligible Applicants

To participate in the MAP, an applicant must be: A nonprofit U.S. agricultural trade organization, a nonprofit state regional trade group (an association of State Departments of Agriculture), a U.S. agricultural cooperative, a State agency, or a small-sized U.S. commercial entity (other than a cooperative or producer association).

Available Funds

\$90 million of cost-share assistance may be obligated under this announcement to eligible applicants.

Application Process

In order to be considered for the MAP, an applicant must submit to FAS information required by the MAP regulations set forth in 7 CFR part 1485. The FAS administers various agricultural export assistance programs, including the MAP, the Foreign Market Development Cooperator (Cooperator) Program, Cochran Fellowships, the Emerging Markets Program, Section 108, Pub. L. 480 and several Export Credit Guarantee programs. Organizations which are interested in applying for MAP funds are encouraged to submit their requests using the Unified Export Strategy (UES) format. This allows interested entities to submit a consolidated and strategically coordinated single proposal that incorporates requests for funding and recommendations for virtually all FAS marketing programs, financial assistance programs, and market access programs. The suggested UES format encourages applicants to examine the constraints or barriers to trade they face, identify activities which would help overcome such impediments, consider the entire pool of complementary marketing tools and program resources, and establish realistic export goals. Applicants are not required, however, to use the UES format.

Organizations can submit applications in the UES format by two methods. The first allows an applicant to submit information directly to FAS through

data entry screens at a specially designed UES application Internet site. FAS highly recommends applying via the Internet, as this format virtually eliminates paperwork and expedites the FAS processing and review cycle. Also, by using the Internet, applicants currently participating in the 1998 MAP will not need to enter certain historical information as it will appear automatically in the data entry screens. Applicants also have the option of submitting electronic versions (along with two paper copies) of their applications to FAS on diskette.

The Internet-based application, including the step-by-step instructions for its use, is located at the following URL address: <http://www.fas.usda.gov/cooperators.html>. Applicants planning to use the Internet-based system must contact the Marketing Operations Staff of FAS at (202) 720-4327 to obtain site access information.

Applicants who choose to submit applications on diskette can download the UES handbook, including the suggested application format and instruction, from the following URL address <http://www.fas.usda.gov/mos/ues/unified.html>. A UES handbook may also be obtained by contacting the Marketing Operations Staff at (202) 720-4327.

All MAP applicants, whether or not utilizing the UES format or applying via the Internet or diskette, must also submit by the March 26, 1999, deadline, via hand delivery or U.S. mail, an original signed certification statement as specified in 7 CFR 1485.13(a)(2)(i)(G). The UES handbook contains an acceptable certification format. Incomplete applications and applications that do not otherwise conform to this announcement will not be accepted for review.

Any organization which is not interested in applying for the MAP but would like to request assistance through one of the other programs mentioned, should contact the Marketing Operations Staff at (202) 720-4327.

Review Process and Allocation Criteria

FAS allocates funds in a manner that effectively supports the strategic decision-making initiatives of the Government Performance and Results Act (GPRA) of 1993. In deciding whether a proposed project will contribute to the effective creation, expansion, or maintenance of foreign

markets, FAS seeks to identify a clear, long-term agricultural trade strategy by market or product and a program effectiveness time line against which results can be measured at specific intervals using quantifiable product or country goals. These performance indicators are part of FAS' resource allocation strategy to fund applicants which can demonstrate performance based on a long-term strategic plan, consistent with the strategic objectives of the United States Department of Agriculture, and address the performance measurement objectives of the GPRA.

Following is a description of the FAS process for reviewing applications and the criteria for allocating available MAP funds.

(1) Phase 1—Sufficiency Committee Review

Applications received by the closing date will be reviewed by FAS to determine the eligibility of the applicants and the completeness of the applications. These requirements appear at § 1485.12 and § 1485.13 of the MAP regulations.

(2) Phase 2—FAS Divisional Review

Applications which meet the application procedures will then be further evaluated by the applicable FAS Commodity Division. The Divisions will review each application against the criteria listed in § 1485.14 of the MAP regulations. The purpose of this review is to identify meritorious proposals and to recommend an appropriate funding level for each application based upon these criteria.

(3) Phase 3—Competitive Review

Meritorious applications will then be passed on to the office of the Deputy Administrator, Commodity and Marketing Programs, for the purpose of allocating available funds among the applicants. Applications which pass the Divisional Review will compete for funds on the basis of the following evaluation criteria (the number in parentheses represents a percentage weight factor):

(a) Applicant's Contribution Level (40)

- The applicant's 4-year average share (1996–99) of all contributions (cash and goods and services provided by U.S. entities in support of overseas marketing and promotion activities may be considered in the allocation process as part of the applicant's contribution and should be reported separately from the applicant's contributions) compared to

- The applicant's 4-year average share (1996–99) of the funding level for all MAP participants.

(b) Past Performance (30)

- The 3-year average share (1996–98) of the value of exports promoted by the applicant compared to

- The applicant's 2-year average share (1997–98) of the funding level for all MAP applicants plus, for those groups participating in the Cooperator program, the 2-year average share (1998–99) of Cooperator marketing plan budgets and the 2-year average share (1997–98) of foreign overhead provided for co-location within a U.S. agricultural office;

(c) Projected Export Goals (15)

- The total dollar value of projected exports promoted by the applicant for 1999 compared to

- The applicant's requested funding level;

(d) Accuracy of Past Projections (15)

- Actual exports for 1997 as reported in the 1999 MAP application compared to

- Past projections of exports for 1997 as specified in the 1997 MAP application.

The Commodity Divisions' recommended funding level for each applicant is converted to a percentage of the total MAP funds available and multiplied by the total weight factor as described above to determine the amount of funds allocated to each applicant.

Closing Date for Applications

All Internet-based applications must be properly submitted by 5:00 p.m. Eastern Standard Time, March 26, 1999. Signed certification statements also must be received by that time at one of the addresses listed below.

All applications on diskette (with two accompanying paper copies and a signed certification statement) and any other applications must be received by 5:00 p.m. Eastern Standard Time, March 26, 1999, at one of the following addresses:

Hand Delivery (including FedEx, DHL, etc.): U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, Room 4932–S, 14th and Independence Avenue, SW, Washington, DC 20250–1042.

U.S. Postal Delivery: Marketing Operations Staff, STOP 1042, 1400

Independence Ave., SW, Washington, DC 20250–1042.

Mary T. Chambliss,

Acting Administrator, Foreign Agricultural Service, and Acting Vice President, Commodity Credit Corporation.

[FR Doc. 99–2255 Filed 1–29–99; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

RIN 0551–AA26

Announcement of the Foreign Market Development Cooperator Program for Fiscal Year 2000

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the availability of funds for the Fiscal Year 2000 Foreign Market Development Cooperator (Cooperator) Program.

DATES: All applications must be received by 5:00 p.m. Eastern Standard Time, March 26, 1999.

FOR FURTHER INFORMATION CONTACT: Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, STOP 1042, 1400 Independence Ave., SW, Washington, DC 20250–1042, (202) 720–4327.

SUPPLEMENTARY INFORMATION:

Introduction

The Foreign Agricultural Service (FAS) announces that applications are being accepted for participation in the Fiscal Year 2000 Cooperator program. The program is intended to create, expand, and maintain foreign markets for United States agricultural commodities and products. FAS administers the Cooperator program and provides cost share assistance to eligible trade organizations to implement approved market development activities. Financial assistance under this program will be made available on a competitive basis and applications will be reviewed against the evaluation criteria contained herein.

Background

Under the Cooperator program, FAS enters into Market Development Project Agreements with nonprofit U.S. trade organizations. FAS enters into these agreements with nonprofit U.S. trade organizations that have the broadest possible producer representation of the commodity being promoted and gives priority to those organizations that are nationwide in membership and scope. Program participants may not, during

the term of their agreements with FAS, make export sales of agricultural commodities being promoted or charge fees for facilitating export sales if promotional activities designed to result in such sales are supported by Cooperator program funds.

Market Development project Agreements involve the promotion of agricultural commodities on a generic basis and, therefore, do not involve activities targeted directly toward individual consumers. Approved activities contribute to the maintenance or growth of demand for the agricultural commodities and generally address long-term foreign import constraints by focusing on matters such as:

- Reducing infra-structural or historical market impediments;
- Improving processing capabilities;
- Modifying codes and standards; and
- Identifying new markets or new applications or uses for agricultural commodities or products in foreign markets.

Authority

The Cooperator program is authorized by Title VII of the Agricultural Trade Act of 1978, 7 U.S.C. 5721, et seq. Program regulations appear at 7 CFR part 1550.

Application Process

To be considered, an applicant must submit to FAS information related to the allocation criteria considered by FAS as described in this notice. The FAS administers various agricultural export assistance programs, including the Cooperator Program, the Market Access Program (MAP), Cochran Fellowships, the Emerging Markets Program, section 108, Pub. L. 480 and several Export Credit Guarantee programs. Organizations which are interested in applying for Cooperator program funds are encouraged to submit their requests using the Unified Export Strategy (UES) format. This allows interested entities to submit a consolidated and strategically coordinated single proposal that incorporates requests for funding and recommendations for virtually all FAS marketing programs, financial assistance programs, and market access programs. The suggested UES format encourages applicants to examine the constraints or barriers to trade they face, identify activities which would help overcome such impediments, consider the entire pool of complementary marketing tools and program resources, and establish realistic export goals. Applicants are not required, however, to use the UES format.

Organizations can submit applications in the UES format by two methods. The

first allows an applicant to submit information directly to FAS through data entry screens at a specially designed UES application Internet site. FAS highly recommends applying via the Internet, as this format virtually eliminates paperwork and expedites the FAS processing and review cycle. Also, by using the Internet, applicants currently participating in the 1999 Cooperator program will not need to enter certain historical information as it will appear automatically in the data entry screens. Applicants also have the option of submitting electronic versions (along with two paper copies) of their applications to FAS on diskette.

The Internet-based application, including the step-by-step instructions for its use, is located at the following URL address: <http://www.fas.usda.gov/cooperators.html>. Applicants planning to use the Internet-based system must contact the Marketing Operations Staff of FAS at (202) 720-4327 to obtain site access information.

Applicants who choose to submit applications on diskette can download the UES handbook, including the suggested application format and instructions, from the following URL address: <http://www.fas.usda.gov/mos/ues/unified.html>. A UES handbook may also be obtained by contacting the Marketing Operations Staff at (202) 720-4327. Incomplete applications and applications that do not otherwise conform to this announcement will not be accepted for review.

Any organization which is not interested in applying for the Cooperator program but would like to request assistance through one of the other programs mentioned, should contact the Marketing Operations Staff at (202) 720-4327.

Review Process and Allocation Criteria

FAS allocates funds in a manner that effectively supports the strategic decision-making initiatives of the Government Performance and Results Act (GPRA) of 1993. In deciding whether a proposed project will contribute to the effective creation, expansion, or maintenance of foreign markets, FAS seeks to identify a clear, long-term agricultural trade strategy by market or product and a program effectiveness time line against which results can be measured at specific intervals using quantifiable product or country goals. These performance indicators are part of FAS resource allocation strategy to fund applicants which can demonstrate performance based on a long-term strategic plan, consistent with the strategic objectives of the United States Department of

Agriculture, and address the performance measurement objectives of the GPRA.

FAS considers a number of factors when reviewing proposed projects. These factors include:

- The ability of the organization to provide an experienced U.S.-based staff with technical and international trade expertise to ensure adequate development, supervision, and execution of the proposed project;
- The organization's willingness to contribute resources, including cash and goods and services of the U.S. industry and foreign third parties;
- The conditions or constraints affecting the level of U.S. exports and market share for the agricultural commodities and products;
- The degree to which the proposed project is likely to contribute to the creation, expansion, or maintenance of foreign markets; and
- The degree to which the strategic plan is coordinated with other private or U.S. government-funded market development projects.

Following is a description of the FAS process for reviewing applications and the criteria for allocating available Cooperator program funds.

(1) Phase 1—Sufficiency Committee Review

Applications received by the closing date will be reviewed by FAS to determine the eligibility of the applicants and the completeness of the applications.

(2) Phase 2—FAS Divisional Review

Applications which meet the application procedures will then be further evaluated by the applicable FAS Commodity Division. The Divisions will review each application against the factors described above. The purpose of this review is to identify meritorious proposals and to recommend an appropriate funding level for each application based upon these factors.

(3) Phase 3—Competitive Review

Meritorious applications will then be passed on to the office of the Deputy Administrator, Commodity and Marketing Programs, for the purpose of allocating available funds among the applicants. Applications which pass the Divisional Review will compete for funds on the basis of the following allocation criteria (the number in parentheses represents a percentage weight factor). Data used in the calculations for contribution levels, past export performance and past demand expansion performance will cover not

more than a 6-year period, to the extent such data is available.

(a) Contribution Level (40)

- The applicant's 6-year average share (1995–2000) of all contributions (contributions may include cash and goods and services provided by U.S. entities in support of foreign market development activities) compared to
- The applicant's 6-year average share (1995–2000) of all Cooperator marketing plan budgets.

(b) Past Export Performance (20)

- The 6-year average share (1994–99) of the value of exports promoted by the applicant compared to
- The applicant's 6-year average share (1994–99) of all Cooperator marketing plan budgets plus a 6-year average share (1993–98) of MAP program ceiling levels and a 6-year average share (1993–98) of foreign overhead provided for co-location within a U.S. agricultural trade office.

(c) Past Demand Expansion Performance (20)

- The 6-year average share (1994–99) of the total value of world trade of the commodities promoted by the applicant compared to
- The applicant's 6-year average share (1994–99) of all Cooperator marketing plan budgets plus a 6-year average share (1993–98) of MAP program ceiling levels and a 6-year average share (1993–98) of foreign overhead provided for co-location within a U.S. agricultural trade office.

(d) Future Demand Expansion Goals (10)

- The total dollar value of the applicant's projected increase in world trade of the commodities being promoted by the applicant for the year 2005 compared to
- The applicant's requested funding level.

(e) Accuracy of Past Demand Expansion Projections (10)

- The actual dollar value share of world trade of the commodities being promoted by the applicant for the year 1998 compared to
- The applicant's past projected share of world trade of the commodities being promoted by the applicant for the year 1998, as specified in the 1998 Cooperator program application.

The Commodity Divisions' recommended funding level for each applicant is converted to a percentage of the total Cooperator program funds available and multiplied by the total weight factor to determine the amount of funds allocated to each applicant.

Closing Date for Applications

All Internet-based applications must be properly submitted by 5:00 p.m. Eastern Standard Time, March 26, 1999. Signed certification statements also must be received by that time at one of the addresses listed below.

All applications on diskette (with two accompanying paper copies and a signed certification statement) and any other applications must be received by 5:00 p.m. Eastern Standard Time, March 26, 1999, at one of the following addresses:

Hand Delivery (including FedEx, DHL, etc.): U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, Room 4932–S, 14th and Independence Avenue, SW, Washington, DC 20250–1042.

U.S. Postal Delivery: Marketing Operations Staff, STOP 1042, 1400 Independence Ave., SW, Washington, DC 20250–1042.

Mary T. Chambliss,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 99–2254 Filed 1–29–99; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Forest Service

Deadman Creek Timber Sales, Colville National Forest, Ferry County, Washington

AGENCY: Forest Service, USDA.

ACTION: Revised notice of intent to prepare an environmental impact statement.

SUMMARY: On November 12, 1996, the Forest Service, USDA, published a Notice of Intent (NOI) in the **Federal Register** (61 FR 58029–30). The notice stated that the proposed action was to harvest and regenerate timber for twenty million board feet on one or more timber sales and to construct and reconstruct roads in the Deadman Creek area. The sales were to be implemented in fiscal year 1999.

This revised NOI changes the name of this project to "Deadman Creek Ecosystem Management Projects" with the proposed action changed to implement ecosystem management projects using timber sales, prescribed fire, as well as road construction, reconstruction, and road closure.

The revised proposed action includes timber harvest and subsequent post harvest activities on approximately 4,254 acres with 16.8 miles of new road construction and 13.9 miles of road

reconstruction. The initial timber harvest portion of the project is now proposed to sell in fiscal year 2000. Burning treatments would occur over a seven year window starting in calendar year 2002.

The draft environmental impact statement (DEIS) will be tiered to the Forest Land and Resource Management Plan as amended by Regional Forester's Forest Plan Amendments for Eastside Forests, dated May 24, 1994, and June 12, 1995. The revised date of filing the Draft EIS is April 1999 and the revised filing of the Final EIS is planned in August 1999.

DATES: Comments concerning the scope of the revised analysis should be received in writing by April 1, 1999.

ADDRESSES: Send written comments and suggestions concerning the proposed project to Meredith Webster, District Ranger, Kettle Falls Ranger District, 255 W. 11th St., Kettle Falls, WA 99141.

FOR FURTHER INFORMATION CONTACT:

Questions should be directed to Meredith Webster, District Ranger, Dan Len, Planning Assistant, or Mike Picard, Project Planner, at Kettle Falls Ranger District, 255 W. 11th St., Kettle Falls, WA 99141, or call 509–738–6111.

Dated: January 20, 1999.

George T. Buckingham,

Acting Forest Supervisor, Colville National Forest.

[FR Doc. 99–2265 Filed 1–29–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Annual Capital Expenditures Survey.

Form Number(s): ACE–1, ACE–1(S), ACE–1(I), ACE–2, ACE–2(I), ACE–2(B), ACE–2(B)(I).

Agency Approval Number: 0607–0782.

Type of Request: Revision of a currently approved collection.

Burden: 114,000 hours.

Number of Respondents: 53,000.

Avg Hours Per Response: 2 hours and 9 minutes.

Needs and Uses: The Census Bureau plans the continuing information collection for the 1998 Annual Capital Expenditures Survey (ACES). The

annual survey collects data on fixed assets and depreciation, sales and receipts, and capital expenditures for new and used structures and equipment. The ACES is the sole source of detailed comprehensive statistics on actual business spending by domestic, private, nonfarm businesses operating in the United States. Business spending data are used to evaluate the quality of estimates of gross domestic product, develop monetary policy, analyze business asset depreciation, and improve estimates of capital stock for productivity analysis. Industry analysts use these data for market analysis, economic forecasting, identifying business opportunities, product development, and business planning.

The major changes from the previous ACES is the collection of detailed capital expenditures by type of structure and type of equipment for the 1998 ACES from employer companies and the collection of information from a sample of potential new (birth) single-establishment businesses concerning their business expenditures. Beginning with the 1998 ACES, type of structures and type of equipment data will be collected together once every five years. These data are critical to evaluate the comprehensiveness of capital expenditures statistics collected in years for which type of structures and equipment detail are not collected. The detailed structures data will provide a 5-year benchmark for estimates of new construction put in place. The detailed equipment data will provide a periodic measure of expenditures by type of equipment and assist in evaluating estimates of Producer's Durable Equipment in nonresidential fixed investment.

We plan to collect business investment information from a sample of 7,000 potential new single-establishment businesses in order to determine the chronology of events that relate to the start-up of businesses with employees. This research is extremely important because we believe businesses make capital expenditures before hiring employees or paying payroll taxes, and these expenditures may not be fully reflected in the ACES estimates. This research will allow us to estimate the amount (if any) of capital expenditures not currently captured in the ACES.

Affected Public: Businesses or other for-profit organizations, Not-for-profit institutions.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 USC, Sections 182, 224, and 225.

OMB Desk Officer: Nancy Kirkendall, (202) 395-7313.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482-3272, Department of Commerce, room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Nancy Kirkendall, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: January 25, 1999.

Linda Engelmeier,

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

[FR Doc. 99-2330 Filed 1-29-99; 8:45 am]

BILLING CODE 3510-07-P

DEPARTMENT OF COMMERCE

Economics and Statistics Administration

Secretary's 2000 Census Advisory Committee

AGENCY: Economics and Statistics Administration, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Public Law 92-463, as amended by Pub. L. 94-409, Pub. L. 96-523, and Pub. L. 97-375), we are giving notice of a meeting of the Commerce Secretary's 2000 Census Advisory Committee. The Committee will discuss with the Secretary of Commerce its recommendations for Census 2000 based on its review and evaluation of Dress Rehearsal plans and operations. Last minute changes to the schedule are possible, and they could prevent us from giving advance notice.

DATES: On Friday, February 19, 1999, the meeting will begin at 9 a.m. and adjourn at approximately 2 p.m.

ADDRESSES: The meeting will take place at the Embassy Suites Hotel, 1900 Diagonal Road, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Maxine Anderson-Brown, Committee Liaison Officer, Department of Commerce, Bureau of the Census, Room 1647, Federal Building 3, Washington, DC 20233; telephone 301-457-2308, TDD 301-457-2540.

SUPPLEMENTARY INFORMATION: The Committee is composed of a Chair, Vice-Chair, and up to 35 member organizations, all appointed by the

Secretary of Commerce. The Committee will consider the goals of Census 2000 and user needs for information provided by that census. The Committee will provide an outside user perspective about how operational planning and implementation methods proposed for Census 2000 will realize those goals and satisfy those needs. The Committee shall consider all aspects of the conduct of the 2000 Census of Population and Housing and shall make recommendations for improving that census.

A brief period will be set aside at the meeting for public comment. However, individuals with extensive statements for the record must submit them in writing to the Commerce Department official named above at least three working days prior to the meeting. Seating is available to the public on a first-come, first-served basis.

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Census Bureau Committee Liaison Officer on 301-457-2308, TDD 301-457-2540.

Dated: January 26, 1999.

Robert J. Shapiro,

Under Secretary for Economic Affairs, Economics and Statistics Administration.

[FR Doc. 99-2331 Filed 1-29-99; 8:45 am]

BILLING CODE 3510-07-M

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (Sunset) Reviews

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

ACTION: Notice of Initiation of Five-Year ("Sunset") Reviews.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the Department of Commerce ("the Department") is automatically initiating five-year ("sunset") reviews of the antidumping and countervailing duty orders listed below. The International Trade Commission ("the Commission") is publishing concurrently with this notice its notices of *Institution of Five-Year Reviews* covering these same orders.

FOR FURTHER INFORMATION CONTACT: Melissa G. Skinner, Scott E. Smith, or Martha V. Douthit, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, at (202) 482-1560, (202)

482-6397 or (202) 482-3207, respectively, or Vera Libeau, Office of Investigations, U.S. International Trade Commission, at (202) 205-3176.

SUPPLEMENTARY INFORMATION:

Initiation of Reviews

In accordance with 19 CFR 351.218 (see *Procedures for Conducting Five-year ("Sunset") Reviews of*

Antidumping and Countervailing Duty Orders, 63 FR 13516 (March 20, 1998)), we are initiating sunset reviews of the following antidumping and countervailing duty orders:

DOC Case No.	ITC Case No.	Country	Product
A-570-506	A-298	China, PR	Porcelain-on-steel cooking ware.
A-201-504	A-297	Mexico	Porcelain-on-steel cooking ware.
A-583-508	A-299	Taiwan	Porcelain-on-steel cooking ware.
C-201-505	C-265	Mexico	Porcelain-on-steel cooking ware.
A-580-601	A-304	South Korea	Top-of-the-stove stainless steel cooking ware.
C-580-602	C-267	South Korea	Top-of-the-stove stainless steel cooking ware.
C-583-604	C-268	Taiwan	Top-of-the-stove stainless steel cooking ware.
A-583-603	A-305	Taiwan	Top-of-the-stove stainless steel cooking ware.
C-421-601	C-278	Netherlands	Standard chrysanthemums.
A-301-602	A-329	Colombia	Fresh cut flowers.
A-331-602	A-331	Ecuador	Fresh cut flowers.
C-337-601	C-276	Chile	Standard carnations.
A-337-602	A-328	Chile	Standard carnations.
A-779-602	A-332	Kenya	Standard carnations.
A-201-601	A-333	Mexico	Fresh cut flowers.
C-333-601	C3-18	Peru	Pompon chrysanthemums.
C-351-604	C-269	Brazil	Brass sheet & strip.
A-351-603	A-311	Brazil	Brass sheet & strip.
A-122-601	A-312	Canada	Brass sheet & strip.
A-580-603	A-315	South Korea	Brass sheet & strip.
C-427-603	C-270	France	Brass sheet & strip.
A-427-602	A-313	France	Brass sheet & strip.
A-428-602	A-317	Germany	Brass sheet & strip.
A-475-601	A-314	Italy	Brass sheet & strip.
A-401-601	A-316	Sweden	Brass sheet & strip.
A-588-704	A-379	Japan	Brass sheet & strip.
A-421-701	A-380	Netherlands	Brass sheet & strip.

Statute and Regulations

Pursuant to sections 751(c) and 752 of the Act, an antidumping ("AD") or countervailing duty ("CVD") order will be revoked, or the suspended investigation will be terminated, unless revocation or termination would be likely to lead to continuation or recurrence of (1) dumping or a countervailable subsidy, and (2) material injury to the domestic industry.

The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) ("*Sunset Regulations*"). Guidance on methodological or analytical issues relevant to the Department's conduct of

sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*; Policy Bulletin, 63 FR 18871 (April 16, 1998) ("*Sunset Policy Bulletin*").

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the *Sunset Regulations* and *Sunset Policy Bulletin*, the Department's schedule of sunset reviews, case history information (e.g., previous margins, duty absorption determinations, scope language, import volumes), and service lists, available to the public on the Department's sunset

internet website at the following address: http://www.ita.doc.gov/import_admin/records/sunset/. All submissions in the sunset review must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303 (1998). Also, we suggest that parties check the Department's sunset website for any updates to the service list before filing any submissions. We ask that parties notify the Department in writing of any additions or corrections to the list. We also would appreciate written notification if you no longer represent a party on the service list.

Because deadlines in a sunset review are, in many instances, very short, we

urge interested parties to apply for access to proprietary information under administrative protective order ("APO") immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304-306 (see *Antidumping and Countervailing Duty Proceedings: Administrative Protective Order Procedures; Procedures for Imposing Sanctions for Violation of a Protective Order*, 63 FR 24391 (May 4, 1998)).

Information Required from Interested Parties

Domestic interested parties (defined in 19 CFR 351.102 (1998)) wishing to participate in the sunset review must respond not later than 15 days after the date of publication in the **Federal Register** of the notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth in the *Sunset Regulations* at 19 CFR 351.218(d)(1)(ii). In accordance with the *Sunset Regulations*, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.

If we receive a notice of intent to participate from a domestic interested party, the *Sunset Regulations* provide that *all parties* wishing to participate in the sunset review must file substantive responses not later than 30 days after the date of publication in the **Federal Register** of the notice of initiation. The required contents of a substantive response are set forth in the *Sunset Regulations* at 19 CFR 351.218(d)(3). Note that certain information requirements differ for foreign and domestic parties. Also, note that the Department's information requirements are distinct from the International Trade Commission's information requirements. Please consult the *Sunset Regulations* for information regarding the Department's conduct of sunset reviews.¹ Please consult the Department's regulations at 19 CFR part 351 (1998) for definitions of terms and for other general information concerning

antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: January 22, 1999.

Robert LaRussa,

Assistant Secretary for Import Administration
[FR Doc. 99-2350 Filed 1-29-99; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-806]

Silicon Metal From the People's Republic of China: Initiation of New Shipper Antidumping Administrative Review

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

ACTION: Notice of initiation of new shipper antidumping administrative review.

SUMMARY: The Department of Commerce (the Department) has received a request from Zunyi Titanium Plant (ZTP) to conduct a new shipper administrative review of the antidumping duty order on silicon metal from the People's Republic of China (PRC), which has a June anniversary date. In accordance with the Department's current regulations, we are initiating this administrative review.

EFFECTIVE DATE: February 1, 1999.

FOR FURTHER INFORMATION CONTACT:

Andrew Nulman or Maureen Flannery, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4052 or (202) 482-3020, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, codified at 19 CFR part 351, 62 FR 27296 (1998).

Background

On December 7, 1998, the Department received a timely request, in accordance

with section 751(a)(2)(B) of the Act, and section 351.214(c) of the Department's regulations, for a new shipper review of this antidumping duty order which has a June anniversary date.

Initiation of Review

In its December 7, 1998 request for review, ZTP certified that it did not export the subject merchandise to the United States during the period of investigation (POI), and that it is not affiliated with any company which exported subject merchandise to the United States during the POI. ZTP also certified that its export activities are not controlled by the central government of the PRC. Pursuant to the Department's regulations at 19 CFR 351.214(b)(2)(iv), ZTP submitted documentation establishing the date on which the merchandise was first entered for consumption in the United States, the volume of that shipment, and the date of first sale to an unaffiliated customer in the United States.

In accordance with section 751(a)(2)(B) and 19 CFR 351.214(d), we are initiating a new shipper review of the antidumping duty order on silicon metal from the PRC. We intend to issue the final results of this review no later than 270 days from the publication of this notice.

The standard period of review (POR) in a new shipper review initiated in the month immediately following the semiannual anniversary month is the six-month period immediately preceding the semiannual anniversary month. Therefore, the POR for this new shipper review is June 1, 1998 through November 30, 1998.

Concurrent with publication of this notice and in accordance with CFR 351.214(e), we will instruct the U.S. Customs Service to allow, at the option of the importer, the posting of a bond or security in lieu of a cash deposit for each entry of the merchandise exported by the company listed above, until the completion of the review.

Interested parties must submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.214.

Dated: January 25, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99-2347 Filed 1-29-99; 8:45 am]

BILLING CODE 3510-DS-P

¹ A number of parties commented that these interim-final regulations provided insufficient time for rebuttals to substantive responses to a notice of initiation (*Sunset Regulations*, 19 CFR 351.218(d)(4)). As provided in 19 CFR 351.302(b) (1998), the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

DEPARTMENT OF COMMERCE**International Trade Administration****Ames Laboratory, Et Al. Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments**

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 98-057. *Applicant:* Ames Laboratory, U.S. Department of Energy, Ames, IA 50011-3020.

Instrument: Auger Microprobe, Model JAMP-7800F. *Manufacturer:* JEOL Ltd., Japan.

Intended Use: See notice at 63 FR 65751, November 30, 1998.

Reasons: The foreign instrument provides highest energy resolution of 0.05% with 1.0 nm for secondary electrons and 35nm for Auger analysis. *Advice received from:* National Institute of Standards and Technology, January 13, 1999.

Docket Number: 98-063. *Applicant:* University of Maryland, College Park, MD 20742. *Instrument:* Electron Microprobe, Model JXA-8900R. *Manufacturer:* JEOL Ltd., Japan.

Intended Use: See notice at 63 FR 69264, December 16, 1998. *Reasons:* The foreign instrument provides characterization of elemental composition and structure in surfaces with resolution down to 1 μ m. *Advice received from:* National Institute of Standards and Technology, January 13, 1999.

The National Institute of Standards and Technology advises that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent

scientific value to either of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 99-2348 Filed 1-29-99; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE**International Trade Administration****Application for Duty-Free Entry of Scientific Instrument**

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether an instrument of equivalent scientific value, for the purposes for which the instrument shown below is intended to be used, is being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Application may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC.

Docket Number: 98-067. *Applicant:* Johns Hopkins University, 3400 N. Charles Street, Baltimore, MD 21218. *Instrument:* Electron Microscope, Model CM300. *Manufacturer:* Philips, The Netherlands. *Intended Use:* The instrument will be used in an electron microscopy laboratory that has been designed to benefit researchers in biomedical engineering, chemical engineering, chemistry, earth and planetary sciences, environmental engineering, materials science and engineering, mechanical engineering and physics. Examples of specific research projects which will be conducted include: (a) Processing and characterization of nanoscale materials, (b) dislocation of core structures in intermetallic alloys, (c) environmental chemistry, (d) development and characterization of rare-earth magnetostictive materials, (e) nanoscale observations of porous semiconductors, (f) identification of failure mechanisms in materials with applications to manufacturing processes and (g) investigations in crystal chemistry and geochemistry. In addition, the instrument will be used to supplement and expand course offerings on electron microscopy, especially analytical based electron microscopy. Application

accepted by Commissioner of Customs: January 4, 1999.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 99-2349 Filed 1-29-99; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE**International Trade Administration****Export Trade Certificate of Review**

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs ("OETCA"), International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT:

Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five copies, plus two copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export

Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1104H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the certificate. Comments should refer to this application as "Export Trade Certificate of Review, application number 99-00001." A summary of the application follows:

Summary of the Application

Applicant: C-Shore International, 1102 Brand Blvd, Suite 63, Glendale, California 91202.

Contact: Jacques Issac, Owner/Export Manager.

Telephone: (818) 909-4654.

Application No.: 99-00001.

Date Deemed Submitted: January 20, 1999.

Members (in addition to applicant): None.

C-Shore International, an Export Intermediary, seeks a Certificate to cover the following specific Export Trade, Export Markets, and Export Trade Activities and Methods of Operations.

Export Trade

1. Products

All products.

2. Services

All services.

3. Technology Rights

Technology Rights, including, but not limited to, patents, trademarks, copyrights and trade secrets that relate to Products and Services.

4. Export Trade Facilitation Services (as They Relate to the Export of Products, Services and Technology Rights)

Export Trade Facilitation Services, including, but not limited to: professional services in the areas of government relations and assistance with state and federal export programs; foreign trade and business protocol; consulting; market research and analysis; collection of information on trade opportunities; marketing; negotiations; joint ventures; shipping and export management; export licensing; advertising; documentation and services related to compliance with customs requirements; insurance and financing; bonding; warehousing; export trade promotion; trade show exhibitions; organizational development; management and labor strategies; transfer of technology;

transportation; and facilitating the formation of shippers' associations.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

C-Shore International may:

1. Provide and/or arrange for the provision of Export Trade Facilitation Services;
2. Engage in promotion and marketing activities and collect and distribute information on trade opportunities in the Export Markets;
3. Enter into exclusive and/or non-exclusive agreements with distributors, foreign buyers, and/or sales representatives in Export Markets;
4. Enter into exclusive or non-exclusive licensing, and/or sales agreements with Suppliers, Export Intermediaries, or other persons for the transfer of title to Products, Services, and/or Technology Rights in Export Markets;
5. Allocate export orders among suppliers;
6. Allocate the sales, export orders and/or divide Export Markets, among Suppliers, Export Intermediaries, or other persons for the sale, licensing and/or transfer of title to Products, Services, and/or Technology Rights;
7. Establish the price of Products, Services, and/or Technology Rights for sale and/or licensing in Export Markets; and
8. Negotiate, enter into, and/or manage licensing agreements for the export of Technology Rights.

Definitions

1. *Export Intermediary* means a person who acts as a distributor, sales representative, sales or marketing agent, or broker, or who performs similar functions, including providing or arranging for the provision of Export Trade Facilitation Services.

2. *Supplier* means a person who produces, provides, or sells a Product and/or Service.

Dated: January 26, 1999.

Morton Schnabel,

Director, Office of Export Trading Company Affairs.

[FR Doc. 99-2258 Filed 1-29-99; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 981228327-8327-01]

Proposed Voluntary Product Standard DOC PS 20-99 "American Softwood Lumber Standard"

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice.

SUMMARY: This is to advise the public that the National Institute of Standards and Technology (NIST) is distributing a proposed revision of Voluntary Product Standard DOC PS 20-94 "American Softwood Lumber Standard," for review and comment. DOC PS 20-94 serves the procurement and regulatory needs of numerous federal, state, and local government agencies by providing for uniform, industry-wide grade-marking and inspection requirements for softwood lumber. The proposed revision, DOC PS 20-99 "American Softwood Lumber Standard," has been developed and is being processed in accordance with the provisions of the "Procedures for the Development of Voluntary Product Standards" of the Department of Commerce (15 CFR Part 10; as amended; published June 20, 1986).

DATES: Written comments regarding the proposed revision, DOC PS 20-99, should be submitted to the Technical Standards Activities Program, NIST, by no later than April 19, 1999.

ADDRESSES: Requests for copies of the proposed revision, DOC PS 20-99, and written comments on the proposed revision should be submitted to the Technical Standards Activities Program, NIST, 100 Bureau Drive Stop 2150, Gaithersburg, MD 20899-2150. The text of the proposed revision, DOC PS 20-99 (including a copy of DOC PS 20-94 that has been marked up to show proposed changes to the standard), may be viewed on the World Wide Web (as an Adobe Acrobat File) by clicking onto the "DOC Voluntary Product Standards Program" at the web site: <http://ts.nist.gov/tsap>.

FOR FURTHER INFORMATION CONTACT: Barbara M. Meigs, Technical Standards Activities Program, National Institute of Standards and Technology, telephone: 301-975-4025; fax: 301-926-1559, e-mail: barbara.meigs@nist.gov.

SUPPLEMENTARY INFORMATION: The proposed revision, DOC PS 20-99 "American Softwood Lumber Standard," was developed by the American Lumber Standard Committee, the Standing Committee for DOC PS 20-

94. The Committee has responsibility for maintaining and interpreting the standard and is composed of representatives of producers, distributors, consumers, and others with an interest in the standard.

DOC PS 20-94 established standard sizes and requirements for developing and coordinating the lumber grades of the various species of softwood lumber, the assignment of design values, and the preparation of grading rules applicable to each species. Its provisions include implementation of the Standard through an accreditation and certification program; establishment of principal trade classifications and lumber sizes for yard, structural, factory/shop use; classification, measurement, grading and grade-marking of lumber; definitions of terms and procedures to provide a basis for the use of uniform methods in the grading inspection, measurement and description of softwood lumber; commercial names of the principal softwood species; definitions of terms used in describing standard grades of lumber; and commonly used industry abbreviations. The Standard also includes the organization and functions of the American Lumber Standard Committee, the Board of Review, and the National Grading Rule Committee.

The Standing Committee met on November 6, 1998, to discuss and vote upon the draft revision of DOC PS 20-94. The draft had been developed by an ALSC Task Group after considering comments received from Committee members and other interested parties who responded to NIST's announcement of March 30, 1998, in the *NIST Update*. In that announcement, NIST indicated that as part of the Department's 5-year review, mandated by the DOC procedures, it was seeking comments regarding DOC PS 20-94 to determine its technical adequacy, the level of acceptability the standard has among the various segments of the softwood lumber industry, the standard's compatibility with existing law and established public policy, and the benefits that would be derived from PS 20-94 versus any alternatives. Following a period of discussion of the draft and the comments that had been received from the public and members of the Committee, all members present at the meeting unanimously approved the draft, with minor changes, and recommended that the proposed revision, DOC PS 20-99, be submitted to NIST to be processed to supersede DOC PS 20-94.

Among the changes to DOC PS 20-94 and incorporated in the proposed revision are the following: metric units

are shown first followed by conventional units, language regarding remanufactured lumber is added to the text, standards referenced in DOC PS 20-94 are replaced by current editions of those standards, commercial names of additional principal softwood species are listed in Appendix A, and some definitions of terms used in describing standard grades of lumber are clarified in Appendix B. The basic sizes, technical requirements for softwood lumber, and administrative structure for implementing and enforcing the Standard have been retained.

Authority: 15 U.S.C. 272.

Dated: January 26, 1999.

Robert E. Hebner,

Acting Deputy Director.

[FR Doc. 99-2354 Filed 1-29-99; 8:45 am]

BILLING CODE 3510-13-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Futures Contracts in Corn and Soybeans; Order Approving Proposed Rules and Amending Orders of May 7, 1998, and November 7, 1997

AGENCY: Commodity Futures Trading Commission.

ACTION: Final order to the Chicago Board of Trade.

SUMMARY: The Commodity Futures Trading Commission (Commission), on January 25, 1999, issued an Order to the Board of Trade of the City of Chicago (CBT) under sections 5a(a)(12) and 5a(a)(10) of the Commodity Exchange Act (Act), 7 U.S.C. 7a(a)(12) and (10), approving amendments to the CBT's corn and soybean futures contracts and amending the Commission's Orders under section 5a(a)(10) of the Act of November 7, 1997, and May 7, 1998, to effectuate the approved rule amendments.

On January 25, 1999, the Commission approved for the CBT corn and soybean futures contracts, beginning on January 3, 2000: (1) Deletion of provisions relating to in-loading of the commodities at regular warehouses; (2) rules extending a preference for load-out by regular warehouse or shipping station operators of deliveries on futures contracts over their cash commitments until meeting their daily load-out requirement that is currently in effect for delivery by barge to other modes of transportation; and (3) rules requiring regular shipping stations, at a minimum, to load at the highest loading rate applicable for the commodities in a

loading line-up which includes both wheat and corn or soybeans or both oats and corn or soybeans. The Commission, by its Order, amended its Orders of November 7, 1997, and May 7, 1998, to effectuate the above approvals relating to the CBT corn and soybean futures contracts.

The Commission has determined that publication of this Order is in the public interest, will provide the public with notice of its action, and is consistent with the purposes of the Act.

DATES: This Order became effective on January 25, 1999.

ADDRESSES: Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: John Mielke, Acting Director, or Paul Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581, (202) 418-5260, or electronically, Mr. Architzel at PArchitzel@cftc.gov.

SUPPLEMENTARY INFORMATION: The Commission, on January 25, 1999, issued an Order to the CBT approving amendments to the CBT's corn and soybean futures contracts under sections 5a(a)(12) and 5a(a)(10) of the Act and amending the Commission's Orders under section 5a(a)(10) of the Act of November 7, 1997, and May 7, 1998, to effectuate the approved rule amendments.

The text of the Commission's Order is as follows:

In the Matter of the Amendment: of the Terms and Conditions of the Chicago Board of Trade Corn and Soybean Futures Contracts.

Order of the Commodity Futures Trading Commission Approving Proposed Amendments to the Board of Trade of the City of Chicago Corn and Soybean Futures Contracts and Amending Commission Orders of May 7, 1998, and November 7, 1997.

The Commodity Futures Trading Commission (Commission) hereby approves under sections 5a(a)(12) and 5a(a)(10) of the Commodity Exchange Act (Act), 7 U.S.C. 7a(a)(12) and (10), amendments to the Board of Trade of the City of Chicago's (CBT) corn and soybean futures contracts submitted by the CBT for Commission approval on October 22, 1998, and January 20, 1999, and amends the Commission's Orders of May 7, 1998, and November 7, 1997, under section 5a(a)(10) of the Act, making all changes necessary effect the above approval. Specifically, the Commission approves for the CBT corn and soybean futures contracts, beginning on January 3, 2000:

(1) Deletion of provisions relating to in-loading of the commodities at regular Chicago shipping stations;

(2) Rules extending a preference for load-out by regular shipping station operators of commodity for futures delivery over their cash commitments until meeting their daily load-out requirement that is currently in effect for Chicago delivery by barge to delivery by other modes of transportation; and,

(3) Rules requiring shipping stations, at a minimum, to load at the highest loading rate applicable for the commodities in a loading line-up which includes both wheat and corn or soybeans or both oats and corn or soybeans.

I. Background

The CBT corn and soybean futures contracts were the subject of a notification and proceeding under section 5a(a)(10) of the Act. Under that proceeding, the Commission on November 7, 1997, issued an Order to the CBT amending the CBT's corn and soybean futures contracts, 62 FR 60831 (November 13, 1997) (section 5a(a)(10) Order), and on May 7, 1998, the Commission issued a second, amending Order designating new CBT corn and soybean futures contracts with revised contract terms. 63 FR 26575 (May 13, 1998) (Amending Order) (together, "section 5a(a)(10) Orders").

The CBT on October 21, 1998, and January 20, 1999, submitted to the Commission for its review proposed amendments to its corn and soybean futures contracts. The Commission on November 25, 1998, requested public comment on the exchange rule amendments. 63 FR 65175. The Commission's request for public comment noted that, to the extent these proposed rule amendments differ from the provisions of the Commission's Order of May 7, 1998, the CBT's requested approval also constituted a request to the Commission to amend its Order and that the request for comment also constituted notice of the proposed amendment of the Commission's Order consistent with the proposed rule amendments.¹ *Id.* at 65176. It also raised a number of specific issues for response, including whether the proposed load-out preference was consistent with cash market practice and, if not, to what extent the proposal would limit deliverable supplies on the contracts. The Commission also requested

comment on the likely effect on deliverable supplies which might result from the increasing concentration of control over delivery facilities.² 63 FR 65175, 65177 (November 25, 1998).

II. The CBT Proposal

The CBT is proposing to amend its corn and soybean futures contracts by requiring Chicago shipping station operators to give preference to orders for vessel or rail load-out of corn or soybeans for futures delivery over their cash commitments until shipping stations operators meet their daily load-out requirement. CBT rules already extend such a preference to receivers of corn and soybeans for delivery by barge. In addition, the CBT is proposing to require that the regular shipper not give preference to one commodity over another in making delivery and that, when different commodities are to be loaded out, the applicable load-out rate is the higher of the two. Finally, the CBT is proposing to delete provisions relating to the in-loading of corn and soybeans at the Chicago delivery location.

III. Standard of Review

The Commission has reviewed the CBT proposals to determine whether they would impermissibly reduce the level of deliverable supplies provided for by the Commission's section 5a(a)(10) Orders or would violate any other provision of the Act or Commission rules or policies.

IV. Proposed Amendment of Loading Rules

Under the current delivery procedures for the corn and soybean futures contracts, shipping certificate holders for delivery at the Chicago delivery location may require load-out from regular elevators into vessels, rail cars or barges on a first-come first-served basis. Regular warehouse operators must load the commodity at least at specified daily rates, which differ depending upon the mode of transportation provided by the shipping certificate holder. However, takers of futures delivery by barge are provided a preference over the shipping station operator's cash commitments until the shipping station/warehouse has met its daily load-out requirements.³ *See*, section 5a(a)(10) Order, 62 FR 60850.

² Five commenters—the CBT, a flour miller, two grain merchants and an association—responded. However, none of the commenters specifically addressed issues related to the corn and soybean futures markets. Instead their comments were addressed to associated rules applicable to the CBT wheat and oats futures contracts.

³ Similarly, regular warehouse/shipping station operators at the Chicago delivery point currently are

The CBT is proposing to amend these provisions by providing all takers of futures deliveries in Chicago a preference over the shipping station's cash loading commitments until the shipping station has met its daily load-out requirements. The CBT's proposed preferential load-out requirements are contrary to cash market practice, where customers generally are accommodated on a first-come, first-served basis.

Nevertheless, the Commission approved such a preference in its section 5a(a)(10) Orders for barge load-out. In doing so, it noted that the effect of this departure from cash market practice on deliverable supplies was difficult to measure in advance and required the CBT to report to the Commission on experience with deliveries for a five year period. Whatever the preference's overall effect, in light of the diminished importance of Chicago as a delivery point, the effect of extending the preference to Chicago vessel and rail delivery takers likely will be minor. In any event, the CBT is required under the section 5a(a)(10) Orders to report on delivery experience. Such reports will provide better information on what effect, if any, extending the preference to Chicago vessel and rail delivery takers has on deliverable supplies.⁴

V. Concentration of Ownership of Delivery Facilities

Section 15 of the Act requires the Commission, when reviewing exchange rule proposals or amendments, to consider the public interest to be protected by the antitrust laws and to endeavor to take the least anti-competitive means of achieving the

required to in-load corn or soybeans consecutively without giving preference to products owned by the operator over the products of others and without giving preference to one depositor over another. The operator must in-load products into the warehouse/shipping station consecutively in the order in which they arrive at specified minimum daily rates pursuant to in-loading orders previously received, to the extent that the warehouse capacity for grain and grade permits. The CBT is proposing to delete these rules relating to in-loading for corn and soybeans.

⁴ Similarly, in light of Chicago's diminished importance as a delivery point, deletion of the in-loading requirement would have little impact on overall deliverable supplies on the corn or soybeans futures contracts.

The CBT also proposes a clarifying amendment that specifies that, if a lineup for loading out grain into barges from a particular regular warehouse/shipping station includes both wheat and corn or soybeans or both oats and corn or soybeans, then the minimum daily rate for loading shall be the highest of the applicable rates. According to trade sources, barge loading rates do not vary substantially among these commodities. Accordingly, the proposed amendments would not create any impediment to deliveries and are hereby approved by the Commission.

¹ The CBT also proposed amendments to its wheat and oats futures contracts in its October 22 and January 20 submissions. Those contracts are not subject to Commission section 5a(a)(10) Orders and are being reviewed separately for Commission approval under section 5a(a)(12) of the Act.

objectives of the Act. Guideline No. 1 requires exchanges to justify the contract's delivery specifications in light of the number and total capacity of facilities meeting contract requirements and the extent to which ownership and control of such facilities is dispersed or concentrated. 17 CFR part 5, Appendix A(a)(2)(C)(1) and (4). These proposed rule amendments do not raise particular issues under section 15.

However, on November 10, 1998, Cargill announced that it had signed an agreement to acquire Continental Grain Company's (Continental) commodity marketing business, including Continental's grain storage facilities in the United States. If this announced acquisition is consummated, Cargill potentially will own and operate both of the two delivery warehouse/shipping stations in the Chicago area and will take over one of the three delivery shipping stations in St. Louis. Under the agreement, Cargill also will acquire six barge loading facilities on the northern Illinois River and two facilities on the southern Illinois River. Cargill's ownership of potential delivery capacity on the new corn contract will increase from 13% to 34% and on the new soybean contract from 13% to 38%. This increased concentration potentially could raise significant issues under section 15 and could have a negative impact on the corn and soybean futures contracts.

The Cargill acquisition is under review by the United States Department of Justice. Until the Department of Justice acts to approve, disapprove or modify the terms of the acquisition, the acquisition will not be consummated. The Commission does not currently have sufficient information to determine its actual effect on the contract. The Commission will consider further this issue at such time as the acquisition occurs. However, in order to assist it in its analysis of this issue, the Commission directs the CBT carefully to monitor the 1999 corn and soybean futures contract expirations at all of its delivery locations to assess the impact of concentration of ownership or control of approved delivery facilities on the price convergence of the contracts. In addition, the CBT is directed to include such an analysis in its reports to the Commission on the revised corn and soybean futures contracts which are required under the section 5a(a)(10) Orders.

VI. Implementation

The CBT plans to apply the proposed amendments to the load-out provision to all corn and soybeans loaded out against shipping certificates delivered

on the corn and soybean futures contracts on and after January 3, 2000. The CBT also proposes to apply the amendments to all corn and soybean warehouse receipts that are outstanding on January 3, 2000.

In reviewing whether proposed amendments can be applied to the terms of existing contracts, the Commission considers the effect any such amendments may have on the value of existing positions. In this regard, the proposed amendments to the soybean and corn futures contracts are proposed to apply to shipping certificates delivered against futures positions in certain currently-listed contract months that expire after January 3, 2000, and to all corn and soybean warehouse receipts that are outstanding on that date. The Commission specifically requested public comment on what effect, if any, the proposed amendments would have on the value of existing positions. 63 FR 65175. None of the commenters addressed this issue.

As discussed above, the proposed loading provisions would require the warehouse/shipping station operator to standardize loading requirements in Chicago for all deliveries regardless of mode of transport presented or commodity. They would not have an impact on the value of existing positions, and the Commission therefore approves the CBT's implementation plan under section 5a(a)(12) of the Act.

For the reasons discussed above, the Commission finds that none of the rule amendments proposed by the CBT would have a discernable impact on the level of deliverable supplies provided under the Commission's section 5a(a)(10) Orders or otherwise would violate the Act or Commission rules or policies.

Based on this finding, the Commission hereby approves under sections 5a(a)(12) and 5a(a)(10) of the Act, 7 U.S.C. 7a(a)(12) and 7a(a)(10), amendments to the CBT's corn and soybean futures contracts as shown in attachment 1 to this Order and amends the Commission's Orders under section 5a(a)(10) of the Act of May 7, 1998, and November 7, 1997, making all changes necessary to effect the above approval.

Further, the Commission hereby directs the CBT carefully to monitor the 1999 corn and soybean futures contract expirations to assess the impact of concentration of ownership or control of approved delivery facilities on the price convergence of the contracts. In addition, the CBT is directed to include such an analysis in its reports to the Commission on the revised corn and soybean futures contracts which are

required under the section 5a(a)(10) Orders.

Dated: January 25, 1999.

By the Commission.

Jean A. Webb,

Secretary of the Commission.

Attachment 1.—Rules and Regulations Approved by the Commission for the Chicago Board of Trade's Corn and Soybean Futures Contracts

Corn

1009.00
1009.01
1049.03
1052.00
1052.00(d)
1052.00A
1081.00(11)
1081.01(12)A.
1081.01(12)B.
1081.01(12)C.
1081.01(12)E.
1081.01(12)H.
1085.01

Soybeans

1009.00
1049.03
1052.00
1052.00(d)
1052.00A
1081.00(11)
1081.01(12)A.
1081.01(12)B.
1081.01(12)C.
1081.01(12)E.
1081.01(12)H.
1085.01

Issued in Washington, DC, this 25th day of January, 1999, by the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99-2303 Filed 1-29-99; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Suspension of the Price Evaluation Adjustment for Small Disadvantaged Businesses

AGENCY: Department of Defense (DoD).

ACTION: Notice of 1-year suspension of the price evaluation adjustment for small disadvantaged businesses.

SUMMARY: The Director of Defense Procurement has suspended the use of the price evaluation adjustment for small disadvantaged businesses (SDBs) in DoD procurements as required by 10 U.S.C. 2323(e)(2), as amended by section 801 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, because DoD exceeded its 5 percent contract goal for awards to SDBs in fiscal year 1998. The suspension will be in effect for 1 year and will be reevaluated based on the

level of DoD contract awards to SDBs achieved in fiscal year 1999.

DATES: Effective Date: February 24, 1999.

Applicability Date: This suspension applies to all solicitations issued during the period from February 24, 1999, to February 23, 2000.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Schneider, PDUSD (A&T), Director of Defense Procurement, Defense Acquisition Regulations Council, 3060, Defense Pentagon, Washington, DC 20301-30962, telephone (703) 602-0131.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 10 U.S.C. 2323(e), DoD has previously granted SDBs a 10 percent price preference in certain acquisitions. This price preference was initially implemented in the Defense Federal Acquisition Regulation Supplement, Subpart 219.70. Beginning October 1, 1998, the price preference program was removed from the Defense Federal Acquisition Regulation Supplement and was implemented, in revised form, for all agencies subject to the Federal Acquisition Regulation in Subpart 19.11 of that regulation.

Section 801 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261) amended 10 U.S.C. 2323(e)(3) to prohibit DoD from granting such a price preference for a 1-year period following a fiscal year in which DoD achieved the 5 percent goal for contract awards established in 10 U.S.C. 2323(a). Since, in fiscal year 1998, DoD exceeded this 5 percent goal, use of this price preference in DoD acquisitions must be suspended for a 1-year period.

Michele P. Peterson,
Executive Editor, Defense Acquisition
Regulations Council.

[FR Doc. 99-2234 Filed 1-29-99; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF DEFENSE

Department of the Army

Proposed Implementation of the Defense Table of Official Distances (DTOD) in the DoD Freight Program

AGENCY: Military Traffic Management Command, DoD.

ACTION: Final notice (policy statement).

SUMMARY: The Department of Defense (DoD) has decided as a matter of procurement policy and internal agency procedure to change the distance calculation source for payment and audit under DoD freight program.

Beginning on the effective date set forth below, the DoD will use the DTOD for computing highway distances for freight shipments, hazardous material shipments, and overweight/overdimensional shipments. Carriers and providers participating in the DoD freight program must agree to be bound by the DTOD distance calculation for payment and audit purposes in all procurements using mileage-based rates. This policy decision is in furtherance of DoD's goal to use a single integrated, electronic distance calculation source for its travel entitlement, passenger traffic, personal property, and freight programs.

EFFECTIVE DATE: April 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Ed Dickerson (703) 681-6870 or Ms. Patty Maloney (703) 681-6586, Military Traffic Management Command, ATTN: MTTM-O, Room 108, 5611 Columbia Pike, Falls Church, VA 22041-5050.

SUPPLEMENTARY INFORMATION:

1. Background

In furtherance of DoD's goal of making its transportation programs, including travel entitlement, passenger traffic, personal property, and freight, more standard, economical and efficient, the DoD Comptroller tasked MTMC to find a commercially available, integrated, automated distance calculation source capable of supporting all DoD transportation and travel related requirements. After an extensive proof-of-concept and market analysis phase, MTMC contracted for delivery and installation of a commercial-off-the-shelf distance calculation system adaptable to DoD transportation and entitlement programs. The DTOD, commercially known as PC*MILER by ALK Associates, Inc., will become the DoD standard, automated source for surface vehicular distance information worldwide. A notice of proposed implementation of DTOD in the DoD freight transportation program was published in the **Federal Register**, vol. 63, no. 178, pages 49338-49339, Tuesday, September 15, 1998. In response to this notice, 14 comments were received; of which 10 were from freight carriers, three from carrier associations, and one from Rand McNally. The comments and responses are as follows:

Comment: ALK's PC*MILER is a cost-effective database and would benefit small businesses.

Response: MTMC is aware that DTOD's commercial counterpart, ALK's PC*MILER, is currently used successfully in the commercial sector by shippers and carriers of various sizes

and business objectives. MTMC believes that DTOD can be fully integrated with existing commercial transportation systems and can be used by DoD shippers and carriers with equal success.

Comment: The cost to purchase and maintain a separate distance calculation product for DoD shipments is too high.

Response: MTMC is aware of the economic impact implementation of DTOD may have on freight carriers, particularly small businesses. Therefore, MTMC did not mandate that carriers purchase and maintain DTOD in order to participate in the DoD freight program. Instead, MTMC only requires that participating carriers agree to be bound by DTOD mileage for payment and audit purposes. MTMC believes that carriers may choose to adapt to the DTOD implementation in a variety of ways, to include:

(1) Carriers not purchasing DTOD may rely on the payment process to identify the distance used for payment; (2) Carriers may subscribe to the DTOD-compliant commercial product (PC*MILER) through the Internet for an estimated \$375 per 500 lookups; (3) Carriers may purchase and install ALK's PC*MILER in a manner best suited to their own business strategies and computer operations; (4) Carriers may explore the possibility of acquiring hard copy versions of PC*MILER; (5) Carriers may rely on the comparison of variances between Rand McNally's Milemaker and ALK's PC*MILER distances for the 124 busiest traffic lanes. Copies of the comparison are available on request. Additionally, MTMC is exploring automated methods of annotating all GBL's to reflect the DTOD distance.

Comment: Serving the commercial market and participating in the DoD freight program will require carriers to purchase and maintain two different systems—one for DoD and another for commercial customers.

Response: MTMC does not require carriers to purchase PC*MILER and maintain two different distance systems. Carriers may continue to use the mileage software they are currently using. However, for DoD shipments, payment and audit will be based on the DTOD distance calculations. Carriers will have the options listed in the first comment or other options suited to each carrier's business strategy/business relationship and market situation.

Comment: DTOD is a DoD-unique product and not the commercial standard in the freight industry.

Response: DTOD is a commercial product and is, therefore, consistent with commercial business practices. DTOD is based on ALK's PC*MILER,

which is a commercial-off-the-shelf product modified to include DoD standards point of location codes (SPLC) and several locations within CONUS and overseas. Use of DTOD will move DoD closer to a single, automated, and widely used commercial standard for all its various transportation programs. DTOD and PC*MILER will be subject to the same version control process and will feature delivery systems compatible with current commercial usage for like products.

Comment: Carrier information systems use AS400 and Unix operating systems. It is not clear whether DTOD will run on these larger systems.

Response: DoD has chosen to use a Windows NT operating system. However, carriers are free to license a PC*MILER version that will run on an operating system of their choice. ALK currently has versions of PC*MILER for AS400 and Unix operating systems.

Comment: Many small businesses do not have updated computer capability or do not use computers.

Response: MTMC realizes that all carriers do not operate their businesses in the same way. However, current and future business practices are centered on the use of computers in one way or another. As the business process changes to embrace principles of electronic commerce (e.g., electronic data interchange and electronic funds transfer), MTMC is anxious to capitalize on the economies and efficiencies those changes represent. MTMC is confident that commercial shippers and transportation providers are moving in the same direction.

Comment: PC*MILER is unproven in industry and lacks version control.

Response: Currently, over 9500 shippers and carriers in commercial transportation are using PC*MILER. The DTOD project office, in conjunction with the software vendor, will maintain precise versions control of the distance software to ensure all parties (finance centers, audit agencies, shippers, and carriers) have the same version of DTOD/PC*MILER at the same time.

Comment: DoD's proposed implementation of DTOD in its freight program violates the Regulatory Flexibility Act by failing to include an initial regulatory flexibility analysis.

Response: DoD's decision to adopt and implement a single, integrated mileage calculation source is a procurement policy decision that is directly related to the basis DoD will use to pay for commercial transportation services. The decision and steps taken to implement DTOD in DoD's freight program relate to public contracts and are exempt from the Regulatory

Flexibility Act, 5 U.S.C. 601-612. This policy decision to implement a single distance calculation source for internal agency travel entitlement and procurement purposes is not considered rule making within the meaning of the Administrative Procedure Act or the Regulatory Flexibility Act.

2. Regulatory Flexibility Act

Implementation of this policy change in DoD's freight program involves public contracts and is designed to standardize distance calculation in the payment and audit process. This change is not considered rule making within the meaning of the Administrative Procedures Act or the Regulatory Flexibility Act, 5 U.S.C. 601-612.

3. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3051, et seq., does not apply because no information collection reporting or records keeping responsibilities are imposed on offerors, contractors, or members of the public.

David E. Cook,

Col, USAF, Director, JTMO.

[FR Doc. 99-2325 Filed 1-29-99; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Web-Based Education Commission; Notice of Establishment

AGENCY: Office of the Secretary, Education.

ACTION: Notice of Establishment of the Web-Based Education Commission.

SUMMARY: The Secretary of Education announces his intention to establish the Web-Based Education Commission under the authority of the Higher Education Act of 1998 (Pub. L. 105-244) and the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C.A. Appendix 2).

PURPOSE: The Secretary has determined that the establishment of the Web-Based Education Commission is necessary and in the public interest in connection with the performance of duties imposed on the Department by law. This Commission is required to conduct a thorough study to assess the educational software available in retail markets for secondary and postsecondary students who choose to use such software. The Commission will hold public hearings throughout the United States to produce this study. The Commission will issue a final report to the President and Congress, not later than six months after the first meeting. This report shall contain a detailed statement of the

findings and conclusions together with its recommendations. The recommendations shall address what legislation and administrative actions they consider appropriate; and what they regard as the appropriate Federal role in determining the quality of the educational software products. The Commission shall consist of Fourteen members, appointed by the President, Secretary, and Congress, who have expertise in the Internet technology industry, in accreditation, establishing statewide curricula, and establishing information technology networks pertaining to education curricula.

RESPONSIBLE OFFICIAL: Maureen McLaughlin, Deputy Assistant Secretary for Policy, Planning, and Innovation, U.S. Department of Education, Washington, DC 20202 Telephone: (202) 205-2987.

Dated: January 26, 1999.

Richard W. Riley,

Secretary of Education.

[FR Doc. 99-2332 Filed 1-29-99; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF EDUCATION

National Committee on Foreign Medical Education and Accreditation

Date and Time: Thursday, March 4, 1999, 9:30 a.m. until 12:30 p.m.

Place: The Latham Hotel, 3000 M Street, NW, Washington, DC 20037, (202) 726-5000. The meeting site is accessible to individuals with disabilities. An individual with a disability who will need an accommodation to participate in the meeting (e.g., interpreting service, assistive listening device, or materials in an alternate format) should notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although the Department will attempt to meet a request received after that date, the requested accommodations may not be available because of insufficient time to arrange them.

Status:

Parts of this meeting will be open to the public.

Parts of this meeting will be closed to the public.

Matters to be Considered: The standard of accreditation applied to medical schools by several foreign countries and the comparability of those standards to the standards of accreditation applied to United States medical schools. Discussions of the standards of accreditation will be held in sessions open to the public. Discussions that focus on specific

determination of comparability are closed to the public in order that each country may be properly notified of the decision.

Supplementary Information: Pursuant to section 481 of the Higher Education Act of 1965, as amended in 1992 (20 U.S.C. 1088), the Secretary established within the Department of Education the National Committee on Foreign Medical Education and Accreditation. The Committee's responsibilities are to (1) evaluate the standards of accreditation applied to applicant foreign medical schools; and (2) determine the comparability of those standards to standards for accreditation applied to United States medical schools.

For Further Information Contact: Bonnie LeBold, Executive Director, National Committee on Foreign Medical Education and Accreditation, 7th and D Streets, SW, Room 3082, ROB #3, Washington, DC 20202-7563. Telephone: (202) 260-3636. Beginning February 22, 1999, you may call to obtain the identity of the countries whose standards are to be evaluated during this meeting.

Greg Woods,

Chief Operating Officer, Office of Student Financial Assistance Programs.

[FR Doc. 99-2235 Filed 1-29-99; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Science Financial Assistance Program Notice 99-03; Environmental Meteorology Program—Vertical Transport and Mixing

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of Extension of Application Due Date.

SUMMARY: The Office of Biological and Environmental Research (OBER) of the Office of Science (SC), U.S. Department of Energy (DOE), published a Notice in the **Federal Register** on December 22, 1998, announcing its interest in receiving applications for the Environmental Meteorology Program (EMP), Vertical Transport and Mixing (VTMX) Science Team. Since the publication of the Notice and due to unforeseen circumstances, OBER is changing the date that formal applications are due.

In the **Federal Register** of December 22, 1998, in FR Doc. 98-33858, on page 70758 under the **DATES** heading, formal applications in response to this notice were requested by 4:30 p.m., E.S.T., March 12, 1999. With this Notice of Extension, OBER is changing the due

date for formal applications from March 12, 1999, to 4:30 p.m., E.S.T., March 30, 1999. Also, stated in the original notice, applicants were urged to access web site <http://www.pnl.gov/VTMX> to review abstracts of proposals from DOE laboratory scientists that will be tentatively selected for funding. These abstracts were to be posted there by February 12, 1999. This date is being changed to February 26, 1999.

FOR FURTHER INFORMATION CONTACT:

Peter Lunn, telephone: (303) 903-4819.

Issued in Washington, DC, on January 22, 1999.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 99-2309 Filed 1-29-99; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Office of Science Financial Assistance Program Notice 99-14; Low Dose Radiation Research Program

AGENCY: U.S. Department of Energy.

ACTION: Notice inviting grant applications.

SUMMARY: The Offices of Science (SC) and Environmental Management (EM), U.S. Department of Energy (DOE), hereby announce their interest in receiving applications for research that supports the Low Dose Radiation Research Program. Research is sought in the following areas:

- (1) Low dose radiation vs. endogenous oxidative damage—the same or different?
- (2) Understanding biological responses to radiation and oxidative damage.
- (3) Thresholds for low dose radiation—fact or fiction?
- (4) Genetic factors that affect individual susceptibility to low dose radiation.
- (5) Communication of research results.

This Program uses modern molecular tools to develop a better scientific basis for understanding exposures and risks to humans from low dose radiation that can be used to achieve acceptable levels of human health protection at the lowest possible cost. Proposed basic research should contribute to EM needs by decreasing health risks to the public and workers from low dose radiation, providing opportunities for major cost reductions in cleaning up DOE's environmental problems, and reducing the time required to achieve EM's mission goals.

DATES: Potential applicants should submit a one page preapplication referencing Program Notice 99-14 by 4:30 P.M. E.S.T., February 23, 1999. A response to preapplications discussing the potential program relevance of a formal application generally will be communicated within 7 days of receipt.

The deadline for receipt of formal applications is 4:30 P.M., E.D.T., April 13, 1999, in order to be accepted for merit review and to permit timely consideration for award in FY 1999 and FY 2000.

ADDRESSES: Preapplications referencing Program Notice 99-14, should be sent by E-mail to joanne.corcoran@science.doe.gov. Preapplications will also be accepted if mailed to the following address: Ms. Joanne Corcoran, Office of Biological and Environmental Research, SC-72, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874-1290.

Formal applications, referencing Program Notice 99-14, should be sent to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC-64, 19901 Germantown Road, Germantown, MD 20874-1290, ATTN: Program Notice 99-14. This address must be used when submitting applications by U.S. Postal Service Express, commercial mail delivery service, or when hand carried by the applicant.

FOR FURTHER INFORMATION CONTACT: Dr. David Thomassen, telephone: (301) 903-9817, E-mail:

david.thomassen@science.doe.gov, Office of Biological and Environmental Research, SC-72, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874-1290 or Mr. Mark Gilbertson, Office of Science and Risk Policy, Office of Science and Technology, Office of Environmental Management, 1000 Independence Avenue, SW, Washington, D.C. 20585, telephone: (202) 586-7150, E-mail: mark.gilbertson@em.doe.gov.

SUPPLEMENTARY INFORMATION:

Low Dose Radiation Research Program

Background and Overview

Each and every cell in the human body is constantly engaged in a life and death struggle to survive "in spite of itself." Normal physiological processes needed for cell survival generate toxic oxidative products that are damaging, even mutagenic, and potentially carcinogenic. Yet cells and people survive because of the cell's remarkable capacity to repair the majority, if not all, of this oxidative damage. We don't know, however, the relationship

between this normal oxidative damage and the high frequency of cancers that exist in all human populations. Is cancer a price we pay for the very biological processes that keep us alive?

We are also constantly exposed to low levels of natural background radiation from cosmic radiation and from naturally occurring radioactive materials in soils, water, and even living things. Research has taught us that while even low levels of radiation induce biological damage, the damage is very similar to the oxidative damage induced by normal cellular processes. Thus a critical, yet unanswered, question in radiobiology is whether the biological damage induced by low doses and low dose rates of radiation is repaired by the same cellular processes and with the same efficiency as normal oxidative damage that is a way of life for every living cell.

The Low Dose Radiation Research Program will conduct research to determine if low dose and low dose-rate radiation present a health risk to people that is the same as or greater than the health risk resulting from the oxidative by-products of normal physiological processes. This information is a key determinant in decisions that are made to protect people from adverse health risks from exposure to radiation.

Extensive research on the health effects of radiation using standard epidemiological and toxicological approaches has been used for decades to characterize responses of populations and individuals to high radiation doses, and to set exposure standards to protect both the public and the workforce. These standards were set by extrapolating from the biological effects observed in high-dose radiation studies to predicted, *but unmeasurable effects*, at low radiation doses, using modeling approaches. This approach was chosen because of our inability to detect changes in cancer incidence following low doses of radiation. Thus, the historic approach has been the Linear-no-Threshold model that assumes each unit of radiation, no matter how small, can cause cancer. As a result, radiation-induced cancers are predicted from low doses of radiation for which it has not been possible to directly demonstrate cancer induction.

Most of the projected radiation exposures associated with human activity over the next 100 years will be to low dose and low dose-rate radiation from medical tests, waste clean-up, and environmental isolation of materials associated with nuclear weapons and nuclear power production. The major type of radiation exposures will be low Linear Energy Transfer (LET) ionizing

radiation from fission products. The DOE Low Dose Radiation Research Program will thus concentrate on studies of low-LET exposures delivered at low total doses and dose-rates.

The overriding goal of this program is to ensure that human health is adequately and appropriately protected. It currently costs billions of dollars to protect workers and the public from exposure to man-made radiation, often at exposure levels lower than the natural background levels of radiation. If it could be demonstrated that there is no increased risk associated with these exposures, these resources could be directed toward more critical health related issues.

The research program will build on advances in modern molecular biology and instrumentation, not available during the previous 50 years of radiation biology research, to address the effects of very low levels of exposure to ionizing radiation. It will concentrate on understanding the relationships that exist between normal endogenous processes that deal with oxidative damage and processes responsible for the detection and repair of low levels of radiation-induced damage.

Research will focus on understanding the normal cellular processes responsible for recognizing and repairing normal oxidative damage and radiation-induced damage. If the damage and repair induced by low dose radiation is the same as for normal oxidative damage, it is possible that there are thresholds of damage that the body can handle. In contrast, if the damage from ionizing radiation is different from normal oxidative damage, then its repair, and the hazard associated with it, may be unique.

Research conducted in this program will help determine health risks from exposures to low levels of radiation, information that is critical to adequately and appropriately protect people and to make the most effective use of our national resources.

Research Needs

To understand the relationship between normal oxidative damage and radiation-induced damage, studies will be conducted at very low, doses and dose-rates and the perturbation of the normal physiological processes will be characterized at all levels of biological organization—from genes to cells to tissues to organisms. Research needs are identified in interrelated five areas:

1. Low dose radiation vs. endogenous oxidative damage—the same or different?

A key element of this research program will be to understand the

similarities and differences between endogenous oxidative damage, damage induced by low levels of ionizing radiation, and the health risks from both.

Research is needed to understand and quantify real, *not calculated*, differences or similarities in DNA damage induced by normal oxidative processes versus low doses or low dose rates of ionizing radiation. This information is the foundation for the entire low dose radiation research program. Although always needed, it was not previously attainable because critical resources and technologies were not available. Today, technologies and resources such as those developed as part of the human genome program, e.g., coupled capillary electrophoresis and mass spectrometry systems and DNA sequence information, have the potential to detect and characterize small differences in damage induced by normal oxidative processes and low doses of radiation.

A significant investment in technology development will be required to expand current capabilities for identifying and quantifying small amounts of oxidative or radiation. Radically new technologies are likely not needed but current technologies will need to be modified. Methodologies having high sensitivity as well as high signal-to-noise ratio will be critical in this effort.

A significant research effort will also be required to characterize and quantify normal oxidative damage in cells and the incremental increases induced by low doses of ionizing radiation. Partnerships are encouraged between laboratories involved in characterization and quantification of radiation and oxidative damage and groups with expertise in or developing new technology to facilitate progress in both areas simultaneously.

A critical goal of the research component of this program is to quantify levels of damage induced by normal oxidative processes and the incremental increases due to low dose radiation. Qualitative descriptions of differences and/or similarities between the types of damage induced under both conditions are useful in the design and interpretation of experiments in other parts of the Low Dose Radiation Research Program. To be most useful in risk models and for regulators these differences or similarities must be quantified.

2. Understanding biological responses to radiation and endogenous damage.

Molecular, cellular, and tissue responses modify the processing of radiation induced damage and/or determine whether or not damaged cells

are eliminated, inhibited, or expressed. These responses impact cancer risks from radiation.

Research is needed to understand and quantify real, *not extrapolated or assumed*, differences or similarities in biological changes and responses observed following exposures to low doses or low dose rates of ionizing radiation. This research covers the breadth of radiation and cancer biology from the initial recognition and processing of radiation damage by a cell to the potential development of cancer. Not all research, no matter how important to our understanding of the mechanisms of cellular responses to low dose radiation or of cancer development, will necessarily be useful for estimating health risks from low dose radiation or in choosing low dose radiation risk models. However, understanding and quantifying key aspects of the biological changes and responses induced by low dose radiation is likely to have dramatic impacts on our ability to efficiently and effectively protect people from unnecessary and avoidable health risks.

Research will benefit from the rapidly increasing availability of DNA sequence data from humans and other model organisms including mouse, yeast, fruit fly, etc. Recently developed technologies for characterizing and quantifying gene expression should be exploited. In some cases, further improvements in these technologies will be needed, such as increases in the sensitivity for detecting and quantifying gene expression. Cytogenetic techniques that couple traditional cytogenetic approaches with advances in molecular biology and automation will likely be useful in efforts to determine how accurately low dose radiation damage is repaired. Advances in the use and development of model organisms and of advanced systems for studying "normal" cells in culture should also be exploited to study the more complex interactions of cells and tissues in determining the biological effects of low dose radiation.

Research is needed that addresses the following six key questions:

Do cells recognize and respond to low doses of ionizing radiation the same way that they do to high doses of radiation? Much of the damage induced by radiation and normal oxidative processes is the same. Research should concentrate on damage that is unique to low doses of radiation and on differences or similarities between biological responses following high versus low doses of radiation. It must be determined which genes and proteins are specifically induced in response to

low doses of ionizing radiation, how these relate to other oxidative stresses, and importantly, how the induced genes and proteins affect endpoints relevant to radiation-induced cancer. It must also be determined if the ability and efficacy of cells to recognize and repair radiation damage is affected by the radiation dose.

Do cells repair DNA damage induced by low doses of ionizing radiation the same way that they do damage induced by high doses of radiation? The repair or misrepair of radiation-induced DNA damage is of fundamental importance to all aspects of a cell and/or an organism's responses to radiation exposure. The fidelity of the repair and damage processing systems will significantly affect the dose response curve for cancer induction, particularly at low doses. Ineffective repair or misrepair of radiation damage and subsequent processing of this unrepaired or misrepaired damage can significantly impact genomic integrity resulting in radiation-induced mutations, chromosomal aberrations, chromosomal stability, and cancer. Quite simply, if radiation-induced damage is faithfully repaired and processed, a threshold is expected. On the other hand, if repair and subsequent processing can lead to errors at low doses but not at high doses, an expectation of a threshold is not warranted.

Additional understanding of the molecular mechanisms involved and in the closely linked damage signaling pathways will provide information relevant to the faithful repair of specific lesions, the molecular responses of cells to specific lesions and the consequences of cellular processing of radiation-induced damage compared to that of endogenous damage. Many of these consequences can be assessed using rapidly developing molecular cytogenetic technology such as combinatorial fluorescence in situ hybridization (FISH). Because cytogenetic effects represent the synthesis of damage induction, repair and processing, these new technologies provide the opportunity to directly test certain key predictions of models of radiation effects at low doses. Substantially more information is also needed on (1) the underlying repair processes; (2) the role of DNA sequence and chromatin structure in determining radiation response and target size for biological endpoints relevant to cancer; and (3) how and if the processing of damage induced by low doses of radiation leads to mutations, chromosomal aberrations, and genomic instability.

How much do low doses of radiation "protect" cells against subsequent low

doses of ionizing radiation? If low doses of radiation regularly and predictably induce a protective response in cells to subsequent low doses of radiation this could have a substantial impact on estimates of adverse health risk from low dose radiation. The generality and the extent of this apparent adaptive response in cells irradiated with small doses of ionizing radiation needs to be quantified.

Are the potentially damaging effects of low dose radiation amplified by interactions between cells? It is important for this program to determine if these so-called by-stander effects can be induced by exposure to low LET radiation delivered at low total doses or dose-rates. If such an effect is demonstrated and quantifiable, it could, potentially, increase estimates of risk from low dose radiation. This by-stander effect, in essence, "amplifies" the biological effects of a low dose exposure by effectively increasing the number of cells that experience adverse effects to a number greater than the number of cells directly exposed to radiation.

Is genetic instability, a key step in the development of cancer, induced or initiated by low doses of radiation? Current evidence suggests that DNA repair and processing of radiation damage can lead to instability in the progeny of irradiated cells and that susceptibility to instability is under genetic control. However, there is virtually no information on the underlying mechanisms and how the processing of damage leads to instability in the progeny of irradiated cells several generations later. Further, while there has been considerable speculation about the role of such instability in radiation-induced cancer, its role in this process remains to be determined.

Is the development of cancer induced by low (versus high) doses of radiation affected by the unirradiated normal tissues that surround the potential cancer cells? The ability of an irradiated cell to escape normal tissue regulatory processes or of a tissue to inhibit the further progression of precancerous cells may be differentially affected by high versus low doses of radiation. Exposure- and dose-response studies should be conducted to determine if the basic mechanisms of radiation action change as a function of total radiation dose and dose rate. High doses of ionizing radiation induce matrix and tissue disorganization, cell killing, changes in cell proliferation kinetics, induction of a multitude of genes and growth factors, and extensive chromosome and genetic damage. It is important to determine if low doses of

ionizing radiation can induce these biological changes. It will also be important to determine if cancer can be induced by doses that are too low to produce such changes.

3. Thresholds for low dose radiation—fact or fiction?

We don't know if there are radiation doses or energies below which there is no significant biological change or below which the damage induced can be effectively dealt with by normal cellular processes. If there are, then there should be no regulatory concern for exposures below these thresholds since there will be no increase in risk.

The principal focus of research in this component of the Low Dose Radiation Research Plan is to develop methods to synthesize or model new molecular level information on low dose radiation induced damage and biological responses to that damage into a low dose radiation risk model. The goal of this research program is to develop scientifically defensible tools and approaches for determining risk that are widely used, accepted, and understood. Research should include, but not be limited to development of computational techniques, e.g., algorithms and advanced mathematical approaches, for use in determining risk, that model new information from cellular and molecular studies together with available data from epidemiologic and animal studies.

A secondary, but essential component of this component of the Low Dose Radiation Research Plan, will be the design and conduct of additional biological experiments to address specific questions or predictions made by these new computational approaches. These biological experiments, though likely complementary to research described above, will be designed and conducted in collaboration with modelers.

4. Genetic factors that affect individual susceptibility to low dose radiation.

Do genetic differences exist making some individuals more sensitive to radiation-induced damage? Such genetic differences could result in sensitive individuals or sub-populations that are at increased risk for radiation-induced cancer.

The Low Dose Radiation Research Program should have three main goals in terms of genetic susceptibility to low dose radiation: (1) Identify genes involved in the recognition, repair, and processing of damage induced by ionizing radiation, (2) determine the frequencies of polymorphisms in these genes in the population, and (3) determine the biological significance of

these polymorphisms with respect to cancer and radiation sensitivity.

Research in these three areas will strongly complement ongoing initiatives at the National Institutes of Health (NIH). DOE staff will work with staff at the NIH to ensure that research in the Low Dose Radiation Research Program is complementary to and not duplicative of research funded by NIH programs.

The National Human Genome Research Institute (NHGRI) is funding research to identify common variants in the coding regions of the majority of human genes identified during the next five years with the goal of developing a catalog of all common variants in all. The NHGRI is also working to create a map of at least 100,000 single nucleotide polymorphisms, the most common polymorphisms in the human genome representing single base-pair differences between two copies of the same gene. These so-called SNPs will be a boon for mapping complex such as cancer, cancer susceptibility, and susceptibility to low dose radiation.

The National Institute of Environmental Health Science (NIEHS) is funding research as part of its Environmental Genome Project to understand the impact and interaction of environmental exposures on human disease. The NIEHS project includes efforts to understand genetic susceptibility to environmental agents that will allow more precise identification of the environmental agents that cause disease and the true risks of exposures. The principal focus of NIEHS research will be on chemicals so the focus on radiation in the Low Dose Radiation Research Program is highly complementary. Initially, the Environmental Genome Project will focus on categories of genes including: xenobiotic metabolism and detoxification genes; hormone metabolic genes; receptor genes; DNA repair genes; cell cycle genes; cell death control genes; genes mediating immune and inflammatory responses; genes mediating nutritional factors; genes involved in oxidative processes and, genes for signal transduction systems.

Identification of potential susceptibility genes and polymorphisms in those genes is only the first (and perhaps the easiest) step in the program to characterize and understand genetic susceptibility. Determining the biological significance of these genetic polymorphisms with respect to cancer and radiation sensitivity is the ultimate goal and the more difficult task. The international human genome project, structural biology research, and the NHGRI and NIEHS efforts described above play important roles determining

which polymorphisms are most likely to influence gene function. Population genetics and computational biology approaches will be required to estimate the potential impact on estimates of population and individual risk. Genetic epidemiology approaches will also be needed to relate specific polymorphisms and combinations of polymorphisms with cancer risk. Inbred mouse strains and other model organisms with well-characterized differences in susceptibility to radiation-induced cancer are also important tools for identifying significant polymorphisms. Direct assessment of the biological significance of candidate "susceptibility genes" can also be undertaken using animal models such as knock-out and knock-in mice, mice with specific genes removed or added.

5. Communication of research results.

This research program will only be a success if the science it generates is useful to policy makers, standard setters, and the public. Research results must be effectively communicated so that current thinking reflects sound science.

The Low Dose Radiation Research Program should have two main research goals for communicating the Program's research results: (1) develop a public communication program based on principles of risk communication and (2) develop a public education program based on principles of risk communication science.

Communication with the public about low dose management, requires a well-developed plan based on strong basic social science research. The goal of communication research in this program should be to understand the likely public responses to scientific findings from the Low Dose Radiation Research Program and responses to the plans that might result to modify existing standards based on these scientific findings. The following topics should be included in determining public responses to issues regarding low dose radiation exposures: (i) public perceptions of risk from exposure to radiation; (ii) the perceived importance of the activities and conditions that produce low dose radiation; (iii) trust and confidence in risk managers, regulators, and decision makers; (iv) the role of the media in characterizing different positions on risk controversies; (v) the role of advocacy groups; (vi) the manner by which risk is characterized and assessed; and (vii) procedures by which decisions are made.

To present developments from this program in a form that is useful and easily understood by the public, the education program would develop web

pages, written resources for public schools, and coordinate multimedia coverage of research results and public meetings. Public meetings would provide opportunities for the public to meet with scientists and regulators involved in policy making, facilitating public input into the decision making process.

Radiation Doses of Interest

The focus of research in the Low Dose Radiation Research Program should be on doses of low linear energy transfer (LET) radiation that are at or below current workplace exposure limits. In general, research in this program should focus on *total radiation doses that are less than or equal to 10 rads*. Some experiments will likely involve selected exposures to higher doses of radiation for comparisons with previous experiments or for determining the validity of extrapolation methods previously used to estimate the effects of low doses of radiation from observations made at high doses.

Supplementary Materials

A draft of the DOE Low Dose Radiation Research Program Plan is available on the World Wide Web at <http://www.er.doe.gov/production/ober/berac/draftld.pdf>. This research plan outlines a ten-year research strategy to help determine the risks to human health from exposure to low doses of ionizing radiation.

Success of the Low Dose Radiation Research Program depends on maintaining a diverse and balanced set of research projects that span the research needs outlined above. A list and a brief description of projects currently funded as part of the Low Dose Radiation Research Program is available at <http://www.er.doe.gov/production/ober/ldprojlist.html> on the World Wide Web. These projects were funded as part of solicitation number 98-11 that can be found on the World Wide Web at http://www.er.doe.gov/production/grants/fr98_11.html.

Program Funding

It is anticipated that up to \$4.0 million will be available for new grant awards during FY 1999, contingent upon the availability of funds. Multiple year funding of grant awards is expected, and is also contingent upon the availability of appropriated funds, progress of the research, and continuing program need. It is expected that most awards will be from 1 to 3 years and will range from \$200,000 to \$400,000 per year (total costs).

Preapplication

A preapplication should be submitted. The Preapplication should contain a title, list of investigators, address, telephone, fax and E-mail address of the Principal Investigator, and no more than a one page summary of the proposed research, including project objectives and methods of accomplishment. Preapplications will be reviewed by program managers from SC and EM relative to the scope and research needs of the DOE Low Dose Radiation Research Program and the Environmental Management Science Program (EMSP). Responses to the preapplications, encouraging or discouraging formal applications, will generally be communicated within 7 days of receipt. Notification of a successful preapplication is not an indication that an award will be made in response to the formal application.

Applications

(Please Note Critical Information Below on Page Limits)

Information about the development and submission of applications, eligibility, limitations, evaluation, selection process, and other policies and procedures may be found in the Application Guide for the Office of Science Financial Assistance Program and 10 CFR part 605. Electronic access to the Guide and required forms is made available via the World Wide Web at: <http://www.er.doe.gov/production/grants/grants.html>.

The Project Description must be 25 pages or less, exclusive of attachments. *Applications with Project Descriptions longer than 25 pages will be returned to applicants and will not be reviewed.* The application must contain an abstract or project summary, letters of intent from collaborators, and short curriculum vitae consistent with NIH guidelines.

Adherence to type size and line spacing requirements is necessary for several reasons. No applicants should have the advantage, or by using small type, of providing more text in their applications. Small type may also make it difficult for reviewers to read the application. Applications must have 1-inch margins at the top, bottom, and on each side. Type sizes must be 10 point or larger. Line spacing is at the discretion of the applicant but there must be no more than 6 lines per vertical inch of text. Pages should be standard 8½" x 11" (or metric A4, i.e., 210 mm x 297 mm).

Applicants are expected to use the following ordered format to prepare Applications in addition to following

instructions in the Application Guide for the Office of Science Financial Assistance Program. Applications must be written in English, with all budgets in U.S. dollars.

- Face Page (DOE F 4650.2 (10-91)).
- Project Abstract (no more than one page).
- Relevance to EM needs (Applicants should use no more than one page to describe how the proposed basic research contributes to EM needs by decreasing health risks to the public and workers from low dose radiation, providing opportunities for major cost reductions in cleaning up DOE's environmental problems, or reducing the time required to achieve EM's mission goals.).
- Budgets for each year and a summary budget page for the entire project period (using DOE F 4620.1).
- Budget Explanation.
- Budgets and Budget explanation for each collaborative subproject, if any.
- Project Description (The Project Description must be 25 pages or less, exclusive of attachments. *Applications with Project Descriptions longer than 25 pages will be returned to applicants and will not be reviewed.*)
 - Goals.
 - Significance of Project to EM needs.
 - Background.
 - Research Plan.
 - Preliminary Studies (if applicable).
 - Research Design and Methodologies.
 - Literature Cited.
 - Collaborative Arrangements (if applicable).
 - Biographical Sketches (limit 2 pages per senior investigator).
 - Description of Facilities and Resources.
 - Current and Pending Support for each senior investigator.

The Office of Science, as part of its grant regulations, requires at 10 CFR 605.11(b) that a recipient receiving a grant to perform research involving recombinant DNA molecules and/or organisms and viruses containing recombinant DNA molecules shall comply with the National Institutes of Health "Guidelines for Research Involving Recombinant DNA Molecules", which is available via the world wide web at: <http://www.niehs.nih.gov/odhsb/biosafe/nih/rdna-apr98.pdf>, (59 FR 34496, July 5, 1994), or such later revision of those guidelines as may be published in the **Federal Register**.

Collaboration

Applicants are encouraged to collaborate with researchers in other institutions, such as universities,

industry, non-profit organizations, federal laboratories and Federally Funded Research and Development Centers (FFRDCs), including the DOE National Laboratories, where appropriate, and to incorporate cost sharing and/or consortia wherever feasible.

Merit and Relevance Review

Applications will be subjected to scientific merit review (peer review) and will be evaluated against the following evaluation criteria listed in descending order of importance as codified at 10 CFR 605.10(d):

1. Scientific and/or Technical Merit of the Project.
2. Appropriateness of the Proposed Method or Approach.
3. Competency of Applicant's Personnel and Adequacy of Proposed Resources.
4. Reasonableness and Appropriateness of the Proposed Budget.

The evaluation will include program policy factors such as the relevance of the proposed research to the terms of the announcement and the Department's programmatic needs. External peer reviewers are selected with regard to both their scientific expertise and the absence of conflict-of-interest issues. Non-federal reviewers may be used, and submission of an application constitutes agreement that this is acceptable to the investigator(s) and the submitting institution.

Subsequent to the formal scientific merit review, applications that are judged to be scientifically meritorious will be evaluated by DOE for relevance to the objectives of the EMSP which include protecting the health of the populations that live near or work at DOE sites. Additional information on the EMSP can be obtained at <http://www.em.doe.gov/science>; on the World Wide Web.

Environmental Management Science Program Overview

Purpose

The need to build a stronger scientific basis for the Environmental Management effort has been established in a number of recent studies and reports. The Galvin Commission report ("Alternative Futures for the Department of Energy National Laboratories," February 1995) also provided the following observations and recommendations:

There is a particular need for long term, basic research in disciplines related to environmental cleanup . . . Adopting a science-based approach that includes

supporting development of technologies and expertise . . . could lead to both reduced cleanup costs and smaller environmental impacts at existing sites and to the development of a scientific foundation for advances in environmental technologies.

The Environmental Management Advisory Board Science Committee (Resolution on the EMSP, May 2, 1997) made the following observations:

EMSP results are likely to be of significant value to EM . . . Early program benefits, include: improved understanding of EM science needs, linkage with technology needs, and expansion of the cadre of scientific personnel working on EM problems . . . Science program has the potential to lead to significant improvement in future risk reduction and cost and time savings.

The objectives of the EMSP are to:

- Provide scientific knowledge that will revolutionize technologies and clean-up approaches to significantly reduce future costs, schedules, and risks;
- "Bridge the gap" between broad fundamental research that has wide-ranging applicability such as that performed in DOE's Office of Science and needs-driven applied technology development that is conducted in EM's Office of Science and Technology; and
- Focus the Nation's science infrastructure on critical DOE environmental management problems.

Representative Research Areas

The EMSP solicits basic research in all areas of science that have the potential for addressing one or more of the areas of concern to the Department's Environmental Management Program. Overall, the scientific disciplines relevant to the EMSP include, but are not limited to:

- Biology (including cellular and molecular biology, ecology, bioremediation, genetics, biochemistry, and structural biology).
- Chemistry (including analytical chemistry, catalysis, heavy element chemistry, inorganic chemistry, organic chemistry, physical chemistry, and separations chemistry).
- Computational sciences (including research and development of mathematical/numerical, informatics, and communication procedures and software technology, e.g., for deterministic simulations and optimization).
- Engineering sciences (including control systems and optimization, diagnostics, transport processes, thermophysical properties and bioengineering).
- Geosciences (including geophysical imaging, physicochemical dynamics and chemical transport in fluid-rock systems, and hydrogeology).

- Health sciences.
- Materials science (including condensed matter physics, metallurgy, ceramics, waste minimization, welding and joining, degradation mechanisms, and remote sensing and monitoring).
- Physics (including atomic, molecular, optical, and fluid physics).
- Plant science (including mechanisms of mineral uptake, intercellular transport, and concentration and sequestration).

Major Environmental Management Challenges.

This research notice is part of a long-term program within Environmental Management to provide continuity in scientific knowledge that will more effectively protect workers and the public and revolutionize approaches for solving DOE's most complex environmental problems. The following is an overview of the major technical challenges facing the Environmental Management Program. More detailed descriptions of the specific technical work performed at DOE sites can be found in the background section of this Notice.

The Department is the guardian of over 300 large storage tanks containing over 100 million gallons of highly radioactive wastes, that include organic and inorganic chemical compounds, in solid, colloidal, slurry, and liquid phases. The environment within the tanks is highly radioactive and chemically harsh. A few of the tanks have leaked to the environment while others are corroding. The contents of these tanks need to be characterized, removed from the tanks, treated, and converted to safe forms for disposal.

The Department is the custodian of several thousand metric tons of spent nuclear reactor fuels, resulting primarily from weapons fabrication activities during the Cold War, but also including fuel from research and naval reactors. The long-term containment performance of the fuel under storage and disposal conditions is uncertain. Such uncertainties affect the ability to license disposal methods.

The Office of Environmental Management is the custodian of large quantities of fissile materials which were left in the manufacturing and processing facilities after the United States halted its nuclear weapons production activities. These materials include plutonium solutions, plutonium metals and oxides, plutonium residues and compounds, highly enriched uranium, and nuclides of other actinides. Additional scientific information is required to choose

processes for converting these materials to stable forms.

The Department currently has on its sites over one hundred sixty thousand cubic meters of waste containing both radioactive and hazardous materials. This mixed waste contains a wide variety of materials, as varied as protective clothing, machining products and wastes, packaging materials, and process liquids. Fundamental scientific data are needed to improve processes associated with treatment systems, such as characterization, pre-treatment, and monitoring.

The Department is committed to the safe disposal of all radioactive wastes, including high-level wastes, mixed wastes, and fissile materials. Safe disposal of these materials requires that the wide range of potential waste streams be converted into insoluble materials for long term storage. Some radioactive material-containing forms have been successfully developed and are being produced; however, at present, research challenges still exist in developing suitable forms for each material to be stored.

The Department is currently conducting cleanup activities at many of its sites, and is preparing plans for additional remediation work. There is much scientific uncertainty about the levels of risk to human health at the end stages of the DOE clean-up effort. This notice for new research in FY 1999 is intended to address these uncertainties.

Background

The United States involvement in nuclear weapons development for the last 50 years has resulted in the development of a vast research, production, and testing network known as the nuclear weapons complex. The Department has begun the environmental remediation of the complex encompassing radiological and nonradiological hazards, vast volumes of contaminated water and soil, and over 7,000 contaminated structures. The Department must characterize, treat, and dispose of hazardous and radioactive wastes that have been accumulating for more than 50 years at 120 sites in 36 states and territories.

By 1995, the Department had spent about \$23 billion in identifying and characterizing its waste, managing it, and assessing the remediation necessary for its sites and facilities. Over the next ten years at current budget projections, another \$60 billion will be spent. The DOE cleanup of the Cold War legacy is the largest cleanup program in the Federal Government, even larger than that of the Department of Defense legacy.

The Office of Environmental Management is responsible for waste management and cleanup of DOE sites. The EM operations have been historically compliance-based and driven to meet established goals in the shortest time possible using either existing technologies or those that could be developed and demonstrated within a few years. Environmental Management is also responsible for conducting the program for waste minimization and pollution prevention for the Department.

The variety and volume of the Department's current activities make this effort a challenge itself. In some cases, fundamental science questions will have to be addressed before a technology or process can be engineered. There is a need to involve more basic science researchers in the challenges of the Department's remediation effort. The Office of Science addresses fundamental, frequently long-term, research issues related to the many missions of the Department. The EMSP uses SC's experience in managing fundamental research to address the needs of technology breakthroughs in EM's programs.

Details of the programs of the Office of Environmental Management and the technologies currently under development or in use by Environmental Management Program can be found on the World Wide Web at <http://www.em.doe.gov>; and at the extensive links contained therein. These programs and technologies should be used to obtain a better understanding of the missions and challenges in environmental management in DOE when considering areas of research to be proposed.

References for Background Information

Note: World Wide Web locations of these documents are provided where possible. For those without access to the World Wide Web, hard copies of these references may be obtained by writing Mr. Mark A. Gilbertson at the address listed in the **FOR FURTHER INFORMATION CONTACT** section.

DOE 1998. Accelerating Cleanup: Paths to Closure

<http://www.em.doe.gov>

DOE 1998. Report to Congress on the U.S. Department of Energy's EMSP: Research Funded and Its Linkages to Environmental Cleanup Problems.

<http://www.doe.gov/em52>

DOE 1998. EMSP Workshop.

<http://www.doe.gov/em52>

DOE 1997. Research Needs Collected for the EM Science Program—June 1997.

<http://www.doe.gov/em52/needs.html>

DOE 1997. U.S. Department of Energy Strategic Plan

<http://www.doe.gov/policy/doeplan.html>

DOE 1998. Office of Science and Risk Policy EM-52 and EMSP.

<http://www.em.doe.gov/science/>

DOE 1998. Office of Science and Technology EM-50.

<http://em-50.em.doe.gov/>

DOE 1998. Office of Science and Risk Policy, Risk Policy Program.

<http://www.em.doe.gov/irm/index.html>

DOE 1998. Office of Environment, Safety, and Health.

<http://www.eh.doe.gov/>

DOE 1995. Closing the Circle on the Splitting of the Atom: The Environmental Legacy of Nuclear Weapons Production in the United States and What the Department of Energy is Doing About It. The U.S. Department of Energy, Office of Environmental Management, Office of Strategic Planning and Analysis, Washington, DC

<http://www.em.doe.gov/circle/index.html>

National Research Council 1997.

Building an EMSP: Final Assessment. National Academy Press, Washington, DC.

<http://www.nap.edu/readingroom/books/envmanage/>

National Research Council 1995.

Improving the Environment: An Evaluation of DOE's Environmental Management Program. National Academy Press, Washington, DC

<http://www.nap.edu/readingroom/books/doemp/>

Secretary of Energy Advisory Board.

Alternative Futures for the Department of Energy National Laboratories. February 1995. Task Force on alternative Futures for the Department of Energy National Laboratories, Washington, DC

<http://www.doe.gov/html/doe/whatsnew/galvin/tf-rpt.html>

U.S. Congress, Office of Technology Assessment. Complex Cleanup: The Environmental Legacy of Nuclear Weapons Production, February 1991. U.S. Government Printing Office, Washington, DC NTIS Order number: PB91143743. To order, call the NTIS sales desk at (703) 487-4650.

http://www.wws.princeton.edu:80/~ota/disk1/1991/9113_n.html

National Science and Technology Council 1996. Assessing Fundamental Science, Council on Fundamental Science.

<http://www.nsf.gov/sbe/srs/ostp/assess/>

The Catalog of Federal Domestic Assistance Number for this program is

81.049, and the solicitation control number is ERFAP 10 CRF part 605.

Issued in Washington, DC January 22, 1999.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 99-2310 Filed 1-29-99; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99-1079-000]

California Power Exchange Corporation; Notice of Filing

January 25, 1999.

Take notice that on January 13, 1999, California Power Exchange Corporation (PX), tendered for filing Amendment No. 7, to the PX FERC Electric Service Tariff in the above-referenced Docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before February 4, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,
Secretary.

[FR Doc. 99-2283 Filed 1-29-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99-167-000]

Florida Gas Transmission Company; Notice of Request Under Blanket Authorization

January 26, 1999.

Take notice that on January 20, 1999, Florida Gas Transmission Company (Florida Gas), P.O. Box 1188, Houston, Texas 77252-1188, filed a prior notice request with the Commission in Docket

No. CP99-167-000 pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to operate an existing delivery point in East Baton Rouge Parish, Louisiana, originally installed under Section 311 of the Natural Gas Policy Act of 1978, as a jurisdictional facility under Florida Gas' blanket certificate issued in Docket No. CP82-553-000 pursuant to Section 7 of the NGA, all as more fully set forth in the request which is open to the public for inspection.

Florida Gas proposes to operate the existing delivery point located near mile post 552.2 on its 24-inch mainline in East Baton Rouge Parish as a delivery point for natural gas transportation services under Subpart G of Part 284 of the Commission's Regulations. Florida Gas states that it placed the delivery point in service for transportation services under Subpart B of Part 284 of the Regulations on January 1, 1999, to serve Exxon Corporation (Exxon), on behalf of Mid-Louisiana Gas Transmission Company, an intrastate pipeline. Florida Gas further states that it would deliver up to 67,000 MMBtu equivalent of natural gas per day and up to 24,455,000 MMBtu equivalent of natural gas yearly on an interruptible basis to satisfy Exxon's primarily industrial fuel requirements. Florida Gas states that the delivery point consists of approximately 75 feet of 8-inch diameter connecting pipe and other minor appurtenant facilities.

Florida Gas states that it has sufficient capacity to accomplish the deliveries of the requested gas volumes without detriment or disadvantage to Florida Gas' other existing customers and that Florida Gas' FERC Gas Tariff does not prohibit the addition of new delivery points.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, 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 NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, 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 NGA.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-2288 Filed 1-29-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DG99-37-000]

FPL Energy Wyman LLC; Notice of Supplement to Application for Commission Determination of Exempt Wholesale Generator Status

January 26, 1999.

Take notice that on January 26, 1999, FPL Energy Wyman LLC, 700 Universe Blvd., Juno Beach, Florida 33408, filed with the Federal Energy Regulatory Commission a supplement to an Application for Determination of Exempt Wholesale Generator Status pursuant to Part 365 of the Commission's regulations.

FPL Energy Wyman LLC, a Delaware limited liability company, proposes to own and operate the W.F. Wyman Station, Units 1, 2 and 3, located in Yarmouth, Maine. The units are being purchased from Central Maine Power Company. FPL Energy Wyman LLC filed its application for EWG status on December 11, 1998. It is supplementing that application for the limited purpose of providing additional discussion regarding incidental activities that are in proximity to the plant site.

Any person desiring to be heard concerning the supplemented Application for Exempt Wholesale Generator Status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the supplemented application. All such motions and comments should be filed on or before February 3, 1999, and must be served on the applicant. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 99-2282 Filed 1-29-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. RP99-75-002]****MIGC, Inc.; Notice of Tariff Filing**

January 26, 1999.

Take notice that on January 22, 1999, MIGC, Inc. (MIGC), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Fourth Revised Sheet No. 51 with a proposed effective date of November 2, 1998.

MIGC states that the purpose of the filing is to comply with Order No. 587-H issued in Docket No. RM96-1-008.

MIGC states that copies of its filing are being mailed to its jurisdictional customers and interested state commissions.

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.

Linwood A. Watson, Jr.,*Acting Secretary.*

[FR Doc. 99-2292 Filed 1-29-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. EG99-42-000]****Morgan Generation Company LLC and Brush Generation Company LLC; Notice of Filing**

January 26, 1999.

Take notice that on January 15, 1999, Morgan Generation Company LLC (Morgan) and Brush Generation Company LLC (collectively, Applicants), filed an amendment to their Application for Determination of Exempt Wholesale Generator Status that was filed with the Commission on December 15, 1998.

Any person desiring to be heard concerning the amended application for

exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the amended application. All such motions and comments should be filed on or before February 10, 1999, and must be served on the applicant. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,*Acting Secretary.*

[FR Doc. 99-2281 Filed 1-29-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. RP99-180-001]****National Fuel Gas Supply Corporation, Notice of Compliance Filing**

January 26, 1999.

Take notice that on January 19, 1999, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Sub. First Revised Sheet No. 389 and Alt. Sub. First Revised Sheet No. 389, both bearing a proposed effective date of January 1, 1999.

National Fuel states that this filing is being made in compliance with the Commission's Letter Order issued on December 30, 1998, in the above-referenced docket. National Fuel further states that the revised tariff language on its primary tariff sheet provides that cash-out of imbalance volumes will be accomplished by using the index price for the month in which the imbalance was incurred. National Fuel's filing also includes an alternate tariff sheet that provides that cash-out of imbalance volumes will be accomplished by using the index price applicable to the month that includes the time period for which the Shipper last made a nomination for service. National Fuel urges the Commission to accept its alternate tariff sheet.

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.

Linwood A. Watson, Jr.,*Acting Secretary.*

[FR Doc. 99-2294 Filed 1-29-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. ER99-1394-000]****Ocean State Power and Ocean State Power II; Notice of Filing**

January 26, 1999.

Take notice that on January 15, 1999, Ocean State Power and Ocean State Power II (Ocean State) tendered for filing their compliance filing of an executed Assignment and Release Agreement to replace the unexecuted Form of Agreement previously accepted by the Commission in Docket No. ER98-4499-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed, on or before February 5, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,*Acting Secretary.*

[FR Doc. 99-2284 Filed 1-29-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. RP99-206-000]****Panhandle Eastern Pipe Line Company; Notice of Filing Reconciliation Report**

January 26, 1999.

Take notice that on January 20, 1999, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing its reconciliation report in accordance with Article I, Section 3(d)(ii) of the February 12, 1997 Stipulation and Agreement in Docket No. RP96-260-000 (Settlement). The Settlement required the filing of a reconciliation report as soon as practicable following the termination of the Firm Docket No. RP96-260-000 Settlement surcharges.

Panhandle states that on October 30, 1998, it filed in Docket No. RP99-107-000 to suspend the Docket No. RP96-260-000 Settlement Reservation Surcharge applicable to firm transportation services provided under Rate Schedules FT, EFT, and LFT and the Docket No. RP96-260-000 Settlement Volumetric Surcharge applicable to services provided under Rate Schedule SCT effective December 1, 1998. Panhandle's filing was approved by Commission letter order issued November 27, 1998.

Panhandle states that copies of this filing are being served on all parties to the proceeding in Docket No. RP96-260-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before February 2, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,*Acting Secretary.*

[FR Doc. 99-2295 Filed 1-29-99; 8:45 am]

BILLING CODE 6717-01-M**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****[Docket No. RP99-207-000]****PG&E Gas Transmission, Northwest Corporation; Notice of Tariff Filing**

January 26, 1999.

Take notice that on January 22, 1999, PG&E Gas Transmission, Northwest Corporation (PG&E GT-NW) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1-A, Fourth Revised Sheet No. 55 and Second Revised Sheet No. 55A, to be effective March 1, 1999.

PG&E GT-NW asserts the purpose of this filing is to revise its tariff to specify that shippers may make voluntary contributions to support the Gas Research Institute through a "check the box" procedure on PG&E GT-NW's invoices.

PG&E GT-NW further states a copy of this filing has been served upon its jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,*Acting Secretary.*

[FR Doc. 99-2296 Filed 1-29-99; 8:45 am]

BILLING CODE 6717-01-M**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****[Docket No. RP99-13-002]****Steuben Gas Storage Company; Notice of Compliance Filing**

January 26, 1999.

Take notice that on January 20, 1999, Steuben Gas Storage Company (Steuben) tendered for filing as part of its FERC

Gas Tariff, Original Volume No. 1, the tariff sheets listed on Appendix A to the filing, to be effective November 2, 1998.

Steuben states the attached tariff sheets are being filed in compliance with the Commission's Order issued on January 13, 1999, in the above captioned docket.

Steuben states that copies of the filing were served upon the company's Jurisdictional customers.

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.

Linwood A. Watson, Jr.,*Acting Secretary.*

[FR Doc. 99-2290 Filed 1-29-99; 8:45 am]

BILLING CODE 6717-01-M**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****[Docket No. RP99-56-002]****Stingray Pipeline Company; Notice of Compliance Filing**

January 26, 1999.

Take notice that on January 15, 1999, Stingray Pipeline Company (Stingray) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain tariff sheets to be effective November 2, 1998.

Stingray states that these tariff sheets were filed in compliance with the Commission's order issued January 4, 1999, in Docket No. RP99-56-001.

Stingray requests waiver of the Commission's Regulations to the extent necessary to permit the tendered tariff sheets to become effective November 2, 1998, pursuant to Order No. 587-H. Stingray states that copies of the filing are being mailed to its customers and interested state regulatory agencies and all parties set out on the official service list in Docket No. RP99-56.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NW, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-2291 Filed 1-29-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98-131-002]

Sumas International Pipeline Inc.; Notice of Request for Waivers

January 26, 1999.

Take notice that on January 19, 1999, Sumas International Pipeline Inc. (SIPI), filed a request for waiver and for an additional extension of time to comply with Gas Industry Standards Board (GISB) requirements related to Internet, EDM, and EDI electronic requirements.

SIPI states that copies of the filing were mailed to all customers of SIPI and other interested parties.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before February 2, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-2289 Filed 1-29-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99-106-002]

TransColorado Gas Transmission Company; Notice of Tariff Filing

January 26, 1999.

Take notice that on January 19, 1999, TransColorado Gas Transmission Company (TransColorado) tendered for filing and acceptance, to be effective on the date its Phase II facilities are placed into service, Third Revised Sheet No. 102, Second Revised Sheet No. 112, Second Revised Sheet No. 247 and Original Sheet No. 247A to Original Volume No. 1 of its FERC Gas Tariff. The proposed tariff sheets show an initial Fuel Gas Reimbursement Percentage (FGRP) of 1.0%.

TransColorado states that in compliance with the Commission's December 18, 1998 order in this proceeding, it has revised Sections 3.1(c) and 3.1(b) of Rate Schedules FT and IT of its FERC Gas Tariff so that they refer to a generally applicable fuel reimbursement provision in § 12.8 of the General Terms and Conditions of its Tariff that meets the requirements of § 154.403 of the Commission's Regulations. TransColorado has stated the initial fuel reimbursement percentage in both tariff provisions and clearly stated how the fuel reimbursement percentage will be calculated and applied to each shipper.

TransColorado states that a copy of this filing has been provided to TransColorado jurisdictional customers, the official service list in Docket No. RP99-106, the New Mexico Public Utilities Commission and the Colorado Public Utilities Commission.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-2293 Filed 1-29-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG99-11-000]

Transcontinental Gas Pipe Line Corp.; Notice of Filing

January 26, 1999.

Take notice that on January 21, 1999, Transcontinental Gas Pipe Line Corp. (Transco) submitted revised standards of conduct under Order Nos. 497, *et seq.*¹ Order Nos. 566 *et seq.*² and Order No. 599.³

Transco states that it served copies of its filing to its affected customers, State Commissions, and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC, 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before February 10, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on

¹ Order No. 497, 53 FR 22139 (June 14, 1988), FERC Stats. & Regs. 1986-1990 ¶30,820 (1988); Order No. 497-A, *order on rehearing*, 54 FR 52781 (December 22, 1989), FERC Stats. & Regs. 1986-1990 ¶30,868 (1989); Order No. 497-B, *order extending sunset date*, 55 FR 53291 (December 28, 1990), FERC Stats. & Regs. 1986-1990 ¶30,908 (1990); Order No. 497-C, *order extending sunset date*, 57 FR 9 (January 2, 1992), FERC Stats. & Regs. 1991-1996 ¶30,934 (1991), *rehearing denied*, 57 FR 5815 (February 18, 1992), 58 FERC ¶61,139 (1992); *Tenneco Gas v. FERC* (affirmed in part and remanded in part), 969 F.2d 1187 (D.C. Cir. 1992); Order No. 497-D, *order on remand and extending sunset date*, 57 FR 58978 (December 14, 1992), FERC Stats. & Regs. 1991-1996 ¶30,958 (December 4, 1992); Order No. 497-E, *order on rehearing and extending sunset date*, 59 FR 243 (January 4, 1994), FERC Stats. & Regs. 1991-1996 ¶30,958 (December 23, 1993); Order No. 497-F, *order denying rehearing and granting clarification*, 59 FR 15336 (April 1, 1994), 66 FERC ¶61,347 (March 24, 1994); and Order No. 497-G, *order extending sunset date*, 59 FR 32884 (June 27, 1994), FERC Stats. & Regs. 1991-1996 ¶30,996 (June 17, 1994).

² Standards of Conduct and Reporting Requirements for Transportation and Affiliate Transactions, Order No. 566, 59 FR 32885 (June 27, 1994), FERC Stats. & Regs. 1991-1996 ¶30,997 (June 17, 1994); Order No. 566-A, *order on rehearing*, 59 FR 52896 (October 20, 1994), 69 FERC ¶61,044 (October 14, 1994); Order No. 566-B, *order on rehearing*, 59 FR 65707 (December 21, 1994), 69 FERC ¶61,334 (December 14, 1994).

³ Reporting Interstate Natural Gas Pipeline Marketing Affiliates on the Internet, Order No. 599, 63 FR 43075 (August 12, 1998), FERC Stats. & Regs. ¶31,064 (July 30, 1998).

file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-2287 Filed 1-29-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99-158-000]

Williston Basin Interstate Pipeline Company; Notice of Request Under Blanket Authorization

January 26, 1999.

Take notice that on January 19, 1999, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, Suite 300, Bismark, North Dakota 58501, filed in Docket No. CP99-158-000 a request pursuant to sections 157.205 and 157.211, of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to utilize an existing tap to effectuate natural gas transportation deliveries to Montana-Dakota Utilities Co. For other than right-of-way grantor use, under Williston Basin's blanket certificate issued in Docket No. CP82-487-000 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.

The tap is located in Golden Valley County, North Dakota. Williston Basin states that the right-of-way grantor tap was constructed in 1998 pursuant to section 157.211(a) of the Commission's Regulations. Williston Basin states that the proposed service will have no significant effect on Williston Basin's peak day or annual requirements. Williston Basin also states that their FERC Gas Tariff does not prohibit the addition of new delivery points and the volumes to be delivered are within the contractual entitlements of the customer.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn

within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-2285 Filed 1-29-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT99-8-000]

Williston Basin Interstate Pipeline Company; Notice of Tariff Filing

January 26, 1999.

Take notice that on January 21, 1999, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective January 21, 1999:

Second Revised Sheet No. 375
Eleventh Revised Sheet No. 775
Sixteenth Revised Sheet No. 776
Twentieth Revised Sheet No. 777
Twenty-first Revised Sheet No. 827
Fifteenth Revised Sheet No. 828
Twenty-second Revised Sheet No. 829
Twenty-first Revised Sheet No. 830
Thirtieth Revised Sheet No. 831
Twenty-eighth Revised Sheet No. 832
Twenty-seventh Revised Sheet No. 833
Second Revised Sheet No. 834

Williston Basin states that the revised tariff sheets are being filed simply to update its Master Receipt/Delivery Point List and to reflect the addition of Receipt Point ID No. 00955 to its Cedar Creek Pool.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with section 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public

inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-2286 Filed 1-29-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER96-149-004, et al.]

Dartmouth Power Association Limited Partnership, et al.; Electric Rate and Corporate Regulation Filings

January 25, 1999.

Take notice that the following filings have been made with the Commission:

1. Dartmouth Power Associates Limited Partnership

[Docket No. ER96-149-004]

Take notice that on January 19, 1999, Dartmouth Power Associates Limited Partnership (Dartmouth), tendered for filing an updated market analysis as required by the Commission's Order approving market based rates for Dartmouth.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Allegheny Power Service Corp., on behalf of Monongahela Power Co., The Potomac Edison Company and West Penn Power Company (Allegheny Power)

[Docket No. ER99-237-001]

Take notice that on January 19, 1999, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company tendered for filing a compliance filing regarding Amendment No. 2, to the Allegheny Power Pro Forma Open Access Transmission Tariff. This filing is intended to comply with the Commission's order issued on December 17, 1998 in Docket No. ER99-237-000.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Duke Power, a division of Duke Energy Corporation

[Docket No. ER99-1350-000]

Take notice that on January 19, 1999, Duke Power, a division of Duke Energy Corporation (Duke), tendered for filing a Transmission Service Agreement(s) between Duke and PECO Energy Company.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. FirstEnergy Corp., and Pennsylvania Power Company

[Docket No. ER99-1351-000]

Take notice that on January 19, 1999, FirstEnergy Corp., tendered for filing on behalf of itself and Pennsylvania Power Company, a Service Agreement for Network Integration Service and an Operating Agreement for the Network Integration Transmission Service under the Pennsylvania Electric Choice Program with FirstEnergy Trading & Power Marketing, Incorporated pursuant to the FirstEnergy System Open Access Tariff. These agreements will enable the party to obtain Network Integration Service under the Pennsylvania Electric Choice Program in accordance with the terms of the Tariff.

The proposed effective date under this agreement is January 1, 1999.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Northern States Power Company (Minnesota Company) Northern States Power Company (Wisconsin Company)

[Docket No. ER99-1352-000]

Take notice that on January 19, 1999, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively known as NSP), tendered for filing a Short-Term Market-Based Electric Service Agreement between NSP and Tennessee Valley Authority (Customer).

NSP requests that this Short-Term Market-Based Electric Service Agreement be made effective on December 28, 1998.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Mississippi Power Company

[Docket No. ER99-1353-000]

Take notice that January 19, 1999, Mississippi Power Company and Southern Company Services, Inc., tendered for filing a Service Agreement, pursuant to the Southern Companies Electric Tariff Volume No. 4—Market Based Rate Tariff, with South Mississippi Electric Power Association

for the Martin Bluff Road Delivery Point to Singing River Electric Power Association. The agreement will permit Mississippi Power to provide wholesale electric service to South Mississippi Electric Power Association at a new service delivery point.

Copies of the filing were served South Mississippi Electric Power Association, the Mississippi Public Service Commission, and the Mississippi Public Utilities Staff.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Montana-Dakota Utilities Co., a Division of MDU Resources Group

[Docket No. ER99-1354-000]

Take notice that on January 18, 1999, Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc. (Montana-Dakota) provided notice to the Commission that Montana-Dakota 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. Montana-Dakota attached to its notice (i) LLR and (ii) modifications to its open access transmission tariff to incorporate LLR.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. American Electric Power Service Corporation

[Docket No. ER99-1355-000]

Take notice that on January 19, 1999, the American Electric Power Service Corporation (AEPSC), on behalf of Indiana Michigan Power Company (I&M), tendered for filing an executed Operating and Facilities Agreement between I&M and Indiana Municipal Power Agency (IMPA). The agreement was filed as a supplement to I&M FERC Rate Schedules No. 70 and 74, and Service Agreement No. 26 under the AEP Companies' Open Access Transmission Service Tariff (OATT).

The OATT has been designated as FERC Electric Tariff Original Volume No. 4, effective July 9, 1996.

AEPSC requests waiver of notice to permit the Agreement to be made effective upon closure of the interconnections between the IMPA facilities at Anderson and Richmond, Indiana, with the system of I&M and the transmission system jointly owned by IMPA, PSI Energy, Inc., and Wabash Valley Power Association, which could be completed as early as March 1999.

A copy of the filing was served upon the Parties and the state utility regulatory commissions of Indiana,

Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Arizona Public Service Company

[Docket No. ER99-1356-000]

Take notice that on January 19, 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 United States Department of Interior, Bureau of Indian Affairs, San Carlos Irrigation Project (SCIP).

A copy of this filing has been served on the Arizona Corporation Commission and SCIP.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Central Illinois Light Company

[Docket No. ER99-1358-000]

Take notice that on January 19, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61602, tendered for filing with the Commission a substitute Index of Point-To-Point Transmission Service Customers under its Open Access Transmission Tariff and service agreements for two new customers, Strategic Energy, Ltd., and NorAm Energy Services, Inc.

CILCO requested an effective date of January 7, 1999.

Copies of the filing were served on the affected customers and the Illinois Commerce Commission.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Kansas City Power & Light Company

[Docket No. ER99-1359-000]

Take notice that on January 19, 1999, Kansas City Power & Light Company (KCPL), tendered for filing as an amendment to its Open Access Transmission Tariff notice that KCPL is incorporating 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.

KCPL requests an effective date coincident with its filing, and therefore respectfully requests waiver of the Commission's notice requirements.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Ohio Valley Electric Corporation

[Docket No. ER99-1360-000]

Take notice that on January 19, 1999, Ohio Valley Electric Corporation (OVEC), in accordance with the Commission's order in *Northern American Electric Reliability Council*, 85 FERC ¶ 61,353 (1998), tendered for filing a notice informing the Commission that OVEC uses the North American Electric Reliability Council (NERC) Transmission Loading Relief (TLR) procedures. OVEC requests that the Commission accept, as an amendment of OVEC's Open Access Transmission Tariff, the generic tariff amendment proffered by NERC and accepted by the Commission in the above order. OVEC requests an effective date coincident with its filing, and therefore respectfully requests waiver of the Commission's notice requirements.

Copies of this filing were served upon OVEC's jurisdictional customers and upon each state public service commission that, to the best of OVEC's knowledge, has retail rate jurisdiction over such customers.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. New Century Services, Inc.

[Docket No. ER99-1361-000]

Take notice that on January 19, 1999, New Century Services, Inc., on behalf of Cheyenne Light, Fuel and Power Company, Public Service Company of Colorado, and Southwestern Public Service Company (collectively Companies), tendered for filing a Service Agreement under their Joint Open Access Transmission Service Tariff for Firm Point-to-Point Transmission Service between the Companies and TransAlta Energy Marketing (U.S.), Inc.

The Companies request that the Agreement be made effective on January 15, 1999.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. New Century Services, Inc.

[Docket No. ER99-1362-000]

Take notice that on January 19, 1999, New Century Services, Inc., on behalf of Cheyenne Light, Fuel and Power Company, Public Service Company of Colorado, and Southwestern Public Service Company (collectively Companies), tendered for filing a Service Agreement under their Joint Open Access Transmission Service Tariff for Non-Firm Point-to-Point Transmission Service between the

Companies and TransAlta Energy Marketing (U.S.), Inc.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. New Century Services, Inc.

[Docket No. ER99-1363-000]

Take notice that on January 19, 1999, New Century Services, Inc., on behalf of Cheyenne Light, Fuel and Power Company, Public Service Company of Colorado, and Southwestern Public Service Company (collectively Companies), tendered for filing a Service Agreement under their Joint Open Access Transmission Service Tariff for Non-Firm Point-to-Point Transmission Service between the Companies and New Energy Ventures, L.L.C.

The Companies request that the Agreement be made effective on January 15, 1999.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. NGE Generation, Inc.

[Docket No. ER99-1364-000]

Take notice that on January 19, 1999, NGE Generation, Inc. (NGE Gen), tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35, service agreements (the Service Agreements) under which NGE Gen may provide capacity and/or energy to Amerada Hess Corporation (Amerada) and Con Ed Energy, Inc. (Con Ed Energy) in accordance with NGE Gen's FERC Electric Tariff, Original Volume No. 1.

NGE Gen has requested waiver of the notice requirements so that the Service Agreements with Amerada and Con Ed Energy become effective as of January 16, 1999.

NGE Gen's filing of the Service Agreements is subject to NGE Gen's pending application for approval of transfer filed in Docket EC99-22-000 on December 31, 1998.

NGE Gen has served copies of the filing upon the New York State Public Service Commission, Amerada, and Con Ed Energy.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Entergy Services, Inc.

[Docket No. ER99-1366-000]

Take notice that on January 19, 1999, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy

New Orleans, Inc., (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement and a Short-Term Firm Point-to-Point Transportation Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and South Mississippi Electric Power Association.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Entergy Services, Inc.

[Docket No. ER99-1367-000]

Take notice that on January 19, 1999, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement and a Short-Term Firm Point-to-Point Transportation Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and PEC Energy Marketing, Inc.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Entergy Services, Inc.

[Docket No. ER99-1368-000]

Take notice that on January 19, 1999, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the "Entergy Operating Companies"), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement and a Short-Term Firm Point-to-Point Transportation Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Oneok Power Marketing Company.

Entergy Services requests that the TSA's be made effective as rate schedules no later than January 4, 1999.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Oklahoma Gas and Electric Co.

[Docket No. ER99-1369-000]

Take notice that on January 19, 1999, Oklahoma Gas and Electric Company (OG&E), tendered for filing with the Federal Energy Regulatory Commission an executed long-term Service Agreement for Power Sales with the Oklahoma Municipal Power Authority (OMPA), under OG&E's Market-Based Rate Power Sales Tariff, Original Volume No. 3, Sheet Nos. 1-6.

OG&E requests that the Commission permit its service agreement with OMPA to go into effect as of January 1, 1999, or upon such later date as the Commission authorizes effectiveness of the Notice of Cancellation, which has been simultaneously filed by OG&E, for the Amended Power Sales Agreement contained in Rate Schedule FERC No. 126.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. Delmarva Power & Light Company

[Docket No. ER99-1370-000]

Take notice that on January 19, 1999, Delmarva Power & Light Company (Delmarva), tendered for filing an executed umbrella service agreement with Vitol Gas & Electric, LLC, under Delmarva's market rate sales tariff.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Niagara Mohawk Power Corporation

[Docket No. ER99-1372-000]

Take notice that January 19, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing notice that effective January 23, 1999, Rate Schedule FERC No. 210, effective date October 26, 1994, and any supplements thereto, filed with the Federal Energy Regulatory Commission by Niagara Mohawk is to be canceled.

Notice of the proposed cancellation has been served upon Vitol Gas & Electric, LLC.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. New England Power Pool

[Docket No. ER99-1374-000]

Take notice that on January 19, 1999, the New England Power Pool (NEPOOL), Executive Committee tendered for filing changes to Market Rules that had previously been submitted to the Commission and new Market Rules not previously submitted.

The NEPOOL Executive Committee has requested that the changes and new Market Rules become effective on March 20, 1999, to apply for all NEPOOL market transactions occurring after the Second Effective Date, which the Committee indicates is now projected to occur April 1, 1999.

The NEPOOL Executive Committee states that the Market Rules are being filed in compliance with the Commission's December 17, 1998, order regarding the NEPOOL restructuring, *New England Power Pool*, 85 FERC ¶

61,379, and that changes have been made to Market Rules in compliance with that order.

The NEPOOL Executive Committee states further that copies of these materials were sent to all persons identified in the Commission's official service lists for the captioned dockets, the New England state governors and regulatory commissions and the Participants in the New England Power Pool.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. Southwest Power Pool

[Docket No. ER99-1375-000]

Take notice that on January 19, 1999, Southwest Power Pool (SPP), tendered for filing revised tariff sheets to its Open Access Transmission Tariff (Tariff) in the dockets captioned above. SPP states that it filed revised tariff sheets in order to implement changes to the provisions of the Tariff concerning the payment of transmission losses.

Copies of this filing were served upon each of the parties on the Commission's official service lists in Docket Nos. ER98-3888 and ER99-783, as well as on all SPP customers and state commission in the SPP region.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. Oklahoma Gas and Electric Company

[Docket No. ER99-1376-000]

Take notice that on January 19, 1999, Oklahoma Gas and Electric Company (OG&E), tendered for filing Notice of Cancellation of the Amended Power Sales Agreement with the Oklahoma Municipal Power Authority contained in Rate Schedule FERC No. 126, pursuant to Section 35.15 of the Federal Energy Regulatory Commission's (Commission) Regulations.

OG&E requests acceptance of its notice and waiver of the 60-day notice requirement to permit the cancellation to become effective January 1, 1999, or such later date as authorized by the Commission.

This filing has been served upon the affected purchaser.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. Northeast Utilities Service Company

[Docket No. ER99-1377-000]

Take notice that on January 19, 1999, Northeast Utilities Service Company (NUSCO), on behalf of The Connecticut

Light and Power Company, Western Massachusetts Electric Company and Holyoke Water Power Company, 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 energy to Westfield Gas and Electric Light Department (Westfield).

NUSCO states that a copy of this filing has been mailed to Westfield.

NUSCO requests that the rate schedule change become effective on April 1, 1999.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

27. Alliant Services Company

[Docket No. ER99-1378-000]

Take notice that on January 19, 1999, Alliant Services Company tendered for filing an executed Service Agreement for Network Integration Transmission Service and an executed Network Operating Agreement, establishing MidAmerican Energy as a Network Customer under the terms of the Alliant Services Company transmission tariff.

Alliant Services Company requests an effective date of January 1, 1999, and accordingly, seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin, the Iowa Utilities Board, the Illinois Commerce Commission and the Minnesota Public Utilities Commission.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

28. New Century Services, Inc.

[Docket No. ER99-1379-000]

Take notice that on January 19, 1999, New Century Services, Inc., on behalf of Cheyenne Light, Fuel, and Power Company, Public Service Company of Colorado, and Southwestern Public Service Company (collectively the New Century Operating Companies), tendered for filing an amendment to the joint open access transmission tariff of the New Century Operating Companies. The amendment will allow the New Century Operating Companies to waive, on a non-discriminatory basis, the deposit on transmission service applications.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

29. Illinois Power Company

[Docket No. ER99-1393-000]

Take notice that on January 19, 1999, Illinois Power Company (Illinois

Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing Point-To-Point Transmission Service Agreements under which Tenneco Packaging, Inc., will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of January 1, 1999.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

30. Gregory Power Partners, L.P.

[Docket No. QF99-32-000]

Take notice that on January 19, 1999, Gregory Power Partners, L.P. (Applicant), tendered for filing a supplement to its October 30, 1998, Application for Commission Certification of Qualifying Status of a Cogeneration Facility. The supplement contains additional technical and ownership information regarding Applicant's proposed cogeneration facility.

Comment date: February 18, 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, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 99-2239 Filed 1-29-99; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99-1338-000, et al.]

Eastern Utilities Associates, et al.; Electric Rate and Corporate Regulation Filings

January 22, 1999.

Take notice that the following filings have been made with the Commission:

1. Eastern Utilities Associates

[Docket No. ER99-1338-000]

Take notice that on January 15, 1999, Eastern Utilities Associates tendered for filing notification that the ISO-New England, Inc., and the New England Power Pool are responsible for TLR procedures referred to in the above-captioned docket.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Resale Power Group of Iowa, Inc. v. IES Utilities, Inc.

[Docket No. EL97-17-001]

Take notice that on January 8, 1999, IES Utilities, Inc. (IES) filed a Joint Transmission Agreement pursuant to the Commission's December 23, 1998 Order issued in Docket No. EL97-17-000.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Vermont Electric Power Company, Inc.

[Docket No. ER99-1339-000]

Take notice that on January 15, 1999, Vermont Electric Power Company, Inc. (VELCO), tendered for filing an amendment to its Open Access Transmission Service 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.

VELCO 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.

4. Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company

[Docket No. ER99-1340-000]

Take notice that on January 15, 1999, Central Power and Light Company

(CPL), West Texas Utilities Company (WTU), Public Service Company of Oklahoma (PSO), and Southwestern Electric Power Company (SWEPCO) (collectively, the CSW Operating Companies) tendered for filing with the Commission notice indicating that the CSW Operating Companies will adopt the transmission loading relief (TLR), procedures set forth in Appendix B to the North American Electric Reliability Council's (NERC) Petition for Declaratory Order in Docket No. EL98-52-000, approved by the Commission. The TLR procedures will apply to those portions of the CSW Operating Companies' transmission systems that are located in the Eastern Interconnection.

The CSW Operating Companies request an effective date coincident with their filing, and therefore respectfully request waiver of the Commission's notice requirements.

The CSW Operating Companies state that a copy of their filing was served on all customers under the CSW Operating Companies' Open Access Transmission Service Tariff and on the Public Utility Commission of Texas, the Arkansas Public Service Commission, the Louisiana Public Service Commission, and the Oklahoma Corporation Commission.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Duke Power, a division of Duke Energy Corporation

[Docket No. ER99-1341-000]

Take notice that on January 15, 1999, Duke Power, a division of Duke Energy Corporation (Duke), tendered for filing a Firm Transmission Service Agreement (TSA's), between Duke and Louisville Gas and Electric Company, dated as of October 21, 1998.

Duke requests that the TSA's be made effective as rate schedules as of January 1, 1999.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Duke Energy Corporation

[Docket No. ER99-1342-000]

Take notice that on January 15, 1999, Duke Power, a division of Duke Energy Corporation (Duke), tendered for filing a Service Agreement for Market Rate Sales under Rate Schedule MR, FERC Electric Tariff First Revised Volume No. 3 (the MRSAs), between Duke and Entergy Power Marketing Corp.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Duke Energy Corporation

[Docket No. ER99-1343-000]

Take notice that on January 15, 1999, Duke Power, a division of Duke Energy Corporation (Duke), tendered for filing a Service Agreement for Market Rate Sales under Rate Schedule MR, FERC Electric Tariff First Revised Volume No. 3 (the MRSAs), between Duke and OGE Energy Resources, Inc.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. MidAmerican Energy Company

[Docket No. ER99-1344-000]

Take notice that on January 15, 1999, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50309 tendered for filing notice of its adoption of the Line Loading Relief Procedure of Mid-Continent Area Power Pool (MAPP) and changes to MidAmerican's Open Access Transmission Tariff (OATT) to reflect the adoption of such procedures. MidAmerican states that this filing is made in accordance with the Commission's December 16, 1998, order in North American Electric Reliability Council, 85 FERC ¶ 61,353 (1998) (Docket No. EL98-52-000).

MidAmerican proposes an effective date of January 16, 1999, for the OATT changes.

Copies of the filing were served upon representatives of MAPP, the Iowa Utilities Board, the Illinois Commerce Commission, the South Dakota Public Utilities Commission and all customers having service agreements with MidAmerican under the OATT.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Delmarva Power & Light Company and Atlantic City Electric Company

[Docket No. ER99-1345-000]

Take notice that on January 15, 1999, Delmarva Power & Light Company (Delmarva) and Atlantic City Electric Company (Atlantic) filed revisions to their market-based rate tariffs. The revisions were made to reflect the consummation of the merger involving Delmarva and Atlantic and to allow Delmarva and Atlantic to engage in power sales transactions with one another pursuant to their market-based rate tariffs. In particular, the revisions would allow Delmarva and Atlantic to transact with one another at the market clearing prices established by the PJM Power Exchange.

Delmarva and Atlantic state that copies of this filing have been served

upon all the customers under their market-based rate tariffs.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. PJM Interconnection, L.L.C.

[Docket No. ER99-1346-000]

Take notice that on January 15, 1999, PJM Interconnection, L.L.C. (PJM), tendered for filing notice of amendment of the PJM Interconnection L.L.C., Tariff to adopt NERC Transmission Loading Relief Procedures.

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.

11. Detroit Edison Company and Consumers Energy Company

[Docket No. ER99-1347-000]

Take notice that on January 15, 1999, Detroit Edison Company and Consumers Energy Company tendered for filing notice that they adopt and will use the NERC TLR procedures accepted by the Commission in Docket No. EL98-52-000 for their joint open access transmission tariff.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Consumers Energy Company

[Docket No. ER99-1348-000]

Take notice that on January 15, 1999, Consumers Energy Company tendered for filing notice that it adopts and will use the NERC TLR procedures accepted by the Commission in Docket No. EL98-52-000.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Detroit Edison Company

[Docket No. ER99-1349-000]

Take notice that on January 15, 1999, Detroit Edison Company tendered for filing notice that it adopts and will use the NERC TLR procedures accepted by the Commission in Docket No. EL98-52-000.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Constellation Energy Source, Inc.

[Docket No. ER99-1357-000]

Take notice that on January 15, 1999, Constellation Energy Source, Inc., tendered for filing Notice of Cancellation of Constellation Energy Source's Rate Schedule FERC No. 1.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Central Hudson Gas & Electric Corp., Consolidated Edison Company of New York, Inc., LIPA, New York Power Authority, New York State Electric & Gas Corp., Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc. and Rochester Gas and Electric Corp.)

[Docket No. ER99-1365-000]

Take notice that on January 15, 1999, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., LIPA, New York Power Authority, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation tendered for filing a letter notifying FERC that their Open Access Transmission Tariffs shall be considered to be modified by the incorporation of the Transmission Loading Relief (TLR) procedures of the North American Electric Reliability Council (NERC) as specified in NERC's generic amendment (Attachment B to the NERC filing of June 5, 1998).

As indicated in the filing, LIPA is not a "public utility" under Part II of the Federal Power Act and does not have a transmission tariff on file with the FERC. As a Member System of the New York Power Pool, however, its curtailment policy is synchronized with other Member Systems. Therefore, by its inclusion in the filing, LIPA notifies FERC that its open access transmission tariff shall be considered to be modified to incorporate NERC's TLR procedure in accordance with the action of the other Member Systems. NYPA is also not a "public utility" under Part II of the Federal Power Act, but also notifies FERC that its open access tariff shall be considered to be modified accordingly.

Copies of the filing were served on the official service lists in each of the companies open access tariff proceedings.

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, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be

considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,
Secretary.

[FR Doc. 99-2238 Filed 1-29-99; 8:45 am]

BILLING CODE 6717-01-P

Federal Energy Regulatory Commission

Notice of Surrender of Conduit Exemption

January 26, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Surrender of Conduit Exemption.

b. *Project No.:* 8310-006.

c. *Date filed:* October 29, 1998.

d. *Applicant:* City of El Segundo.

e. *Name of Project:* WB-28 Hydroelectric Project.

f. *Location:* At the WB-28 turnout of the Metropolitan Water Dist. of Southern California's water conveyance system, in Los Angeles County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Bellur K. Devaraj, City Engineer, Public Works Department, City of El Segundo, 350 Main Street, El Segundo, CA 90245.

i. *FERC Contact:* Ahmad Mushtaq, (202) 219-2672.

j. *Comment Date:* March 1, 1999.

k. *Description of Proposed Action:* The existing project, for which the exemption is being surrendered, consists of: (1) a generating unit with a 500 hp (375 kw) turbine connected to a 522 kw generator and a 150-foot-long tap into the existing Southern California Edison Co.'s 16-kv transmission at the project site.

The exemptee is requesting surrender of the exemption because of the reduction in the water supply to the project.

l. This notice also consists of the following standard paragraph: 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, 385.211, 385.214. In determining the appropriate

action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS" "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 99-2279 Filed 1-29-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of License

January 26, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment to License.

b. *Project No:* 10819-004.

c. *Date Filed:* January 8, 1999.

d. *Applicant:* Idaho Water Resources Board.

e. *Name of Project:* Dworshak Small Hydroelectric Project.

f. *Location:* At the U.S. Army Corps of Engineers' (Corps) Dworshak Dam, on

the North Fork Clearwater River, on 3.8 acres of federal land: 0.9 acre administered by the Corps, and 2.9 acres administered by the U.S. Department of Interior's Bureau of Land Management within the external boundary of the Nez Perce Indian Reservation, in Clearwater County, Idaho.

g. *Filed Pursuant to:* 18 CFR 4.200.

h. *Applicant Contact:* Ralph Mellin, Idaho Department of Water Resources, P.O. Box 83720, Boise, ID 83720-0098, Phone: (208) 327-7991.

i. *FERC Contact:* J.W. Flint, (202) 219-2667.

j. *Comment Date:* March 5, 1999.

k. *Description of Amendment:* The licensee requests a change to the generator capacity from 2000-kW to 2500-kW to pass the higher flow requested by the fish hatcheries and to maximize the energy potential of the system.

The licensee also proposes to change the delivery point of the generated power from their overhead power lines located adjacent to the Dworshak National Fish Hatchery to their near-by underground vault for connecting underground power lines. This vault will be located on the south side of the Ahsahka Bridge over the North Fork Clearwater River. The vault over the bridge will be approximately 30 feet west of the present project boundary.

The new access road and turn around area shown on exhibit F-5 will not be built.

m. 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, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS" "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original

and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-2280 Filed 1-29-99; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6225-8]

Agency Information Collection Activities: Proposed Collection; Comment Request; Children's Total Exposure to Persistent Pesticides and Other Persistent Organic Pollutants (CTEPP)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this document announces that EPA is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB).

TITLE: Children's Total Exposure to Persistent Pesticides and Other Persistent Organic Pollutants (CTEPP).

EPA ICR Number: 1892.01.

Before submitting this ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before April 2, 1999.

ADDRESSES: Public comments should be submitted to: Ms. Shari Pricer, US EPA (MD-78A), Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION CONTACT:

Interested persons may obtain a copy of this ICR without charge by contacting

Ms. Shari Pricer, 919-541-2198. Fax: 919-541-1111. E-mail:

pricer.shari@epamail.epa.gov. For technical information on the proposed study, contact the Co-Principal Investigator, Gary F. Evans, 919-541-3124. FAX: 919-541-1486. E-mail: evans.gary@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are children of age 2-5 years and their adult caregivers at either home, day care, or preschool.

Title: Children's Total Exposure to Persistent Pesticides and Other Persistent Organic Pollutants (CTEPP), EPA ICR No. 1892.01.

Abstract: The National Exposure Research Laboratory of the Office of Research and Development (ORD) at EPA plans to conduct a research study investigating preschool children's exposure to persistent pesticides and other persistent organic pollutants. This study is necessary to respond to the Food Quality Protection Act (FQPA) of 1996 which requires that EPA evaluate non-occupational sources (e.g., food, water, air, dust, soil, etc.) of exposures to pesticides when constructing risk assessments, consider the cumulative health impact of pesticides, and provide particular attention to young children such that "there is reasonable certainty that no harm will result to infants and children from aggregate exposure to pesticide chemical residue."

Study respondents will be children between the ages of 2-5 and their adult caregivers in approximately 260 households. Participation will be entirely voluntary. The participants' exposures will be estimated by collection and analysis of samples of food, beverages, air, house dust, soil, hand wipes, and urine in conjunction with information from questionnaires including activity diaries. Young children, especially those of the preschool ages, are believed to have greater exposures than do older children or adults to persistent organic pesticides, including some compounds that may have endocrine-disrupting effects or developmental toxicity. These greater exposures may result from what children eat and drink, where they spend their time, and what they do there. The impact of the exposures may be greater on young children because of their smaller body masses, immature body systems, and rapid physical development.

The data will be used by scientists within ORD and external to the Agency to refine and validate exposure models which, in turn, will be used to reduce the uncertainty in the health risk

estimates of young children to these toxic pollutants. The information will also be used by the EPA Office of Children's Health Protection and the EPA Office of Prevention, Pesticides, and Toxic Substances in their consideration of children's risk assessment and risk management options. The information will appear in the form of final EPA reports, journal articles, and will also be made publicly available in an electronic data base.

The total cost of the study is estimated to be \$4.5M over a period of three years.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) 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;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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.

Burden Statement: The average respondent burden is estimated to be 6 hours. This time includes training time, time the respondent will spend collecting personal and environmental samples, and time spent completing interviewer- or self-administered questionnaires. Each respondent is sampled for a single time during a three-day time period, which consists of one day for recruitment and instruction and a two-day sample and information collection period. The total burden is estimated to be 1560 hours for 260 respondents. The field data collection is scheduled to occur over a two-year period; therefore, the annual burden is estimated to be 780 hours for 130 respondents per year, or 6 hours per respondent per year.

There are no direct respondent costs for this data collection. Participants will

be reimbursed for the costs of electricity used and food collected. An incentive payment of \$100 will be offered to defray the burden.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: January 14, 1999.

Gary J. Foley,

Director, (MD-75).

[FR Doc. 99-2318 Filed 1-29-99; 8:45 am]

BILLING CODE 6560-50-U

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6228-4]

Agency Information Collection Activities; OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notices.

SUMMARY: This document announces the Office of Management and Budget's (OMB) responses to Agency clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et. seq.). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

FOR FURTHER INFORMATION CONTACT: Call Sandy Farmer at (202) 260-2740, or E-mail at "farmer.sandy@epamail.epa.gov," and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No. 1367.05; Regulation of Fuel and Fuel Additives, Gasoline Volatility Rule; in 40 CFR part 80.27; was approved 12/08/98; OMB No. 2060-0178; expires 12/31/2001.

EPA ICR No. 0107.06; Source Compliance and State Action Reporting; in 40 CFR part 51, Subpart Q; was approved 12/16/98; OMB No. 2060-0096; expires 12/31/2001.

EPA ICR No. 0559.06; Revision, Application for Reference and Equivalent Method Determination; in 40 CFR part 53; was approved 12/15/98; OMB No. 2080-0005; expires 12/31/2001.

EPA ICR No. 1284.05; Standard of Performance for New Stationary Sources, Polymeric Coating of Supporting Substrates; in 40 CFR part 60, Subpart VVV; was approved 12/17/98; OMB No. 2060-0181; expires 12/31/2001.

EPA ICR No. 1841.01; Land Disposal Restrictions Surface Impoundment Study; was approved 12/29/98; OMB No. 2050-0157; expires 12/31/2001.

EPA ICR No. 1828.02; Industry Screener Questionnaire: Phase 1 Cooling Water Intake Structures; was approved 12/24/98; OMB No. 2040-0203; expires 04/30/99.

EPA ICR No. 0783.38; Motor Vehicle Emission Certification and Fuel Economy Compliance; in 40 CFR parts 86 and 600; was approved 12/22/98; OMB No. 2060-0104; expires 12/31/2001.

EPA ICR No. 1750.02; National Volatile Organic Compound Emission Standards for Architectural Coatings; in 40 CFR part 59, Subpart D; was approved 01/08/99; OMB No. 2060-0393; expires 01/31/2002.

EPA ICR No. 1863.01; Small System Survey; was approved 01/08/99; OMB No. 2040-0206; expires 01/31/2001.

EPA ICR No. 1853.01; Environmental Information Customer Survey; was approved 01/15/99; OMB No. 2010-0029; expires 01/31/2001.

EPA ICR No. 0226.14; National Pollution Elimination System Permit Application Requirements—Forms 2A and 2S (Final Rule); in 40 CFR part 122; was approved 01/13/99; OMB No. 2040-0086; expires 03/31/99.

EPA ICR No. 1877.01; Milestones Plan for the Bleached Paper Grade Kraft and Soda Subcategory of the Pulp, Paper, and Paperboard Point Source Category; in 40 CFR part 430, was approved 01/13/99; OMB No. 2040-0202; expires 01/31/2002.

OMB Disapproval

EPA ICR No. 1170.06; Collection of Economic and Program Support Data: Request for Generic Clearance; OMB No. 2070-0034; was disapproved by OMB 12/22/98.

OMB's Comments Filed

EPA ICR No. 1822.01; Lead Management and Disposal of Lead-Based Paint Debris (Proposed Rule); OMB filed comments 12/16/98.

EPA ICR No. 1886.01; NESHAP for Nutritional Yeast Manufacturing; in 40 CFR part 63, Subpart CCC; OMB filed comments 12/16/98.

EPA ICR No. 1873.01; Revisions to the Underground Injection Control Regulations for Class V Injection Wells—Option 1; in 40 CFR part 144; OMB filed comments 01/08/99.

EPA ICR No. 1874.01; Revisions to the Underground Injection Control Regulations for Class V Injection Wells—Option 2; in 40 CFR part 144; OMB filed comments 01/08/99.

EPA ICR No. 1697.02; NSPS for Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry Wastewater; in 40 CFR part 60, Subpart YYY; OMB filed comments 01/08/99.

EPA ICR No. 1854.01; Reporting and Record Keeping Requirements of the Consolidated Federal Air Rule for the Synthetic Organic Chemical Manufacturing Industry; in 40 CFR Part 60, Subparts A, Ka, Kb, VV, DDD, III, NNN, and RRR, part 61, Subparts A, V, Y, and BB, and part 63, Subparts A, F, G, and H; OMB filed comments 12/21/98.

EPA ICR No. 1869.01; NESHAP for Hazardous Air Pollutants for Manufacture of Amino/Phenolic Resin; in 40 CFR part 63; OMB filed comments 01/11/99.

EPA ICR No. 1871.01; Record Keeping and Reporting Requirements for Source Categories: Generic Maximum Achievable Control Technology (MACT) National Emission Standards for Hazardous Air Pollution (NESHAP); in 40 CFR part 63, Subpart YY; OMB filed comments 01/11/99.

Extensions of Expiration Dates

EPA ICR No. 0012.09; Motor Vehicle and Non-Road Engine Exclusion Determination; in 40 CFR part 91, Subpart K; OMB No. 2060-0124; on 12/21/98 OMB extended the expiration date through 03/31/99.

EPA ICR No. 1842.01; Notice of Intent of Storm Water Discharges Associated with Construction Activity under an NPDES General Permit; in 40 CFR part 122; OMB No. 2040-0188; on 12/23/98

OMB extended the expiration date through 03/31/99.

EPA ICR No. 0827.04; Construction Grants Program Information Collection Request; in 40 CFR part 35, Subpart I; OMB No. 2040-0027; on 01/13/99 OMB extended the expiration date through 03/31/99.

Dated: January 26, 1999.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 99-2321 Filed 1-29-99; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6228-3]

Announcement of Opportunity: EMPACT Grants

AGENCY: Environmental Protection Agency.

ACTION: Notice of request for applications.

SUMMARY: This document provides information on the availability of the 1999 investigator-initiated grants program announcement of opportunity on Environmental Monitoring for Public Access and Community Tracking (EMPACT). The areas of interest, eligibility and submission requirements, evaluation criteria, and implementation schedules are set forth. Grants will be competitively awarded following peer review.

DATES: The deadline for receipt of applications is April 8, 1999.

FOR FURTHER INFORMATION CONTACT: U.S. Environmental Protection Agency, National Center for Environmental Research and Quality Assurance (8703R), 401 M Street SW, Washington DC 20460, telephone (800) 490-9194. The complete announcement of opportunity can be accessed on the Internet from the EPA home page: <http://www.epa.gov/empact>.

SUPPLEMENTARY INFORMATION: In its Announcement of Opportunity the U.S. Environmental Protection Agency (EPA) invites grant applications from partnerships between local and state governments, research institutions, non-governmental organizations (NGOs), the private sector, and/or the federal government. The goal of EMPACT is to assist communities to provide sustainable public access to environmental monitoring data and information that are clearly communicated, time-relevant, useful, and accurate in the largest U.S. metropolitan areas. Applications must be received by April 8, 1999. The full

Announcement provides relevant background information, summarize EPA's interest in the topic area, and describe the application and review process.

Contact persons for additional information are Dr. Barbara Karn (karn.barbara@epamail.epa.gov), telephone 202-564-6820 and Dr. Charlotte Cottrill (cottrill.charlotte@epamail.epa.gov), telephone 202-564-6771.

Dated: January 20, 1999.

Henry Longest III,

Acting Assistant Administrator for Research and Development.

[FR Doc. 99-2320 Filed 1-29-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6228-2]

Proposed CERCLA Administrative Settlement; Rosen Brothers Superfund Site, Cortland, NY

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: Notice is hereby given of a proposed administrative settlement concerning the Rosen Brothers Superfund Site in Cortland, New York with the City of Cortland and the New York, Susquehanna and Western Railway Corporation. The settlement is a prospective purchaser agreement and it requires the settling parties to perform certain response actions, including operation and maintenance of a portion of the final cleanup remedy following the purchase of the real property. The settlement includes a covenant not to sue the settling parties pursuant to sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607. For thirty (30) days following the date of publication of this document, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

DATES: Comments must be submitted on or before March 3, 1999.

ADDRESSES: Comments should be sent to the individual listed below. Comments should reference the Rosen Brothers Superfund Site and EPA Index No. II-CERCLA-98-0202. For a copy of the

settlement, contact the individual listed below.

FOR FURTHER INFORMATION CONTACT:

Brian E. Carr, Assistant Regional Counsel, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 290 Broadway, 17th Floor, New York, New York, 10007-1866, Telephone: (212) 637-3170.

Dated: December 31, 1998.

Jeanne M. Fox,

Regional Administrator, Region 2.

[FR Doc. 99-2319 Filed 1-29-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6228-5; CWA-HQ-99-001]

Clean Water Act Class II: Proposed Administrative Penalty Assessment and Opportunity to Comment Regarding United States Cellular Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has filed a civil administrative complaint against United States Cellular Corporation ("U.S. Cellular") for failure to prepare a Spill Prevention Control and Countermeasure ("SPCC") plan for one facility where it stored diesel oil in two above ground tanks in violation of the Clean Water Act ("CWA") and its implementing regulations. EPA, pursuant to CWA section 311, has proposed to assess a civil penalty and provided notice to U.S. Cellular of its right to request a hearing. The Administrator, as required by CWA section 311, is providing public notice and opportunity for interested persons to comment on the complaint and the final proposed order.

DATES: Comments on the complaint and the proposed order are due on or before March 3, 1999.

ADDRESSES: Mail written comments to Enforcement & Compliance Docket and Information Center (2201A), Docket Number EC-1999-01, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to Enforcement & Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC. Comments may also be submitted electronically to: doCKET.oeca@epa.gov. Comments may be submitted on disk in

WordPerfect 8.0 or earlier version. Electronic comments on the complaint and this proposed order may be filed online at many Federal Depository Libraries.

The complaint, consent agreement, the proposed final order, and public comments, if any, may be reviewed at the Enforcement & Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC. Persons interested in reviewing these materials must make advance arrangements to do so by calling 202-564-2614. A reasonable fee may be charged by EPA for copying docket materials.

The public record of the administrative enforcement proceeding is located in the Office of the EPA Headquarters Hearing Clerk, Ms. Bessie Hammel, Rm. C-400, 401 M St., SW., Washington, DC, Monday through Friday, excluding legal holidays from 8 a.m. to 4:30 p.m.; telephone (202) 260-4865.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Milton, Multimedia Enforcement Division (2248-A), U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone (202) 564-2235; fax (202) 564-0010; e-mail: milton.philip@epa.gov.

SUPPLEMENTARY INFORMATION: Electronic Availability: Electronic copies of this document are available from the EPA Home Page under the link "Laws and Regulations" at the **Federal Register—Environmental Documents** entry (<http://www.epa.gov/fedrgstr/>).

I. Background

U.S. Cellular, 8410 W. Bryn Mawr Ave., Chicago IL 60631, self-disclosed to EPA that it had failed to prepare a SPCC plan for one facility where it stored diesel oil in two above ground tanks in violation of Section 311 of the CWA and 40 CFR Part 112. The disclosure was made pursuant to the EPA "Incentives for Self-Policing: Discovery, Disclosures, Correction and Prevention of Violations" ("Audit Policy"), 60 FR 66,706, (December 22, 1995). EPA filed an administrative civil complaint against U.S. Cellular on January 25, 1999 (In the matter of United States Cellular Corporation, Docket No. CWA-HQ-99-001). The CWA administrative penalty proposed in the complaint is \$14,127. EPA intends to settle this action pursuant to the Audit Policy. Using the criteria set forth in the policy, EPA intends to waive any gravity based penalty and collect the economic benefit gained by the Respondent because of delayed compliance with the SPCC

regulations. The proposed settlement figure for this CWA violation is \$1,127. This settlement is subject to public notice and comment under CWA section 311, 33 U.S.C. 1321.

Under CWA section 311(b)(6)(A), 33 U.S.C. 1321(b)(6)(A), any owner, operator, or person in charge of a vessel, onshore facility, or offshore facility from which oil is discharged in violation of CWA section 311(b)(3), 33 U.S.C. 1321(b)(3), or who fails or refuses to comply with any regulations that have been issued under CWA section 311(j), 33 U.S.C. 1321(j) may be administratively assessed a civil penalty of up to \$137,500 by EPA. Class II proceedings under CWA section 311(b)(6) are conducted in accordance with 40 CFR Part 22.

The procedures by which the public may submit written comments on the complaint and on a proposed Class II penalty order or participate in a Class II penalty proceeding are set forth in 40 CFR 22.38. The deadline for submitting public comment on the complaint and this proposed Class II order is March 3, 1999. All comments will be transferred to the Environmental Appeals Board (EAB) for consideration and/or incorporation into the final order. The powers and duties of the EAB are outlined in 40 CFR 22.04(a).

In order to provide an opportunity for public comment, EPA will not take final action in this proceeding prior to the close of the public comment period.

List of Subjects

Environmental protection.

Dated: January 27, 1999.

Melissa P. Marshall,

Director, Multimedia Enforcement Division, Office of Enforcement and Compliance Assurance.

[FR Doc. 99-2316 Filed 1-29-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6228-6; CWA-HQ-99-002]

Clean Water Act Class II: Proposed Administrative Penalty Assessment and Opportunity to Comment Regarding Southwestern Bell Telephone Company

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has filed a civil administrative complaint against Southwestern Bell Telephone Company (SWBT) for failure to prepare a Spill Prevention Control and Countermeasure

(SPCC) plan for 117 facilities where it stored diesel oil in above ground tanks in violation of the Clean Water Act (CWA) and its implementing regulations. EPA, pursuant to CWA section 311, has proposed to assess a civil penalty and provided notice to SWBT of its right to request a hearing. The Administrator, as required by CWA section 311, is providing public notice and opportunity for interested persons to comment on the complaint and the final proposed order.

DATES: Comments on the complaint and proposed order are due on or before March 3, 1999.

ADDRESSES: Mail written comments to Enforcement & Compliance Docket and Information Center (2201A), Docket Number EC-1999-02, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to Enforcement & Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC. Comments may also be submitted electronically to: docket.oeca@epa.gov. Comments may be submitted on disk in WordPerfect 8.0 or earlier version.

Electronic comments on the complaint and proposed order may be filed online at many Federal Depository Libraries.

The complaint, the consent agreement, the proposed final order, and public comments, if any, may be reviewed at the Enforcement & Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC. Persons interested in reviewing the materials must make advance arrangements to do so by calling 202-564-2614. A reasonable fee may be charged by EPA for copying docket materials.

The public record of the administrative enforcement proceeding is located in the Office of the EPA Headquarters Hearing Clerk, Ms. Bessie Hammel, Rm. C-400, 401 M St., SW., Washington, DC, Monday through Friday, excluding legal holidays from 8 a.m. to 4:30 p.m.; telephone (202) 260-4865.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Milton, Multimedia Enforcement Division (2248-A), U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone (202) 564-2235; fax (202) 564-0010; e-mail: milton.philip@epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability: Electronic copies of this document are available from the EPA Home Page under the link "Laws and Regulations" at the **Federal Register**—Environmental Documents entry (<http://www.epa.gov/fedrgstr/>).

I. Background

Southwestern Bell Telephone Company ("SWBT"), 530 McCullough, Room 1460, San Antonio, TX 78215, self-disclosed to EPA that it had failed to prepare Spill Prevention Control and Countermeasure ("SPCC") plans for 117 facilities where it stored diesel oil in above ground storage tanks in violation of Section 311 of the Clean Water Act ("CWA") and 40 CFR Part 112. The disclosure was made pursuant to the EPA "Incentives for Self-Policing: Discovery, Disclosures, Correction and Prevention of Violations" ("Audit Policy"), 60 FR 66,706, (December 22, 1995). EPA filed an administrative civil complaint against SWBT on January 25, 1999 (In the Matter of Southwestern Bell Telephone Company, Docket No. CWA-HQ-99-002). The CWA administrative penalty proposed in the complaint is \$137,500. EPA intends to settle this action pursuant to the Audit Policy. Using the criteria set forth in the policy, EPA intends to waive any gravity based penalty and to assess a penalty equivalent to the economic benefit gained by the Respondent because of delayed compliance with the SPCC regulations. The proposed settlement figure for this matter is \$48,453. This settlement is subject to public notice and comment under CWA section 311, 33 U.S.C. 1321.

Under CWA section 311(b)(6)(A), 33 U.S.C. 1321(b)(6)(A), any owner, operator, or person in charge of a vessel, onshore facility, or offshore facility from which oil is discharged in violation of CWA section 311(b)(3), 33 U.S.C. 1321(b)(3), or who fails or refuses to comply with any regulations that have been issued under CWA section 311(j), 33 U.S.C. 1321(j) may be administratively assessed a civil penalty of up to \$137,500 by EPA. Class II proceedings under CWA section 311(b)(6) are conducted in accordance with 40 CFR Part 22.

The procedures by which the public may submit written comments on the complaint and on a proposed Class II penalty order or participate in a Class II penalty proceeding are set forth in 40 CFR 22.38. The deadline for submitting public comment on the complaint and this proposed Class II order is March 3, 1999. All comments will be transferred to the Environmental Appeals Board ("EAB") of EPA for consideration and/or incorporation into the final order.

The powers and duties of the EAB are outlined in 40 CFR 22.04(a).

In order to provide an opportunity for public comment, EPA will not take final action in this proceeding prior to the close of the public comment period.

List of Subjects

Environmental protection.

Dated: January 27, 1999.

Melissa P. Marshall,

*Director, Multimedia Enforcement Division,
Office of Enforcement and Compliance
Assurance.*

[FR Doc. 99-2317 Filed 1-29-99; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW, Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 224-002758-017

Title: Supplemental Agreement Between Port of Oakland and American President Lines, Ltd.

Parties:

Port of Oakland
American President Lines, Ltd.

Synopsis: The proposed agreement amendment extends the last effective date of an earlier amendment relating to primary and secondary usage of certain facilities at the port.

Agreement No.: 224-003038-007

Title: Supplemental Agreement Between Port of Oakland and American President Lines, Ltd.

Parties:

Port of Oakland
American President Lines, Ltd.

Synopsis: The proposed agreement amendment extends the last effective date of an earlier amendment relating to primary and secondary usage of certain facilities at the port.

Agreement No.: 203-011432-008

Title: Pacific Latin America Agreement

Parties:

A.P. Moller-Maersk Line
Sea-Land Service, Inc.

Synopsis: The proposed modification authorizes the member lines to enter into individual service contracts. It would also delete the prohibition on

individual service contracts and the taking of independent action with respect to loyalty or service contracts.

Agreement No.: 203-011432-002

Title: East Coast North America to West Coast of South America and Caribbean Cooperative Working Agreement

Parties:

APL Co. PTE Ltd.
Crowley American Transport, Inc.
Compania Chilena de Navegacion Interocanica S.A.
Compania Sud Americana de Vapores S.A.

Synopsis: The proposed modification adds APL Co. PTE Ltd. and Crowley American Transport, Inc. as parties to the agreement, provides that the parties will initially deploy six vessels of about 1,700 TEUs per vessel, and makes other administrative and conforming amendments.

Dated: January 26, 1999.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99-2259 Filed 1-29-99; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL MARITIME COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

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

PLACE: 800 North Capitol Street, NW, First Floor Hearing Room, Washington, DC.

STATUS: OPEN.

MATTER(S) TO BE CONSIDERED:

1. Docket No. 98-21—Miscellaneous Amendments to Rules of Practice and Procedure—Consideration of Comment.

2. Docket No. 98-25—Amendments to Regulations Governing Restrictive Foreign Shipping Practices, and New Regulations Governing Controlled Carriers—Consideration of Comments.

3. Docket No. 98-27—Marine Terminal Operator Schedules—Consideration of Comments.

CONTACT PERSON FOR MORE INFORMATION:

Bryant L. VanBrakle, Secretary, (202) 523-5725.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99-2363 Filed 1-27-99; 4:36 pm]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM**Formations of, Acquisitions by, and Mergers of Bank Holding Companies**

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. 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 25, 1999.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. *First Banking Company of Southeast Georgia*, Statesboro, Georgia; to merge with Wayne Bancorp, Inc., Jesup, Georgia.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. *Hometown Independent Bancorp, Inc.*, Morton, Illinois; to acquire 100 percent of the voting shares of Sunstar Bank, Washington, Illinois.

2. *The Morton Community Bank Employee Stock Ownership Plan and Trust*, Morton, Illinois; to become a bank holding company by acquiring 33.70 percent of the voting shares of

Hometown Independent Bancorp, Inc., Morton, Illinois, and thereby indirectly acquire Morton Community Bank, Morton, Illinois.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. *Franklin Bancshares, Inc.*, Franklin, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Franklin Bank, Franklin, Illinois.

D. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. *CNB, Inc.*, Walker, Minnesota; to become a bank holding company by acquiring at least 95 percent of the voting shares of Centennial National Bank, Walker, Minnesota.

2. *Otto Bremer Foundation*, St. Paul, Minnesota; and Bremer Financial Corporation, St. Paul, Minnesota; to acquire 100 percent of the voting shares of Dean Financial Services, Inc., St. Paul, Minnesota, and thereby indirectly acquire First National Corporation of Aitkin, Inc., Aitkin, Minnesota, First National Bank of Aitkin, Aitkin, Minnesota, Mid-Continent Financial Services, Inc., St. Paul, Minnesota, State Bank of Edgerton, Edgerton, Minnesota, First State Bank of Eden Prairie, Eden Prairie, Minnesota, and Princeton Bank, Princeton, Minnesota.

E. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *La Plata Bancshares, Inc.*, Hereford, Texas, and La Plata Delaware Bancshares, Inc., Dover, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of The First National Bank of Hereford, Hereford, Texas.

2. *Bauer Management, Inc.*, Port Lavaca, Texas; to acquire 1 percent of the voting shares of Bauer Investments, Ltd., Port Lavaca, Texas, and thereby acquire 60.30 percent of the voting shares of The First National Bank, Port Lavaca, Texas, and thereby indirectly acquire 63.5 percent of the voting shares of Seaport Bank, Seadrift, Texas.

Board of Governors of the Federal Reserve System, January 26, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99-2237 Filed 1-29-99; 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 15, 1999.

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. *Wells Fargo & Company*, San Francisco, California, Norwest Mortgage, Inc., Des Moines, Iowa, Norwest Ventures, LLC, Des Moines, Iowa; to engage *de novo* in a joint venture through its subsidiary, RWF Mortgage Company, Riverside, California, in residential mortgage lending, pursuant to § 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, January 26, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99-2236 Filed 1-29-99; 8:45 am]

BILLING CODE 2236-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Toxicology Program; National Toxicology Program Special Emphasis Panel; Notice of Establishment

Pursuant to the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), the Director, National Toxicology Program (NTP), announces the establishment of the National Toxicology Program Special Emphasis Panel (NTPSEP) by the Secretary, DHHS.

The NTP Center for the Evaluation of Alternative Toxicological Methods (Center), on an as needed basis, will convene a group of expert scientists to accomplish the independent peer review of new test methods or evaluate existing test methods for toxicological assessments. Peer review panels will be asked to develop scientific consensus on the usefulness of test methods to generate information for specific human health and/or ecological risk assessment purposes. They will address the biological relevance of the new test to the toxicity of interest, and address how and when the new test method can partially or fully replace existing methods or approaches. When appropriate, panels will be asked to identify additional validation studies necessary to adequately evaluate a method, and to identify additional research necessary to support the development of mechanism-based test methods. It is anticipated that expert review panels will also be convened to evaluate the adequacy of current methods, and to evaluate proposed validation studies. Agencies will use this information to establish priorities for appropriate research, development, and validation efforts in collaboration with interested parties.

Duration of this Committee is continuing unless formally determined by the Secretary, DHHS, that termination would be in the best public interest.

Dated: January 21, 1999.

Kenneth Olden,

Director, National Toxicology Program.

[FR Doc. 99-2247 Filed 1-29-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Notice of Interest Rate on Overdue Debts

Section 30.13 of the Department of Health and Human Services' claims collection regulations (45 CFR part 30) provides that the Secretary shall charge an annual rate of interest as fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date that HHS becomes entitled to recovery. The rate generally cannot be lower than the Department of Treasury's current value of funds rate or the applicable rate determined from the "Schedule of Certified Interest Rates with Range of Maturities." This rate may be revised quarterly by the Secretary of the Treasury and shall be published quarterly by the Department of Health and Human Services in the **Federal Register**.

The Secretary of the Treasury has certified a rate of 13¾% for the quarter ended December 21, 1998. This interest rate will remain in effect until such time as the Secretary of the Treasury notifies HHS of any change.

Dated: January 26, 1999.

George Strader,

Deputy Assistant Secretary, Finance.

[FR Doc. 99-2311 Filed 1-29-99; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR-142]

Availability of Chemical Specific Consultation

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice of availability.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), section 104(i)(4) [42 U.S.C. 9604(i)(4)] directs the Administrator of ATSDR to provide consultations upon request on health issues relating to exposure to hazardous or toxic substances, on the basis of available information, to the

Administrator of EPA, State officials, and local officials. This notice announces the availability of a chemical specific public health consultation titled "Hazardous Substance Exposures and Autism" that ATSDR has prepared for public comment. The consultation is a review of the available scientific literature pertaining to what is known about the association between exposure to hazardous substances and autism.

DATES: In order to be considered, comments on this draft consultation must be received on or before March 3, 1999. Comments received after the close of the public comment period will be considered at the discretion of ATSDR based upon what is deemed to be in the best interest of the general public.

ADDRESSES: Requests for copies of the draft public health consultation should be sent to the ATSDR Information Center, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E-57, 1600 Clifton Road, NE., Atlanta, Georgia 30333. Written comments regarding the draft public health consultation should be sent to the same address. ATSDR reserves the right to provide only one copy of the draft consultation, free of charge.

Written comments submitted in response to this notice should bear the docket control number ATSDR-142. Because all public comments regarding ATSDR public health consultations are available for public inspection [after the consultation is published in final], no confidential business information should be submitted in response to this notice.

FOR FURTHER INFORMATION CONTACT: ATSDR Information Center, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E-57, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone (404) 639-6357.

SUPPLEMENTARY INFORMATION: The Superfund Amendments and Reauthorization Act (SARA) (Pub. L. 99-499) amends the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) (42 U.S.C. 9601 *et seq.*) by establishing certain responsibilities for the ATSDR and the Environmental Protection Agency (EPA) with regard to hazardous substances which are most commonly found at facilities on the CERCLA National Priorities List (NPL). Among these responsibilities is that the Administrator of ATSDR prepare consultations upon request on health issues relating to exposure to hazardous or toxic substances, on the basis of available

information, to the Administrator of EPA, State officials, and local officials. A public health consultation provides advice on a specific public health issue related to real or possible human exposure to toxic material and is a way for ATSDR to respond rapidly to requests for assistance.

ATSDR has prepared this document titled "Hazardous Substance Exposures and Autism" in response to a request from U.S. Representative Christopher Smith and residents of Brick Township, New Jersey who are concerned that hazardous substances may be present in the environment of Brick Township and that an increase in the number of children with autism may be attributable to exposure to these substances. This document was placed in a repository in Brick, New Jersey and released to the public via a mail-out on December 18, 1998.

Dated: January 26, 1999.

Georgi Jones,

*Director, Office of Policy and External Affairs,
Agency for Toxic Substances and Disease
Registry.*

[FR Doc. 99-2267 Filed 1-29-99; 8:45 am]

BILLING CODE 4163-70-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[INFO-99-08]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639-7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS-D24, Atlanta, GA 30333. Written

comments should be received within 60 days of this notice.

Proposed Project

1. An Evaluation Study Of An HIV/STD Prevention Curriculum For Youth Attending Alternative Schools To Be Conducted From 1999 To 2002—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP) Division of Adolescent and School Health. The purpose of this request is to obtain OMB clearance to conduct a randomized trial of a curriculum to reduce behaviors related to HIV/STD transmission among 14 to 18 year old students in 30 court and community schools in Northern California. Participants will respond to surveys of attitudes, knowledge, and behavior related to HIV/STD transmission and prevention at baseline and at 6, 12, and 18 month post-tests. Reduction of behaviors among adolescents related to HIV and STD transmission, and reduction of the prevalence of STDs is the focus of at least seven objectives in *Healthy People 2000: Midcourse Review and 1995 Revisions*. There have been few studies assessing the effectiveness of curricula to reduce HIV/STD related risk behaviors in this high-risk adolescent population. Data gathered from this study will provide information about how HIV/STD risk behavior may be effectively reduced among alternative school students.

The total cost to respondents is estimated at \$50,400 assuming a minimum wage for students of \$5.25 in the study period.

Respondents	Number of respondents	Number of responses per respondent	Burden per response	Total burden hours
Alternative school students	2400	4	1.0	9600
Total				9600

2. Use of Laboratory Information Systems (LIS) to Transmit Infectious Diseases Test Results (HL7 Messages) to Public Health Agencies—New—Public Health Program Office (PHPPO), Division of Laboratory Systems. CDC proposes to gather data through the use of a mail/telephone survey of all United States vendors of LIS used for recording and processing microbiology data. The use of a mail/telephone-assisted survey instrument will be an efficient, cost-effective approach for performing the data collection. No computerized data collection systems have been developed for this survey because the number of

respondents is small. Instead, trained telephone interviewers knowledgeable about LIS and about the specific messages that CDC is interested in transmitting will gather data. The interviewers will have the flexibility to answer technical questions, probe for further information and provide explanations of coding vocabularies, security needs and other issues that may not be readily understood by the LIS vendors.

The data will provide the government, LIS vendors, laboratory practitioners, committees that make recommendations regarding messaging and other

stakeholders with information about the projected costs to vendors and laboratories and about the time frames required for and the barriers to implementation.

CDC will use the survey to gauge the technological readiness and the cost factors affecting secure electronic transmission of infectious disease data to government agencies. These transmissions will act as part of an early warning system leading to more timely response to infectious disease outbreaks. This survey responds to President Clinton's request for the increased use of modern technology to identify and

prevent outbreaks of food-borne illness. The total cost to respondents is estimated at \$0.

Respondents	Number of respondents	Average number of responses/respondent	Average burden/response (in hrs.)	Average total burden (in hrs.)
Mail survey (including initial contact)	56	2	0.50	1
Telephone follow-up	56	2	0.50	1
Total				112

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99-2266 Filed 1-29-99; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 99032]

Epidemiology and Laboratory Capacity for Infectious Diseases; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1999 funds for a cooperative agreement program to promote adequate capacity of local, State, and national efforts for epidemiologic and laboratory surveillance and response for infectious diseases. This program addresses the "Healthy People 2000" priority area of Immunization and Infectious Diseases.

The purpose of the Epidemiology and Laboratory Capacity in Infectious Diseases (ELC) program is to assist State and eligible local public health agencies in strengthening basic epidemiologic and laboratory capacity to address infectious disease threats with a focus on notifiable diseases, food-, water-, and vector-borne diseases, vaccine-preventable diseases, and drug-resistant infections. Awards are intended to support activities that enhance the ability of a program to identify and monitor the occurrence of infectious diseases of public health importance in a community, characterize disease determinants, identify and respond to disease outbreaks and other infectious disease emergencies, use public health data for priority setting and policy development, and assess the effectiveness of activities. Strengthening collaboration between laboratory and epidemiology practice is seen as a crucial component of this program.

B. Eligible Applicants

Assistance will be provided only to the health departments of States or their bona fide agents, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, federally recognized Indian tribal governments, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. In addition, official public health agencies of city governments with jurisdictional populations greater than 1,500,000 or county governments with jurisdictional populations greater than 8,000,000 (based on 1990 census data) are eligible to apply.

The ELC program was initiated in 1995 with Program Announcement 543 and expanded in 1997 with Program Announcement 720. A total of 30 grantees has been funded to date. This announcement is a further expansion of the ELC program and is intended to add new States, counties, and/or cities not already funded in the program and to competitively renew those current grantees with project periods expiring in 1999. Thus, the following current ELC grantees, which do not have project periods expiring in 1999, are ineligible to apply for funds under this announcement: Illinois, Indiana, Kentucky, Michigan, Montana, Nebraska, New Mexico, Ohio, Rhode Island, South Dakota, Tennessee, Texas, Utah, Vermont, and Wisconsin.

Note: Public Law 104-65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately \$4,600,000 is available in FY 1999 to fund approximately fifteen competing continuation and three new awards. Although only three new awards are currently projected for FY 1999, should additional funding become available, CDC may fund additional new awards from this

competition. All eligible applicants are, therefore, encouraged to submit an application. It is expected that the average award (total direct and indirect costs) will be \$255,000, ranging from \$100,000 to \$300,000. It is expected that the awards will begin on or about July 1, 1999, and will be made for a 12-month budget period within a project period of up to four years. The funding estimate may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Funding Preferences

Funding preference will be given to competing continuation applications over new applications. Current grantees have implemented important capacity-building activities and continued cooperative agreement support is required to continue building and for maintaining these capacities.

Recipient Financial Participation

Although a requirement for matching funds is not a condition for receiving an award under this cooperative agreement program, applicants must document the non-Federal human and fiscal resources that will be available to conduct activities outlined in the proposal. Federal funds cannot be used to replace or supplant existing State and local support. See Evaluation Criteria (paragraph 6: Budget) for additional information.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for the activities under Recipient Activities and CDC shall be responsible for the activities under CDC Activities below:

Recipient Activities

1. Enhance local capacity for gathering and evaluating infectious disease surveillance data, detecting and investigating outbreaks, and using surveillance data for public health practice and clinical follow-up.

2. Ensure appropriate representation to planning and priority-setting meetings organized for recipients of this cooperative agreement.

CDC Activities

1. Provide consultation and assistance in enhancing local epidemiologic and laboratory capacity for surveillance and response for infectious diseases.

2. Assist in monitoring and evaluating scientific and operational accomplishments and progress in achieving the purpose of this program.

3. Provide national coordination of activities where appropriate.

A. Application Content

Information in the Program Requirements, Other Requirements, and Evaluation Criteria sections should be used to develop the application content. Applications will be evaluated on the criteria listed in Section G., below, so it is important that narratives follow the criteria in the order presented.

Provide a brief (no more than two pages) abstract of the application. The narrative should be no more than 12 double-spaced pages (excluding abstract, budget, and appendices), printed on one side, with one inch margins and un-reduced font on white 8.5" x 11" paper. All pages must be clearly numbered, a complete index to the application and its appendices must be included, and the required original and two copies must be submitted unstapled and unbound.

A detailed budget with a line-item justification and any other information to demonstrate that the request for assistance is consistent with the purpose and objectives of this cooperative agreement program.

Although matching funds are not a condition for receiving an award under this program, include in the budget, a separate line-item accounting of non-Federal contributions (funding, personnel, and other resources) that will be directly allocated to the proposed activities. Identify any non-applicant sources of these contributions.

If requesting funds for any contractual activities, provide the following information for each contract: (1) Name of proposed contractor, (2) breakdown and justification for estimated costs, (3) description and scope of activities to be performed by contractor, (4) period of performance, and (5) method of contractor selection (e.g., sole-source or competitive solicitation).

This program is designed to support core epidemiologic and laboratory capacity in a variety of ways. In health departments where gaps in personnel and equipment are identified as major

barriers to effective surveillance and response, the program can provide resources to hire staff or purchase necessary equipment. Funds can also be used to initiate or enhance ongoing activities. Examples of such activities are provided below. These examples are not meant to serve as templates for proposals. Rather, recipients are urged to analyze their current surveillance infrastructure, identify gaps in core epidemiologic and laboratory capacity, and develop proposals that address the needs of their respective health jurisdictions.

Examples

1. Enhanced communicable disease surveillance and response. Activities would include improving surveillance in such areas as foodborne diseases, influenza, antimicrobial resistant organisms and vaccine-preventable diseases. Applicants are encouraged to discuss proposed activities in advance with relevant branches within CDC and, where appropriate, to coordinate those activities with CDC or other public health agencies.

2. Acquisition of molecular diagnostic and subtyping technologies. Activities might include:

- (a) purchasing necessary equipment and supplies;
- (b) training of laboratory personnel; and

(c) support of personnel to perform these activities. Recipients should plan to adhere to existing standards where appropriate, such as in PFGE-subtyping of *E. coli* O157:H7 isolates. Recipients should clearly specify how they plan to use information gained from these technologies to augment their existing surveillance activities.

3. Training of epidemiology and laboratory personnel.

4. Improved use of information technology. Activities could include:

- (a) development of innovative methods of communicating public health information to clinicians, public health practitioners, and the public;
- (b) development of local area networks (LANs) or wide area networks (WANs) to improve communications between divisions of a health department (e.g., between the epidemiology and laboratory divisions) or between local, county, and State health departments; or

(c) development of electronic laboratory-based reporting systems to automate communicable disease reporting from clinical laboratories. State and local health jurisdictions developing electronic laboratory-based reporting are encouraged to develop systems that are compliant with

emerging standards and to work with CDC and with other States that are in the process of developing such systems.

F. Submission and Deadline

Letter of Intent (LOI)

In order to assist CDC in planning for and executing the evaluation of applications submitted under this program announcement, all parties intending to submit an application are requested to inform CDC of their intention to do so at their earliest convenience prior to the application due date. Notification should include name and address of the institution and name, address, and telephone number of the contact person. Notification can be provided by facsimile, postal mail, or E-mail to Deborah A. Deppe, M.P.A., National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, N.E., Mailstop C-12, Atlanta, Georgia 30333, Facsimile: (404) 639-4197 E-mail address: <dad1@cdc.gov>.

Application

Submit the original and two copies of PHS 5161-1 (OMB Number 0937-0189) on or before April 1, 1998. (Forms are in the application kit.) Submit all applications to: Oppie Byrd, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99032, Centers for Disease Control and Prevention (CDC), 2929 Brandywine Road, Mailstop E-18, Atlanta, Georgia 30341.

Applications that do not arrive in time for submission to the independent review group, will not be considered in the current competition unless proof is provided package was mailed on or before the deadline (i.e., receipt from U.S. Postal Service or a commercial carrier; private metered postmarks are not acceptable).

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Description of the population under surveillance, either the State or other appropriate jurisdiction (if an applicant is a county, city, or other agency) (5 points). Extent to which the application provides information on the population size, demographic characteristics, geographic distribution, racial/ethnic makeup, and health care delivery systems.

2. Description of existing public health infectious disease epidemiology and laboratory capacity (15 points).

Extent to which the applicant:

1. Describes existing infectious disease surveillance and response activities, including reporting requirements, spectrum of laboratory specimen testing performed, degree of automation of laboratory and epidemiologic information management, and public health response capacity.

b. Provides information on existing staffing, management, material and equipment investment, training, space, and financial support of laboratory and epidemiologic capacity for public health surveillance and response for infectious diseases.

c. Describes current collaboration between its epidemiology and laboratory programs in surveillance and response including the existence of, or potential for, integrated uses of surveillance data;

d. Describes current or previous collaborative relationships with clinical laboratories, local health agencies, academic medicine groups, and health care practitioners, including Health Maintenance Organizations (HMOs) or managed care providers; and demonstrates the potential of these relationships for enhanced surveillance and public health response activities.

3. Identification of areas of need (gaps) in surveillance and response for infectious diseases and understanding of the objectives of this cooperative agreement program (20 points).

Extent to which the application:

a. Outlines State and local needs in epidemiology and laboratory capacity for public health surveillance and response for infectious diseases.

b. Identifies specific important diseases or conditions (e.g., notifiable diseases, foodborne and waterborne diseases, vaccine-preventable diseases and drug-resistant infections) which will be addressed and outlines why these are important.

4. Operational Plan (Note: Provide a detailed description of first year activities only and briefly describe future year activities) (45 points). Extent to which the proposed plan:

a. Outlines activities that clearly address the identified needs in capacity and the specific diseases and conditions to be addressed.

b. Describes steps to be taken to facilitate and strengthen collaboration between epidemiology and laboratory practice.

c. Includes current letters of support from participating agencies, institutions, and organizations indicating their willingness to participate in the activities.

d. Is consistent with, and adequate to achieve, the needs identified and the purpose and objectives of this program.

e. If any research involving human subjects is proposed, has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in any proposed research. This includes:

(1) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

(2) The proposed justification when representation is limited or absent.

(3) A statement as to whether the design of the study is adequate to measure differences when warranted.

(4) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

5. Plan for monitoring and evaluation (15 points). The extent to which the applicant describes a detailed plan for monitoring the implementation of the activities and evaluating the extent to which the proposed activities strengthen local and national epidemiologic and laboratory capacity for infectious diseases.

6. Budget (not scored).

The extent to which the budget request is clearly explained, adequately justified, reasonable, and sufficient for the proposed project activities.

7. Human Subjects: (Not Scored).

If any research involving human subjects is proposed, does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects?

Yes _____ No _____

Comments: _____

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. annual progress reports, no more than 90 days after the end of the budget period;

2. annual Financial Status Report (FSR), no more than 90 days after the end of the budget period; and

3. Final FSR and performance reports, no more than 90 days after the end of the project period.

Send all reports to: Oppie Byrd, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2929 Brandywine Road, Mailstop E-18, Atlanta, Georgia 30341.

The following additional requirements are applicable to this

program. For a complete description of each, see Attachment I in the application kit.

AR-1 Human Subjects Requirements

AR-2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research

AR-7 Executive Order 12372 Review

AR-10 Smoke-Free Workplace Requirements

AR-11 Healthy People 2000

AR-12 Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under the Public Health Service Act Sections 301(a)[42 U.S.C. 241(a)], 317(k)(1)[42 U.S.C. 247b(k)(1)], and 317(k)(2)[42 U.S.C. 247b(k)(2)], as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

Please refer to Program Announcement 99032 when you request information. For a complete program description, information on application procedures, an application package, and business management technical assistance, contact Oppie Byrd, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office Announcement 99032, Centers for Disease Control and Prevention (CDC), 2929 Brandywine Road, Mailstop E-18, Atlanta, GA 30341, Telephone: (404) 842-6546, E-mail Address: <oxb3@cdc.gov>. See also the CDC home page on the Internet: <<http://www.cdc.gov>>.

For program technical assistance, contact Deborah A. Deppe, M.P.A., National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), Mailstop C-12, 1600 Clifton Road, N.E., Atlanta, Georgia 30333, Telephone: (404) 639-4668, E-mail Address: <dad1@cdc.gov>.

For written information and to request an application kit, call 1-888-GRANTS4 (1-888 472-6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest. (Application forms are also available on the CDC Home Page of the Internet.)

Dated: January 25, 1999.

John L. Williams,

Director, Procurement and Grants Office
Centers for Disease Control and Prevention (CDC).

[FR Doc. 99-2150 Filed 1-29-99; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 99016]

National Minority Organizations Immunization Projects Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1999 funds for a cooperative agreement program for National Minority Organizations Immunization Projects. This program addresses the "Healthy People 2000" priority area of Immunization and Infectious Diseases.

The purpose of this Cooperative Agreement is to assist National Minority Organizations (NMOs) with the promotion and improvement of childhood, adolescent, and adult immunization coverage levels.

B. Eligible Applicants

Assistance will be provided only to National Minority Organizations that provide documented proof that they meet the following criteria. The applicant must provide this documentation under the "Eligibility" section found in the front of the application. The applicant must:

1. Be an established, tax-exempt organization (a nongovernmental, tax-exempt corporation or association whose net earnings in no way lawfully accrue to the benefit of private shareholders or individuals). Tax-exempt status may be confirmed by either providing a copy of the pages from the Internal Revenue Service's (IRS) most recent list of 501(c)(3) of tax-exempt organizations or a copy of the current IRS Determination Letter. Proof of tax-exempt status must be provided in the application.

2. Have a specific charge from its Articles of Incorporation or Bylaws or a resolution from its governing body or board to operate nationally within the United States and its Territories.

3. Have at least three years documented experience in operating and centrally administering a coordinated public health or related program serving racial or ethnic minority populations within a major portion or region (multistate or multiterritory) of the United States through its own offices or organizational affiliates.

4. Have a governing body or board whose membership is composed of at

least 51 percent racial or ethnic minority members and who represent the population to be served. Groups recognized as racial and ethnic minorities include, but are not limited to: African Americans, Alaskan Natives, Asian Americans, Caribbean Americans, Latinos/Hispanics, Native Americans, and Pacific Islanders. Proof of minority status consisting of a list of board members, their race and ethnicity, the address and telephone number of each member, a description of each role on the board, and a description of constituents (the population, group(s) and/or organization for which they are advocates) must be included in the application. Documentation must also be provided giving assurance that the governing board is composed of more than 50 percent racial or ethnic minority group members who are representative of the population to be served.

5. Document that each of the affiliates or chapters that will be participating in the project as subcontractors have a governing body or board whose membership is composed of more than 50 percent racial or ethnic minority group members.

Note: Pub. L. 104-65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately \$1 million will be available to fund up to five cooperative agreements. It is expected that the average award (including direct and indirect costs) will be \$200,000. Awards will not exceed \$300,000. It is expected that the awards will begin on or about July 1, 1999 and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Applicants must allocate a percentage of the funds awarded under this program announcement to subcontract with affiliate, chapter, and/or other minority Community Based Organizations (CBOs). Awards to these agencies must be done through a competitive review process conducted by the applicant. Activities performed by the subcontractors must be toward specific program objectives of the applicant. Applicants should describe in the "Collaborating Activities" section under "Application Content" the plan

of action for the objective review process to be used to review and select subcontractors.

Funds cannot be used for construction or renovation; to purchase or lease vehicles or vans; to purchase a facility to house project staff or carry out project activities; or to substitute new activities and expenditures for current ones.

Funding Preference

Preference for funding will be given to: (1) Supporting projects for the following racial and ethnic minority populations listed here in alphabetical order: African Americans, Alaskan Natives, American Indians, Asian Americans, Caribbean Americans, Hispanics/Latinos, and Pacific Islanders; (2) supporting activities which are targeted toward high-risk populations including but not limited to families living at poverty levels, migrant farm workers, homeless persons, immigrants, etc.; and (3) ensuring a geographic and racial/ethnic balance of funded NMOs which serve under-immunized rural populations and population groups of low socioeconomic status who reside in densely populated urban areas.

D. Programmatic Interest

Applicants may focus on any or all of the three program interest areas:

1. Increase immunization coverage levels among children, birth to 10 years of age.
2. Increase immunization coverage levels among adolescents, ages 11 to 21 years.
3. Increase immunization coverage levels among adults older than 21 years of age.

E. Cooperative Activities

In conducting activities to achieve the purpose of the Cooperative Agreements, the recipient will be responsible for achieving the activities under Item 1. below. CDC will be responsible for activities under Item 2. below.

1. Recipient Activities (Childhood, Adolescent, and/or Adult). Recipient shall undertake certain activities, regardless of the age group(s) targeted. In conducting those certain activities, each recipient should:

- a. Provide technical assistance and training to affiliate organizations, private providers, and other agencies serving racial and ethnic minorities, as well as collaborate with State and local health departments. Technical assistance and training should focus on developing and implementing effective intervention strategies to raise coverage levels; educating providers about cultural sensitivity issues and effective

strategies that can be implemented in their practice; developing, disseminating, and marketing health communication messages that are culturally sensitive and linguistically appropriate; and building organizational capacity to sustain immunization activities, information management, and technology.

b. Identify and document effective models of collaboration of local affiliates with State and local health departments in achieving specific objectives to improve immunization levels among racial and ethnic minorities.

c. Disseminate educational products developed and share information with other national organizations, State and local health agencies, provider organizations, coalitions, and community-based organizations.

d. Develop and implement strategies to educate members of racial and ethnic minority communities about community-based immunization registries, by explaining their benefits, operations, and limitations, and by addressing misinformation and misconceptions.

e. Provide training, information and education at the national, State, and local levels, community norms that dispel uncertainties about the safety of vaccines versus the risk of contracting a vaccine-preventable disease.

f. Develop and implement a plan to ensure sustainability of program activities conducted through this cooperative agreement and to ensure its continuation after the end of the project period.

g. Evaluate all major program objectives and activities to determine programmatic and economic effectiveness.

h. Develop, implement, and evaluate affiliate organizations' activities under this Program Announcement in their respective communities.

The following are additional recipient activities for targeted program areas:

i. When childhood immunization is the program area chosen or among those chosen, a recipient should undertake activities to:

a. Develop and implement immunization initiatives with affiliates, State and local health departments, and other collaborating partners to enhance delivery of immunization services to the target populations using the "Standards for Pediatric Immunization Practices."

b. Identify and document effective programs that provide parents information explaining the immunization schedule and where to go for immunizations to protect their

children against vaccine-preventable diseases.

j. When adolescent immunization is the program area chosen or among those chosen, a recipient should undertake activities to:

a. Develop and implement immunization initiatives with affiliates, State and local health departments, and other collaborating partners to enhance delivery of immunization services to the target populations using the National Coalition for Adult Immunization's "Standards for Adult Immunization Practice."

b. Identify and document effective programs to increase the positive response of adolescents in racial and ethnic minority communities to seek out and obtain hepatitis B, MMR, and varicella vaccines.

k. When adult immunization is the program area chosen or among those chosen, a recipient should additionally undertake activities to:

(1) Develop and implement immunization initiatives with affiliates, State and local health departments and other collaborating partners to enhance delivery of immunization services to the target population using the National Coalition for Adult Immunization's "Standards for Adult Immunization Practice."

(2) Work with national and local partners to identify, implement, and document effective programs to increase vaccine coverage for influenza and pneumococcal vaccines among racial and ethnic minorities.

2. CDC Activities

b. Provide technical assistance in interpreting risk factors for contracting vaccine-preventable diseases.

c. Provide assistance in the evaluation of each plan component (process and outcome) through the analysis and interpretation of coverage and other relevant data.

d. Facilitate the transfer of successful prevention interventions and program models to other areas through meetings of grantees, workshops, conferences, newsletters, and communications with project officers.

e. Facilitate partnering to enhance the exchange of program information and technical assistance between community organizations, State and local health departments, coalitions, and national and regional organizations.

F. Application Content

Use the information in the Cooperative Activities, Other Requirements, and Evaluation Criteria sections to develop the application content. Applications will be evaluated

on the criteria listed, so it is important to follow them in laying out the program plan. The narrative should be no more than 30 double-spaced pages, printed on one side, with one inch margins, and 12 point font.

Organization Profile (maximum six pages)

1. Provide a narrative, including background information and information on the applicant organization, evidence of relevant experience in coordinating activities among constituents, and a clear understanding of the purpose of the project.

2. Include details of past experiences working with the target population(s). Provide information on organizational capability to conduct proposed project activities.

3. Profile qualified and experienced personnel who are available to work on the project and provide evidence of an organizational structure that can meet the terms of the project. Include an organizational chart of the applicant organization specifying the location and staffing plan for the proposed project.

Program Plan (Maximum 10 pages)

For each program area under Recipient Activities:

1. Provide a needs assessment and program rationale that defines the target population using specific information including population size, geographic location, density, racial, ethnic distribution, income levels, current immunization services and resources available, gaps in services, and magnitude of under-immunization.

2. Include goals and measurable impact and process objectives that are specific, realistic, measurable, and time-phased. Include an explanation of how the objectives contribute to the purposes of the request for assistance and evidence that demonstrates the potential effectiveness of the proposed objectives.

3. Detail an action plan, including a timeline of activities and personnel responsible for implementing each segment of the plan.

4. Prepare an evaluation plan to include impact, process quantitative and qualitative measures for the achievement of program objectives to determine the health effect on the population, and monitor the implementation of proposed activities. Indicate how the quality of services provided will be ensured.

5. Provide a plan for disseminating project results indicating when, to whom, and in what format the material will be presented.

6. Provide a plan for obtaining additional resources from non-federal sources to supplement program activities and ensure continuation of the activities after the end of the project period.

Collaboration Activities

1. Obtain and include letters of support, written in the last 12 to 24 months, from local organizations and constituents.

2. Provide any memoranda of agreement from collaborating organizations indicating a willingness to participate in the project, the nature of their participation, period of performance, names and titles of individuals who will be involved in the project, and the process of collaboration. Each memorandum should also show an understanding and endorsement of immunization activities.

3. Provide evidence of collaborative efforts with health departments, provider organizations, coalitions, and other local organizations.

4. Provide evidence of plans to subcontract a portion of project activities to affiliate, chapter, and community-based organizations. Include a description of the review process to be used to review and select applications.

Budget Information

1. Provide a detailed budget with justification. The budget proposal should be consistent with the purpose and program plan of the proposed project.

2. Provide an itemized (line-item) budget categorized by objective.

G. Submission and Deadline

Submit the original and two copies of the application PHS 5161-1, (OMB Number 0937-0189). Forms are in the application kit. On or before April 1, 1999, submit the application to: Sharron P. Orum, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement Number 99016, Centers for Disease Control and Prevention, 2929 Brandywine Road, M/S E-13, Atlanta, GA 30341.

Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for orderly processing. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered

postmarks shall not be accepted as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in 1 or 2 above are considered late applications, will not be considered, and will be returned to the applicant.

H. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Background and Need: The extent to which the applicant understands the problem of underimmunization and proposes a plan to address the issues specific to their constituents. (15 points)

2. Capability: The extent to which the applicant appears likely to succeed in implementing proposed activities as measured by relevant past experience, a sound management structure, and staff qualifications, including the appropriateness of their proposed roles and responsibilities and job descriptions. (25 points)

3. Program Plan: The feasibility and appropriateness of the applicant's action plan to enhance immunization services delivery among constituencies and increase coverage levels. (30 points)

4. Coordination and collaboration: The extent to which the applicant proposes to coordinate activities with affiliate and chapter organizations, State and local immunization programs, coalitions, provider organizations, and other appropriate agencies. (10 points)

5. Evaluation Plan: The extent to which the applicant proposes to evaluate the proposed plan including impact and process evaluation as well as quantitative and qualitative measures for achievement of program objectives, determining the health effect on the population, and monitoring the implementation of proposed activities. (20 points)

6. Budget and Justification: The extent to which the proposed budget is adequately justified, reasonable, and consistent with proposed project activities and this program announcement. (Not Scored)

I. Other Requirements

Technical Reporting Requirements

Subject to Office of Management and Budget approval under the Paperwork Reduction Act, semi-annual narrative progress reports will be required 30 days after the end of each 6 months. The reports should document services provided and problems encountered. CDC will provide specific guidelines for documenting and reporting on program activities. Provide CDC with original plus two copies of:

1. Progress reports (semiannual);
2. Financial Status Reports, no more than 90 days after the end of the budget period; and

3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to Sharron P. Orum, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2929 Brandywine Road, Mailstop E-13, Atlanta, GA 30341.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR-08—Public Health System

Reporting Requirements

AR-09—Paperwork Reduction Act Requirements

AR-10—Smoke-Free Workplace

AR-11—Healthy People 2000

AR-12—Lobbying Restriction

AR-14—Accounting System

Requirements

AR-15—Proof of Non-Profit Status

AR-20—Conference Support

J. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 311 [42 U.S.C. 243] and 317(k)(2) [42 U.S.C. 247b(k)(2)] of the Public Health Service Act as amended. The Catalog of Federal Domestic Assistance number is 93.185.

K. Where to Obtain Additional Information

Please refer to Program Announcement Number 99016 when requesting information. To receive additional written information and to request an application kit, call 1-888-GRANTS4 (1-888-472-6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest. If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Sharron P. Orum, Grants Management Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention, 2929 Brandywine Road, M/S E-13, Atlanta, GA 30341, Telephone: (404) 842-6817, Email Address: spo2@cdc.gov.

See also the CDC home page on the Internet: <http://www.cdc.gov>

For program technical assistance, contact: Duane M. Kilgus, Community Outreach and Planning Branch, Immunization Services Division, National Immunization Program,

Centers for Disease Control and Prevention, 1600 Clifton Road, M/S E-52, Atlanta, Georgia 30333, Telephone: (404) 639-8375, Email address—dgk9@cdc.gov.
Copies of the “Standards for Pediatric Immunization Practices” and the National Coalition for Adult Immunization’s “Standards for Adult Immunization Practices” may be obtained from the National Immunization Program, Immunization Services Division, Community Outreach and Planning Branch, Mailstop E-52, 1600 Clifton Road, NE, Atlanta, GA 30333. Telephone: (404) 639-8375.

Dated: January 25, 1999.
John L. Williams,
Director, Procurement and Grants Office,
Centers for Disease Control and Prevention (CDC).
[FR Doc. 99-2149 Filed 1-29-99; 8:45 am]
BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities; Proposed Collection; Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Public Law 104-13), the Health

Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443-1129.

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

Proposed Project: Employment Sites of Nursing Graduates Supported by the Professional Nurse Traineeship Program (HRSA 98-141)—New.

Under Section 830 of Title VIII of the Public Health Service Act, Professional Nurse Traineeship (PNT) grants are awarded to eligible institutions for the support of students in advanced nursing education. Traineeships are then awarded by the institutions to individuals enrolled in graduate programs to prepare for practice as advanced practice nurses. These funds are distributed to institutions based on

a formula that incorporates three statutory funding factors. The factor to be studied is the funding preference which is given to institutions that can demonstrate either a high rate of placing graduates in medically underserved communities (MUCs), or achieving a significant increase in the rate of placing graduates in such settings.

This study is intended to assess the influence of funding preference on program performance and to determine program success in placing PNT graduates in MUCs. Approximately 5,000 graduates who received Master’s or Doctoral degrees in academic years 1996-1997 and 1997-1998, including 1,200 who received PNT funds but were not graduates of the schools receiving the preference, will be included in this survey. Data will be obtained on the graduates place of residence and place of employment before, during and after their program of study. The study will examine various measures associated with the career paths chosen by these graduates and by comparing these measures within and between the two groups of graduates. Comparisons of employment sites of graduates in schools receiving the preference with those of graduates in schools not receiving the preference will indicate the significance of funding preference in promoting program objectives of increasing access to care in underserved communities. Information on both the nursing-specialty of graduates and their current employment setting will be analyzed for each of the two groups.

The estimated burden is as follows:

Form	Number of respondents	Responses per respondent	Hours per response (minutes)	Total burden hours
Survey	5000	1	20	1667

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14-36, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: January 26, 1999.
Jane Harrison,
Director, Division of Policy Review and Coordination.
[FR Doc. 99-2232 Filed 1-29-99; 8:45 am]
BILLING CODE 4160-15-U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for

review, call the HRSA Reports Clearance Office on (301)-443-1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Grantee Reporting Requirements for the Rural Health Network Development Grant Program (OMB No. 0915-0218)—Revision.

This is a request for extension of the reporting requirements for the Rural Health Network Development Grant Program authorized by section 330A of the Public Health Service Act as amended by the Health Centers Consolidation Act of 1996 (Public Law 104-229). The purpose of the program is to assist in the development of vertically integrated

networks of health care providers in rural communities. Grantees will be working to change the delivery system in their service areas and will be using the Federal funds to develop network capabilities.

Grantees submit annual reports which provide information on progress towards goals and objectives of the network, progress toward developing

the governance and organizational arrangements for the network, specific network activities, certain financial data related to the grant budget, and health care services provided by the network. The information is used to evaluate progress on the grants, to understand barriers to network development in rural areas, to identify grantees in need

of technical assistance, and to identify best practices in the development of provider networks in rural communities. The information is also used to begin to evaluate the impact of networks on access to care. To minimize the burden on grantees, the reports will be submitted electronically. The estimated burden is as follows:

Form	Number of respondents	Responses per respondent	Hours per response	Total hour burden
Baseline	16	1	2	32
Tracking	50	1	1	50
Total	50			82

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Wendy A. Taylor, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: January 26, 1999.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 99-2231 Filed 1-29-99; 8:45 am]

BILLING CODE 4160-15-U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for

review, call the HRSA Reports Clearance Office on (301)-443-1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners: Regulations and Forms, OMB No. 0915-0126: Extension.

The National Practitioner Data Bank (Data Bank) was established through Title IV of Public Law 99-660, the Health Care Quality Improvement Act of 1986, as amended. Final Regulations governing the Data Bank are codified at 45 CFR part 60. Responsibility for Data Bank implementation and operation resides in the Bureau of Health Professions, Health Resources and Services Administration, U.S. Department of Health and Human Services (DHHS). The Data Bank began operation on September 1, 1990.

The intent of Title IV of Public Law 99-660 is to improve the quality of health care by encouraging hospitals, State licensing boards, professional societies, and other entities providing health care services, to identify and discipline those who engage in unprofessional behavior; and to restrict the ability of incompetent physicians, dentists, and other health care

practitioners to move from State to State without disclosure of the practitioners' previous damaging or incompetent performance.

The Data Bank acts primarily as a flagging system; its principal purpose is to facilitate comprehensive review of practitioners' professional credentials and background. Information on medical malpractice payments, adverse licensure actions, adverse clinical privileging actions, and adverse professional society actions is collected from, and disseminated to eligible entities. It is intended that Data Bank information should be considered with other relevant information in evaluating a practitioner's credentials.

This request is for an extension of reporting and querying forms previously approved in February 1996. The reporting forms and the request for information forms (query forms) may be accessed, completed, and submitted to the Data Bank electronically through the use of a program designated QPRAC 4 which is provided by the DHHS. The DHHS has developed a separate query form for practitioners making self-queries. This request also includes several administrative forms which have been developed since the last clearance.

The following estimates of burden are based on actual Data Bank operational experience:

Type of activity—45 CFR 60.0	Number of respondents	Responses per respondent	Hours per response	Total burden hours
Reporting:				
Reports Correcting Errors and Omissions—60.6(a)	1,600	1.06	.25	424
Reports of Revision to Actions Previously Reported—60.6(b)	390	1.04	.75	304
Report of Medical Malpractice Payments—60.7(b)	525	27.3285	.75	10,760
Reports of Adverse Actions by State Medical and Dental Boards—60.8(b)	125	32.56	.75	3,053
Reports of Adverse Action Regarding Clinical Privileges and Professional Society Memberships—60.9(a)3.	975	1.03	.75	753
Entity Hearings:				
Requests for Hearing by Entities—60.9(c)	*1	1	8.0	8

Type of activity—45 CFR 60.0	Number of respondents	Responses per respondent	Hours per response	Total burden hours
Requests for Information Disclosure (Query):				
Queries by Hospitals for Practitioner Applications—60.10(a)(1)	6,000	40	.083 5 Minutes	20,000
Queries by Hospitals—Two Year Cycle—60.10(a)(2)	6,000	160	.083 (**)	80,000
Queries by Hospitals—Peer Review—60.11(a)(1)	60,000	1	.50 (**)	30,000
Queries by Practitioners (Self-Query)—60.11(a)(2)	125	120	.083 (**)	1,245
Queries by Licensure Boards—60.11(a)(3)	3,250	690	.083 (**)	186,874
Queries by Non-Hospital Health Care Entities—60.11(a)(4)	***1	1	.30 (**)	.5
Queries by Plaintiff's Attorneys—60.11(a)(5)	***	1	.50 (**)	50
Queries by Non-Hospital Health Care Entities—Peer Review—60.11(a)(6)	100	1	.50 (**)	50
Requests by Researchers for Aggregate Information—60.11(a)(7)				
Disputes:				
Practitioner Places a Dispute in His/Her Data Bank Report—60.14(b)	1,200	1	.5 (**)	600
Practitioner Places a Statement in His/Her Data Bank Report—60.14(b) ..	1,350	1	1.0 (**)	1,350
Practitioner Requests Review of the Disputed Report by The Secretary DHHS—60.14(b).	135	1	8.0 (**)	1,080
Administrative forms used in operating the National Practitioner Data Bank;				
Entity Registration Form	150	1	1.0 (**)	150
Entity Registration Update Form	100	1	.25 (**)	25
Authorized Agent Designation Form	25	1	.25 (**)	6.25
Authorized Agent Designation Update	5	1	.083 (**)	.42
Account Discrepancy Report	200	1	.25 (**)	50
Electronic Transfer of Funds Authorization	25	1	.25 (**)	6.25
Entity Reactivation	50	1	.25 (**)	12.5
Total				336,757

*There have been no hearing requests from reporting entities since the opening of the Data Bank.

**We are unable to distinguish between these and other types of queries made by hospitals and other health care entities.

***There have been approximately 12 attorney requests since the opening of the Data Bank; of these, one has been granted.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Wendy A. Taylor, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: January 26, 1999.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 99-2233 Filed 1-29-99; 8:45 am]

BILLING CODE 4160-15-U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent

applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852-3804; telephone: 301/496-7057; fax: 301/402-0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Novel Human Cancer Antigen, NY ESO-1/CAG-3, and Gene Encoding Same

R Wang, SA Rosenberg (NCI)

DHHS Reference No. E-265-97/1 filed 21 Sep 98

Licensing Contact: Elaine Gese; 301/496-7056 ext. 282; e-mail: eg46t@nih.gov

The current invention embodies the identification, isolation and cloning of a gene encoding a novel tumor antigen, NY ESO-1/CAG-3, as well as cancer peptides thereof an antigenic cancer epitopes contained within the cancer peptides. This novel antigen is recognized by cytotoxic T lymphocyte clones derived from the TIL586 (tumor

infiltrating lymphocyte) cell line in an HLA restricted manner.

The inventors believe that cancer peptides which are encoded by the NY ESO-1/CAG-3 gene represent potential cancer vaccines, protecting an individual from development of cancer by inhibiting the growth of cells or tumors which express the NY ESO-1/CAG-3 antigen. Also embodied in the invention are pharmaceutical compositions comprising the NY ESO-1/CAG-3 antigen, peptide, or an antigenic cancer epitope thereof in combination with one or more immunostimulatory molecules. These compositions represent potential anticancer therapeutics, stimulating NY ESO-1/CAG-3-specific T cells to elicit an anti-cancer immunogenic response and thereby eliminating or reducing the cancer. While these vaccines and pharmaceutical compositions may be developed for use against a variety of cancers, data obtained to date indicate that they may be of particular value for use against melanoma.

Methods for diagnosing cancer via the detection of NY ESO-1/CAG-3 are also embodied in the invention.

Mouse Models for Huntington's Disease

D. Tagle (NHGRI)

DHHS Reference No. E-101-98/0

Licensing Contact: Marlene Shinn; 301/496-7056 ext. 285; e-mail: ms482m@nih.gov

Huntington's Disease (HD) is one of a number of neurological diseases in which excessive repetition of the CAG nucleotide sequence, which codes for glutamines, causes an abnormally shaped HD protein. This protein then interacts with other proteins produced by the cell thus preventing their normal functions. HD afflicts 1 in every 10,000 individuals in the United States, however HD's pathogenesis and mechanistic action is relevant to at least 13 other neurodegenerative diseases.

The mouse lines which are available for licensing show progressive neurobehavioral and neuropathological changes that resemble clinical findings found in HD patients. These include behavior such as running in circles, performing backflips and other abnormal movements which correlate with the loss of neurons in the striatum, cortex, and other brain regions. The transgenic mice have been genetically engineered to show widespread expression of full length human HD cDNA with either 16, 48, or 89 CAG repeats. It is the mice containing the 48 or 89 CAG repeats which manifest the HD symptoms, the other modified mice are useful as controls. The mouse lines are able to model the early events that occur in Huntington's Disease and how these events ultimately result in neurological cell death. The utility of these mouse lines can be found in screening potential pharmaceutical treatments for HD and other neurodegenerative diseases, as well as testing therapies, including those used to assist neuronal survival.

Inhibition of T-Type Voltage-Gated Calcium Channels by a New Scorpion Toxin

K Swartz, H Jaffe (NINDS)
Serial No. 60/101,158 filed 21 Aug 98
Licensing Contact: Marlene Shinn,
301/496-7056 ext. 285; e-mail:
ms482m@nih.gov

The T-Type calcium channel is found in neurons, cardiac and vascular smooth muscle and is thought to be important for generative specific patterns of electrical activity. We have identified, isolated, and determined the chemical composition of an inhibitor (named Kurtixin-1) of the T-type calcium channel. Kurtixin-1 (or drugs developed using it as a probe) may be useful therapeutic reagents to control heart rate (e.g., antiarrhythmic drugs), vascular smooth muscle tone (e.g., controlling blood pressure) or epileptic discharges in the central nervous system. T-type calcium channels may also be important for transmission of pain stimuli and therefore inhibitors of these channels may have analgesic properties.

Kurtixin is from the venom of the *Parabuthus transvaalicus* scorpion. It binds to the α_{1G} T-type Ca^{2+} channel with high affinity and inhibits the channel by modifying voltage-dependent gating. The biophysical properties of T-type voltage-gated Ca^{2+} channels make them well suited to serve important pacemaking roles, and to support c flux near the resting membrane potential in both excitable and non-excitable cells. Until now, no selective high affinity ligands were available for T-type Ca^{2+} channels. Kurtixin distinguishes between the α_{1G} T-type Ca^{2+} channels and other types of voltage-gated Ca^{2+} channels, such as α_{1E} , α_{1C} , α_{1B} and α_{1A} . Its primary amino acid sequence indicates it belongs to a family of t-scorpion toxins that slow inactivation of Na^{+} channels. It is foreseen that kurtixin will facilitate characterization of the molecular composition of T-type Ca^{2+} channels and will help delineate their involvement in electrical and biochemical signaling.

Composition and Methods for Identifying and Testing Tyrosine Kinase Substrates and Their Agonists and Antagonists

LE Samelson, W Zhang (NICHD)
Serial No. 60/068,690 filed 23 Dec 97
Licensing Contact: Susan S. Rucker;
301/496-7056 ext. 245; e-mail:
sr156v@nih.gov

This application relates to T cell receptors (TCRs) and TCR mediated signal transduction. More particularly, the application describes the isolation, purification and cloning of an integral membrane protein, Linker for Activation of T cells (LAT), a tyrosine kinase substrate for ZAP-70/Syk protein tyrosine kinases (PTKs). LAT is phosphorylated by ZAP-70/Syk and this phosphorylation is necessary for the recruitment of multiple signaling molecules, such as Grb2, PLC- γ 1, the p85 subunit of PI3K and other critical signaling molecules. Thus, LAT plays a role in linking the TCR to cellular activation. Tissues which express LAT are limited to the thymus, peripheral blood, and at low levels, the spleen. Cells, found in these tissues, which express LAT and T cells, NK cells and mast cells. In addition recent work has also demonstrated that LAT is expressed in megakaryocytes. B cells and monocytes do not express LAT. This pattern of expression and its role in cell signaling suggest that LAT may be a specific target for the development of drugs for allergy and other T cell associated diseases. Such drugs may include antibodies which recognize LAT and inhibit its action.

In addition to the isolation, purification and cloning of LAT the application describes antibodies which specifically recognize LAT. Recent work has shown that LAT is palmitoylated and this palmitoylated LAT localizes to glycolipid-enriched microdomains (GEMs). The palmitoylation of LAT is necessary for the tyrosine phosphorylation of LAT and for the targeting of LAT to the GEMs. Other recent work includes the generation of LAT knockout mice.

This research has been published in *Cell* 92(1): 83-92 (Jan 9, 1998) and *Immunity* 9(2): 239-46 (Aug 1998).

Probe To Identify Enteroinvasive *E. coli* and *Shigella* Species

KA Lampel, JA Jagow (FDA)
Serial No. 07/266,038 filed 02 Nov 88;
U.S. Patent 5,041,372 issued 20 Aug 91

Licensing Contact: Carol Salata, 301/496-7735 ext. 232; e-mail:
cs253n@nih.gov

Standard means for detecting pathogenic organisms in food or clinical specimens rely on animals or large DNA fragments, such as the 17 kb *EcoRI* fragment of Boileau. These methods are expensive, time-consuming, difficult to use, and have not been able to distinguish between nonvirulent enteroinvasive *E. coli* and *Shigella*. This invention described DNA probes for enteroinvasive *E. coli* and *Shigella* species, including the sequence of the 2.5 kb fragment (*SmaII* and Falkow's) on which the probe is based.

The probe is more reliable, more sensitive, and less expensive than methods now in use.

Dated: January 25, 1999.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.
[FR Doc. 99-2245 Filed 1-29-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of

federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852-3804; telephone: 301/496-7057; fax: 301/402-0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Broad Spectrum Chemokine Antagonist and Uses Thereof

B Moss, I Damon-Armstrong (NIAID)
DHHS Reference No. E-065-98/1 filed
08 Jan 99 (based on Provisional U.S.
Patent Application No. 60/070,945
filed 10 Jan 98)

Licensing Contact: Leopold Luberecki,
Jr.; 301/496-7735 ext. 223; e-mail:
1187a@nih.gov

Chemokines are the small proteins involved in recruitment of leukocytes (white blood cells) to areas of tissue injury or infection, so they are also in part responsible for inflammation. There are two major classes of chemokines: CXC (α) and CC (β). Chemokines elicit leukocyte movement by binding to a receptor on the cell surface. Typically, CXC chemokines direct the movement of neutrophils and CC chemokines direct the movement of other types of leukocytes. Previously, the open reading frame of the recently sequenced mollusum contagiosum viral genome was predicted to encode a protein that would function as a CC chemokine antagonist by mimicking the chemokine and thus diverting it from its receptor. The inventors have cloned, expressed, purified, and demonstrated the broad-spectrum ability of this viral protein to inhibit chemotaxis of multiple different leukocyte classes to different chemokines in both the CXC and CC classes. Thus, the protein has potential use as an anti-inflammatory agent and as an antiviral agent to treat HIV.

Cell Expansion System for Use in Neural Transplantation

L Studer, V Tabar, J Yan, R McKay
(NINDS)

Serial No. 60/093,991 filed 24 Jul 98
Licensing Contact: Leopold Luberecki,
Jr.; 301/496-7735 ext. 223; e-mail:
1187a@nih.gov

Cell transplantation therapy typically involves transplanting primary cells or

immortalized cells into patients. The promising but still inconsistent data stemming from those clinical trials using primary cells in Parkinson's disease are believed to be due to an insufficient number, function and uniformity of the transplanted cells. In an effort to overcome these problems an improved method for isolating, growing and differentiating precursor cells into dopaminergic neurons has been developed. The process described provides for an expansion of the cell number of primary cells by up to 1000 fold. This technique could assist in solving the problem of obtaining sufficient cells for a reliable, effective cell transplantation therapy. The process consists essentially in the isolation and in vitro numerical expansion of an early mesencephalic precursor population, the use of serum, cAMP, dopamine and ascorbic acid during differentiation and the development of an aggregation technique during cell differentiation that allows convenient grafting of dopaminergic neurons.

Real-Time Interactive Functional Magnetic Resonance Imaging

JA Frank, J Ostuni, JH Duyn (CC)
Serial No. 09/090,166 filed 04 Jun 98
Licensing Contact: John Fahner-Vihtelic;
301/496-7735 ext. 270; e-mail:
jf35z@nih.gov

The present disclosure describes a device and methods for capturing whole brain raw data image files as they are being produced from a magnetic resonance (MR) system. The invention performs reconstruction of the data, registration, statistical analysis, and then displays the results within seconds after completion of the MR image acquisition. This invention provides the ability to have a quick look at the image maps produced of brain activity or brain perfusion. It gives the clinician or researcher performing the diagnosis or study, the flexibility to modify the procedure "on the fly" to produce a more meaningful image or data set.

Method of Reducing Perivascular Lesions Using Insulin-Like Growth Factor I

HD Webster, S Komoly, D Yao, X Liu,
LD Hudson (NINDS)

Serial No. 08/705,820 filed 30 Aug 96
(based on Provisional U.S. Patent
Application No. 60/003,055 filed 31
Aug 95)

Licensing Contact: Leopold Luberecki,
Jr.; 301/496-7735 ext. 223; e-mail:
1187a@nih.gov

A perivascular lesion is a site near or surrounding a lesion in the blood vessel

system that is accompanied by an accumulation of inflammatory leukocytes and/or damage to perivascular tissue. Although it is unclear how a perivascular lesion originates, the sequence of events leading to such lesions induce increased vascular endothelial permeability and induce toxic effects on the nervous system, which may lead to myelin injury. Myelin is a protein-lipid composite that insulates axons, which are the cellular processes by which electrical impulses travel through the nervous system. When myelin sheaths sustain injury, entire segments of myelin degenerate, thus affecting the ability of impulses to travel. Typically, perivascular lesions occur after or during: brain or spinal cord trauma, ischemic injury or insult; certain inflammatory diseases affecting the musculo-skeletal system, central nervous system, and peripheral nervous system; and certain autoimmune disorders. The application claims a method to reduce perivascular lesions by administering an effective amount of insulin-like growth factor I to treat diseases or disorders associated with demyelination, such as multiple sclerosis, experimental autoimmune encephalomyelitis, neuromyelitis optica, optic neuritis, acute encephalomyelitis, cervical myelopathy, and spinal cord injury.

Dated: January 25, 1999.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 99-2246 Filed 1-29-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of meetings of the National Diabetes and Digestive and Kidney Diseases Advisory Council.

The meetings 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 meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/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 Diabetes and Digestive and Kidney Diseases Advisory Council.

Date: February 17–18, 1999.

Open: February 17, 1999, 8:30 AM to 12:00 PM.

Agenda: Grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 10.

Closed: February 17, 1999, 2:00 PM to Adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 10.

Closed: February 18, 1999, 10:15 AM to 10:30 AM.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 10.

Open: February 18, 1999, 10:30 AM to 12:00 PM.

Agenda: Grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 10.

Contact Person: Walter S. Stolz, PH.D., Director for Extramural Activities, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council Diabetes, Endocrine and Metabolic Diseases Subcommittee.

Date: February 17–18, 1999.

Open: February 17, 1999, 1:00 PM to 2:00 PM.

Agenda: Grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 10.

Closed: February 17, 1999, 2:00 PM to Adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 10.

Closed: February 18, 1999, 8:30 AM to 10:00 AM.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 10.

Contact Person: Walter S. Stolz, PH.D., Director for Extramural Activities, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council Kidney, Urologic and Hematologic Diseases Subcommittee.

Date: February 17–18, 1999.

Open: February 17, 1999, 1:00 PM to 2:00 PM.

Agenda: Grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31A, Conference Room 9A51.

Closed: February 17, 1999, 2:00 PM to Adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31A, Conference Room 9A51.

Closed: February 18, 1999, 8:30 AM to 10:00 AM.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31A, Conference Room 9A51.

Contact Person: Walter S. Stolz, PH.D., Director for Extramural Activities, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council Digestive Diseases and Nutrition Subcommittee.

Date: February 17–18, 1999.

Open: February 17, 1999, 1:00 PM to 2:00 PM.

Agenda: Grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 7.

Closed: February 17, 1999, 2:00 PM to Adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 7.

Closed: February 18, 1999, 8:30 AM to 10:00 AM.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 7.

Contact Person: Walter S. Stolz, PH.D., Director for Extramural Activities, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 25, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–2240 Filed 1–29–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel.

Date: February 3, 1999.

Time: 2:00 PM to 4:00 PM.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Natcher Bldg., 45 Center Drive, room 6AS–37, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Neal A. Musto, Ph.D., Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS–37A, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7798.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 25, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–2243 Filed 1–29–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel.

Date: February 4, 1999.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: Executive Plaza South, Room 400C, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: George M. Barnas, PhD., Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities/NIDCD, 6120 Executive Blvd, Bethesda, MD 20892, 301-496-8683.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institutes on Deafness and Other Communications Disorders Special Emphasis Panel.

Date: February 10, 1999.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate contract proposals.

Place: Executive Plaza South, Room 400C, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: George M. Barnas, PhD., Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities/NIDCD, 6120 Executive Blvd, Bethesda, MD 20892, 301-496-8683.

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. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: January 25, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99-2244 Filed 1-29-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Office of the Assistant Secretary—Water and Science; Central Utah Project Completion Act; Notice of Intent To Negotiate Contract(s) Between the Central Utah Water Conservancy District and Department of the Interior for Completion of the Diamond Fork System of the Central Utah Project, Utah

AGENCY: Office of the Assistant Secretary—Water and Science, Department of the Interior.

ACTION: Notice of intent to negotiate contract(s) between the Central Utah Water Conservancy District (District) and Department of the Interior (DOI) for completion of the Diamond Fork System of the Central Utah Project, Utah.

SUMMARY: The Diamond Fork System is one of the components of the Bonneville Unit of the Central Utah Project. The Diamond Fork System will allow for the transbasin diversion of Bonneville Unit water from Strawberry Reservoir in the Colorado River drainage basin to the Bonneville Basin. Public Law 102-575, Section 202(a)(6) authorizes the completion of the Diamond Fork System and specifies that it will be constructed under the guidelines of the Drainage Facilities and Minor Construction Act. Also, article V(A) of the August 11, 1993 Compliance Agreement (Compliance Agreement) between the District and DOI states: "The Secretary shall not provide funds for construction, nor shall the District commence construction on any feature authorized in Title II of the Act until the District and the Secretary have executed an agreement in accordance with the Drainage and Minor Construction Act for the purpose of establishing terms and conditions for the proper conduct and execution of construction of such feature by the District." Negotiated contract(s) between the District and DOI will comply with sections 202(a)(1)(D) and 202(a)(6)(B) of Public Law 102-575 and the Compliance Agreement.

DATES: Dates for public negotiation sessions will be announced in local newspapers.

FOR FURTHER INFORMATION: Additional information on matters related to this **Federal Register** notice can be obtained at the address and telephone number set

forth below: Mr. Reed R. Murray, Program Coordinator, CUP Completion Act Office, Department of the Interior, 302 East 1860 South, Provo, UT 84606-6154, Telephone: (801) 379-1237, E-Mail address: rmurray@uc.usbr.gov.

Dated: January 26, 1999.

Ronald Johnston,

CUP Program Director, Department of the Interior.

[FR Doc. 99-2270 Filed 1-29-99; 8:45 am]

BILLING CODE 4310-RK-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Permit No. TE-006559

Applicant: Dale Powell, Riverside, California

The applicant requests a permit to take (harass by survey) the Quino checkerspot butterfly (*Euphydryas editha quino*) and the Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*) in conjunction with presence or absence surveys throughout each species' range for the purpose of enhancing their survival.

Permit No. TE-821401

Applicant: Brian E. Daniels, Long Beach, California

The applicant requests an amendment to take (harass by survey) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with presence or absence surveys throughout the species' range for the purpose of enhancing its survival.

Permit No. TE-838015

Applicant: Stephen Sprague, Anaheim, California

The applicant requests an amendment to take (harass by survey) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with presence or absence surveys throughout the species' range for the purpose of enhancing its survival.

Permit No. TE-006333

Applicant: Douglas F. Markle, Corvallis, Oregon

The applicant requests an amendment to take (capture, handle, tag, transport, and sacrifice) the shortnose sucker (*Chasmistes brevirostris*) and the Lost River sucker (*Deltistes luxatus*) in conjunction with population and ecological studies throughout each species' range for the purpose of enhancing their survival. Some of the above activities were previously authorized under subpermit MARKDF-7.

Permit No. TE-837448

Applicant: Douglas W. Allen, San Diego, California

The applicant requests an amendment to: take (harass by survey) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with presence or absence surveys; take (locate and monitor nests) the least Bell's vireo (*Vireo bellii pusillus*) in conjunction with population studies and removal of brown-headed cowbird (*Molothrus ater*) eggs and chicks from parasitized nests; and take (harass by survey; locate and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with presence or absence surveys, population studies, and removal of brown-headed cowbird eggs and chicks from parasitized nests of these species throughout San Diego, Imperial, Orange, Riverside, San Bernardino, Los Angeles, and Ventura Counties, California, for the purpose of enhancing their survival.

Permit No. TE-006745

Applicant: Yvonne C. Moore, Riverside, California

The applicant requests a permit to take (capture and harass by marking) the Stephens' kangaroo rat (*Dipodomys stephensi*) in conjunction with surveys and scientific research in Riverside, San Bernardino, and San Diego Counties, California, for the purpose of enhancing its survival.

Permit No's. TE-006112, TE-007074

Applicant: Gretchen Flohr, Fremont, California; Ellen Piazza, Fair Oaks, California

The applicants are requesting permits to take (harass by survey, collect and sacrifice) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), vernal pool tadpole shrimp (*Lepidurus packardii*), San Diego fairy shrimp (*Brachinecta sandiegonensis*), and the Riverside fairy shrimp (*Streptocephalus woottoni*) in conjunction with surveys throughout the species' range in California, for the purpose of enhancing their survival.

Permit No. TE-006953

Applicant: Moore Biological Consultants, Lodi, California

The applicant requests a permit to take (harass by survey, collect and sacrifice) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), and vernal pool tadpole shrimp (*Lepidurus packardii*) in conjunction with surveys throughout the species' range in California, for the purpose of enhancing their survival. The applicant was previously authorized to conduct these activities under PRT-795929.

Permit No. TE-005687

Applicant: Anthony Cario, San Diego, California

The applicant requests a permit to take (harass by survey, collect and sacrifice) the San Diego fairy shrimp (*Branchinecta sandiegonensis*) and the Riverside fairy shrimp (*Streptocephalus woottoni*) in conjunction with surveys in San Diego County, California, for the purpose of enhancing their survival.

Permit No. TE-005956-9

Applicant: National Biological Service, Reno, Nevada

The applicant requests a renewal to take (capture, measure, weigh, release, and sacrifice) the Cui-ui (*Chasmistes cujus*), Ash Meadows speckled dace (*Rhinichthys osculus nevadensis*), Moapa dace (*Moapa coriacea*), Ash Meadows Amargosa pupfish (*Cyprinodon nevadensis mionectes*), Warm Springs pupfish (*Cyprinodon nevadensis pectoralis*), White River spinedace (*Lepidomeda albivallis*), White River springfish (*Crenichthys baileyi baileyi*), Hiko White River springfish (*Crenichthys baileyi grandis*), Lost River sucker (*Deltistes luxatus*), shortnose sucker (*Chasmistes brevirostris*), Borax Lake chub (*Gila boraxobius*), Independence Valley speckled dace (*Rhinichthys osculus lethoporus*), and Pahrnagat roundtail chub (*Gila robusta jordani*) in conjunction with scientific research in specific areas where the species occur in the States of Oregon, Nevada, and California for the purpose of enhancing their survival. These activities were previously authorized under subpermit NBSRFS-9.

Permit No. TE-007011

Applicant: John H. Burke, Oceanside, California

The applicant requests a permit to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) and take (capture and release) the Stephens' kangaroo rat (*Dipodomys stephensi*) and Pacific pocket mouse

(*Perognathus longimembris pacificus*) in conjunction with presence or absence surveys where each species occurs in San Diego, Imperial, Orange, Los Angeles, Riverside, San Bernardino, and Ventura Counties, California for the purpose of enhancing their survival.

Permit No. TE-725726

Applicant: Dennis D. Murphy, Reno, Nevada

The applicant requests an amendment to take (harass by survey) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with presence or absence surveys in Orange, Riverside, and San Diego Counties, California, for the purpose of enhancing its survival.

Permit No. TE-787645

Applicant: Thomas Olsen Associates, Incorporated, Hemet, California

The applicant requests an amendment to take (harass by survey) the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cantorum*) and the Pima pineapple cactus (*Coryphantha scheeri* var. *robustispina*) in conjunction with presence or absence surveys in Pima, Pinal, and Maricopa Counties, Arizona for the purpose of enhancing their survival.

Permit No. TE-006328

Applicant: Michael Brian Drake, Nuevo, California

The applicant requests an amendment to take (harass by survey) the Quino checkerspot butterfly (*Euphydryas editha quino*) and the Delhi Sands flower-loving fly (*Raphiomidas terminatus abdominalis*) in conjunction with presence or absence surveys throughout each species' range for the purpose of enhancing their survival.

Permit No. TE-829554

Applicant: Barbara Kus, San Diego, California

The applicant requests an amendment to take (harass by survey; locate and monitor nests; and capture, band, and release) the southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with scientific studies throughout the species range in California and New Mexico for the purpose of enhancing its survival.

DATES: Written comments on these permit applications must be received on or before March 3, 1999.

ADDRESSES: Written data or comments should be submitted to the Chief, Division of Recovery, Planning and Permits, Ecological Services, Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232-4181; Fax: (503) 231-6243. Please refer to the respective permit number for each

application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT:

Documents and other information submitted with these applications 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 within 20 days of the date of publication of this notice to the address above; telephone: (503) 231-2063. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: January 21, 1999.

Thomas J. Dwyer,

Regional Director, Region 1, Portland, Oregon.

[FR Doc. 99-2131 Filed 1-29-99; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Recommended Survey Protocol for the Endangered Quino Checkerspot Butterfly (*Euphydryas editha quino*) for the 1999 Field Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Availability; Survey Protocol.

SUMMARY: The Fish and Wildlife Service (Service) announces the availability of its recommended survey protocol for the 1999 field season for determining the presence/absence of the endangered Quino checkerspot butterfly. Using information gathered during the 1998 field survey season, we revised the "Interim General Survey Protocols and Mitigation Guidelines for the Endangered Quino Checkerspot Butterfly (*Euphydryas editha quino*)" dated November 4, 1997. The current recommended protocol entitled "Survey Protocol for the Endangered Quino Checkerspot Butterfly (*Euphydryas editha quino*) for the 1999 Field Season" dated January 25, 1999, incorporates those modifications found to be appropriate and replaces the 1997 interim protocol. We intend to annually review and modify this survey protocol to ensure that the best scientific information is incorporated into the prescribed methodology.

DATES: Data, and comments on the 1999 field season protocol received by August 2, 1999, will be considered in the

development of the year 2000 field season protocol.

ADDRESSES: Copies of this protocol may be obtained from the Service's Region 1 World Wide Web Home Page at <http://www.r1.fws.gov/text/species.html> or from the Field Supervisor, Carlsbad Fish and Wildlife Office, 2730 Loker Ave. West, Carlsbad California 92008.

Comments and materials concerning the survey protocol should be sent to the Field Supervisor at the above address.

FOR FURTHER INFORMATION CONTACT:

Douglas Krofta or Paul Barrett at the above address (telephone 760/431-9440, facsimile 760/431-9618).

SUPPLEMENTARY INFORMATION:

Background

The Quino checkerspot butterfly was listed as an endangered species on January 16, 1997 (62 FR 2313) as result of loss and degradation of habitat, invasion by alien species, overgrazing, poorly planned fire management practices, and off-road vehicle use. The historic range of the Quino checkerspot butterfly extended from the Santa Monica Mountains east and south along the foothills of the Transverse and Peninsular Ranges in California, and south into northwest Baja California, Mexico. Adults have been found from sea level to approximately 1,500 meters (5,000 feet) and populations can be found today in southern San Diego County and southwestern Riverside County, California in association with grasslands, and open areas in coastal sage scrub, chaparral, and sparse native woodlands. Adult butterflies can be observed from mid-February to mid-May depending on weather and are most easily detected on open or sparsely vegetated rounded hilltops, ridgelines, and occasionally rocky outcrops.

We are seeking additional information to more adequately understand the occurrence and biology of the Quino checkerspot butterfly throughout its range. Because we intend to annually review and modify the recommended survey protocol to ensure that the best scientific information is incorporated into the prescribed methodology, data and comments on the 1999 field season protocol received by August 2, 1999, will be considered in the development of the year 2000 field season protocol.

Dated: January 22, 1999.

Michael J. Spear,

Manager, California/Nevada Operations Office, Sacramento, California.

[FR Doc. 99-2264 Filed 1-29-99; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Amendments to Approved Tribal-State Compact.

SUMMARY: Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988, Pub. L. 100-497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Amendments to the Forest County Potawatomi Community of Wisconsin and the State of Wisconsin Gaming Compact of 1992, which were executed on December 11, 1998.

DATES: This action is effective February 1, 1999.

FOR FURTHER INFORMATION CONTACT:

George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219-4066.

Dated: January 22, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99-2277 Filed 1-29-99; 8:45 am]

BILLING CODE 4310-02-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Amendments to Approved Tribal-State Compact.

SUMMARY: Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988, Pub. L. 100-497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Amendments to the Ho-Chunk Nation and the State of Wisconsin Gaming Compact of 1992, which were executed on December 11, 1998.

DATES: This action is effective February 1, 1999.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219-4066.

Dated: January 22, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99-2278 Filed 1-29-99; 8:45 am]

BILLING CODE 4310-02-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Amendments to Approved Tribal-State Compact.

SUMMARY: Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988, Pub. L. 100-497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Amendments to the Menominee Indian Tribe of Wisconsin and the State of Wisconsin Gaming Compact, which were executed on November 25, 1998.

DATES: This action is effective February 1, 1999.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219-4066.

Dated: January 21, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99-2276 Filed 1-29-99; 8:45 am]

BILLING CODE 4310-02-P

DEPARTMENT OF THE INTERIOR

National Park Service

Environmental Statements; Availability, etc.: Colonial National Historical Park, VA; Meetings

AGENCY: National Park Service; Interior

ACTION: Notice of meetings for public review of progress on the General Management Plan Amendment/ Environmental Impact Statement being prepared for the Green Spring unit of Colonial National Historical Park.

SUMMARY: This notice announces upcoming public meetings to solicit input on alternative management concepts for the Green Spring Unit of Colonial National Historical Park. This is a preliminary step in the preparation of a General Management Plan Amendment/ Environmental Impact Statement (GMPA/EIS) for this site. The draft GMPA/EIS will be published in the Spring of 1999.

Public Meetings

Date and Time: Thursday, February 18, 1999 from 1:00 to 4:30 pm; again Thursday, February 18, 1999 from 7:00-10:30.

Address: Jamestown Visitor Center on Jamestown Island, 1368 Colonial Parkway, Jamestown, VA 23081.

The purpose of the meetings is to present the alternative management concepts being proposed for Green Spring and to solicit input from the public on the advantages and disadvantages of each different approach. The agenda for the meetings consists of an overview of the project, a review of possible conceptual approaches to site management developed to date, and an open discussion of citizen concerns.

We encourage all who have an interest in Green Spring's future to attend or to contact the park superintendent by letter, telephone or e-mail.

FOR FURTHER INFORMATION CONTACT: Superintendent Colonial National Historical Park, Post Office Box 210, Yorktown, Virginia 23690, TEL: (757) 898-3400, E MAIL: karen_rehm@nps.gov.

Dated: January 25, 1999.

Keith J. Everett,

Superintendent, Philadelphia Support Office, National Park Service.

[FR Doc. 99-2260 Filed 1-29-99; 8:45 am]

BILLING CODE 4310-70-P

DEPARTMENT OF THE INTERIOR

National Park Service

Environmental Statements; Availability, etc.: Little River Canyon National Preserve, AL

ACTION: Notice of Availability of a Draft Environmental Impact Statement (EIS) on a General Management Plan (GMP) for Little River Canyon National Preserve, Alabama.

SUMMARY: Little River Canyon National Preserve was established by Congress in 1992 to preserve the area's natural, scenic, recreational, and cultural

resources and provide for public enjoyment of those resources.

This is the first general management plan for the preserve. This plan presents only broad strategies for resource management and visitor use. Two alternatives are presented: a proposal and a "no action" alternative representing a general continuation of existing conditions.

DATES: A series of public meetings will be held in surrounding communities in the winter of 1999. Please consult with local newspapers for the times and locations or call the park for this information.

FOR FURTHER INFORMATION CONTACT: Superintendent, Little River Canyon National Preserve, 2141 Gault Avenue, North, Ft. Payne, Alabama 35967, Telephone: (256) 845-9605.

SUPPLEMENTARY INFORMATION: Copies of the document may be obtained from the Superintendent at the above address. Comments on this Draft EIS and GMP are solicited at this time. Comments may be provided at the public meetings or to the Superintendent at the above address.

Dated: January 21, 1999.

Daniel W. Brown,

Regional Director, Southeast Region.

[FR Doc. 99-2261 Filed 1-29-99; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF THE INTERIOR

National Park Service

Announcement of Subsistence Resource Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Announcement of Subsistence Resource Commission meeting.

SUMMARY: The Superintendent of Aniakchak National Monument and the Chairperson of the Subsistence Resource Commission for Aniakchak National Monument announce a forthcoming meeting of the Aniakchak National Monument Subsistence Resource Commission. The following agenda items will be discussed:

- (1) Call to order. (Chairman)
- (2) SRC Roll call; confirmation of quorum. (Chairman)
- (3) Welcome and introductions. (Public, agency staff, others)
- (4) Review and adopt agenda. (SRC)
- (5) Review and adopt minutes from the October 1998 meeting.
- (6) Review commission's role and purpose.
- (7) Status of commission membership.
- (8) Public and agency comments.

- (9) Old business:
- a. 1998 NPS/SRC Chairs Workshop Report
 - b. Status of Aniakchak National Preserve hunting guide prospectus.
 - c. Aniakchak National Monument and Preserve Wildlife Report.
 - d. Review 1998 NPS/Secretary's response to final subsistence hunting program recommendations.
 - e. Implementation of approved hunting program recommendations.
 - f. Status of draft subsistence hunting program recommendations.
- (1) 97-1: Establish a one-year residency requirement for the resident zone communities.
- (2) 97-2: Establish a special registration permit requirement for non-subsistence (sport) hunting, trapping, and fishing activities within the Aniakchak National Preserve.
- (3) Designate Ivanoff Bay and Perryville as resident zone communities.
- (10) New business:
- a. Federal Subsistence Program update.
 - (1) Bristol Bay Regional Council report.
 - (2) Review Unit 9E proposals/special actions.
 - (3) Federal Subsistence Fisheries update.
 - b. ORV C&T Team Progress Report (Coordinator).
 - c. Draft Aniakchak Subsistence Management Plan.
 - (11) Public and agency comments.
 - (12) SRC work session (draft proposals, letters, and recommendations).
 - (13) Set time and place of next SRC meeting.
 - (14) Adjournment.

DATES: The meeting will begin at 8 a.m. on Tuesday, February 9, 1999, and conclude at approximately 7 p.m. The meeting will reconvene at 8 a.m. on Wednesday, February 10, 1999, and adjourn at approximately 1 p.m.

LOCATION: The meeting location is: Community Subsistence Building, Chignik Lake, Alaska.

FOR FURTHER INFORMATION CONTACT: Deb Liggett, Acting Superintendent, or Donald Mike, Resource Specialist, Aniakchak National Monument, P.O. Box 7, King Salmon, Alaska 99613. Phone (907) 246-3305.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96-487, and operate in accordance with the

provisions of the Federal Advisory Committees Act.

Paul R. Anderson,

Acting Regional Director.

[FR Doc. 99-2262 Filed 1-29-99; 8:45 am]

BILLING CODE 4310-70-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-25 (Review)]

Anhydrous Sodium Metasilicate From France

AGENCY: United States International Trade Commission.

ACTION: Notice of Commission determination to conduct a full five-year review concerning the antidumping duty order on anhydrous sodium metasilicate from France.

SUMMARY: The Commission hereby gives notice that it will proceed with a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty order on anhydrous sodium metasilicate from France would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the review will be established and announced at a later date.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: January 7, 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 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: On January 7, 1999, the Commission determined that it should proceed to a full review in the subject five-year review pursuant to section 751(c)(5) of the Act. The Commission found that both domestic and respondent group interested party responses to its notice of institution (63 FR 52748, Oct. 1, 1998) were inadequate. The Commission also found that other circumstances warranted conducting a full review.¹ A record of the Commissioners' votes and statements are available from the Office of the Secretary and at the Commission's web site.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: January 26, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99-2228 Filed 1-29-99; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-311-317 and 379-380 (Review) (Investigations Nos. 701-TA-269-270 (Review))]

Brass Sheet and Strip From Brazil and France; Brass Sheet and Strip From Brazil, Canada, France, Italy, Korea, Sweden, Germany, Japan, and the Netherlands

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the countervailing duty orders on brass sheet and strip from Brazil and France and the antidumping duty orders on brass sheet and strip from Brazil, Canada, France, Italy, Korea, Sweden, Germany, Japan, and the Netherlands.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing duty orders on brass sheet and strip from Brazil and France and the antidumping duty orders on brass sheet and strip from Brazil, Canada, France, Italy, Korea, Sweden, Germany, Japan, and the Netherlands would be likely to lead to continuation

¹ Chairman Bragg and Commissioners Crawford and Askey dissenting.

or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; the deadline for responses is March 23, 1999. Comments on the adequacy of responses may be filed with the Commission by April 16, 1999.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: February 1, 1999.

FOR FURTHER INFORMATION CONTACT:

Mary Messer (202-205-3193) or Vera Libeau (202-205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Background.—On January 8, 1987, the Department of Commerce issued a countervailing duty order on imports of brass sheet and strip from Brazil (52 FR 698). On January 12, 1987, the Department of Commerce issued antidumping duty orders on imports of brass sheet and strip from Brazil, Canada, and Korea (52 FR 1214). On March 6, 1987, the Department of Commerce issued a countervailing duty order on imports of brass sheet and strip from France and antidumping duty orders on imports of brass sheet and strip from France, Germany, Italy, and Sweden (52 FR 6995; Italy amended at 52 FR 11299 (April 8, 1987)). On August 12, 1988, the Department of Commerce issued antidumping duty orders on imports of brass sheet and strip from Japan and the Netherlands (53 FR 30454). The Commission is conducting reviews to determine whether revocation of the orders would be likely

to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

Definitions.—The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The Subject Countries in these reviews are Brazil, Canada, France, Germany, Italy, Japan, Korea, the Netherlands, and Sweden.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original countervailing duty determinations concerning brass sheet and strip from Brazil and France and antidumping duty determinations concerning brass sheet and strip from Brazil, Canada, France, Germany, Italy, Korea, and Sweden, the Commission defined the Domestic Like Product to include brass material to be rerolled (reroll) and finished brass sheet and strip (finished products). In its original antidumping duty determinations and the remand determinations concerning brass sheet and strip from Japan and the Netherlands, the Commission defined the Domestic Like Product to be all Unified Numbering System C20000 domestically produced brass sheet and strip. One Commissioner defined the Domestic Like Product differently. For purposes of this notice, the Domestic Like Product is all Unified Numbering System C20000 domestically produced brass sheet and strip.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original countervailing duty determination concerning brass sheet and strip from Brazil and France and antidumping duty determinations concerning brass sheet and strip from Brazil, Canada, France, Germany, Italy, Korea, and Sweden, the Commission defined the Domestic Industry to include primary mills with casting capabilities and rerollers. In its original antidumping duty determinations and the remand determinations concerning brass sheet and strip from Japan and the Netherlands, the Commission defined the Domestic Industry as producers of the corresponding Domestic Like Product. One Commissioner defined the Domestic Industry differently. For purposes of this notice, the Domestic

Industry is producers of all Unified Numbering System C20000 domestically produced brass sheet and strip.

(5) The Order Dates are the dates that the antidumping and countervailing duty orders under review became effective. In the review concerning the countervailing duty order on brass sheet and strip from Brazil, the Order Date is January 8, 1987. In the review concerning the antidumping duty orders on brass sheet and strip from Brazil, Canada, and Korea, the Order Date is January 12, 1987. In the review concerning the countervailing duty order on brass sheet and strip from France and the antidumping duty orders on brass sheet and strip from France, Germany, Italy and Sweden, the Order Date is March 6, 1987. In the review concerning the antidumping duty orders on brass sheet and strip from Japan and the Netherlands, the Order Date is August 12, 1988.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any

person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is March 23, 1999. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is April 16, 1999. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a

complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information to be Provided in Response to this Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product to which your response pertains, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping and countervailing duty orders on each Domestic Industry for which you are filing a response in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of each Domestic Like Product for which you are filing a response. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in Brazil, Canada, France, Germany, Italy, Korea, and

Sweden that currently export or have exported Subject Merchandise to the United States or other countries since 1986. A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in Japan and the Netherlands that currently export or have exported Subject Merchandise to the United States or other countries since 1987.

(7) If you are a U.S. producer of a Domestic Like Product, provide the following information separately on your firm's operations on each product during calendar year 1998 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Countries accounted for by your firm's(s') imports; and

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Countries.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in thousands of pounds and value data in thousands of

U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Countries accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for each Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Dates, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: January 27, 1999.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 99-2351 Filed 1-29-99; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-395]

In the Matter of Certain EPROM, EEPROM, Flash Memory, and Flash Microcontroller Semiconductor Devices, and Products Containing Same; Notice of Commission Decision to Reconsider Portions of Final Determination

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to reconsider certain portions of its final determination in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: John A. Wasleff, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-205-3094.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 18, 1997, based on a complaint filed by Atmel Corporation. 62 FR 13706. The complaint named five respondents: Sanyo Electric Co., Ltd., Winbond Electronics Corporation and Winbond Electronics North America Corporation (collectively Winbond), Macronix International Co., Ltd., and Macronix America, Inc. (collectively Macronix). Silicon Storage Technology, Inc. (SST) was permitted to intervene.

In its complaint, Atmel alleged, *inter alia*, that respondents violated section 337 of the Tariff Act of 1930 by importing into the United States, selling for importation, and/or selling in the United States after importation certain electronic products and/or components that infringe claim 1 of U.S. Letters Patent 4,451,903 (the '903 patent).

On July 2, 1998, the Commission determined that the 903 patent was unenforceable for failure to name an inventor, and hence that there was no violation of section 337 with respect to that patent. On August 11, 1998, Atmel filed a petition to correct the inventorship of the 903 patent with the U.S. Patent and Trademark Office (PTO). The PTO granted that petition on August 18, 1998, and issued a Certificate of Correction on October 6, 1998. On September 8, 1998, Atmel filed with the Commission a Petition For Relief From Final Determination Finding U.S. Patent No. 4,415,903 Unenforceable. Respondents and the Commission's Office of Unfair Import Investigations filed responses to the petition. The Commission granted

Atmel's motion to file a reply brief and respondents' motions to file surreplies.

On August 28, 1998, Atmel filed a notice of appeal of the Commission's final determination in this investigation with the United States Court of Appeals for the Federal Circuit. On October 26, 1998, Atmel identified as an appellate issue the Commission's determination that the '903 patent is unenforceable for failure to name an inventor. On November 6, 1998, respondents Sanyo and Winbond filed motions to dismiss the inventorship issue as moot. The Commission took no position on those motions in order not to prejudice its deliberations on Atmel's petition for relief. On December 8, 1998, the Federal Circuit stayed the appeal pending the Commission's disposition of Atmel's petition.

Having examined the petition, the briefs in opposition, the reply brief, and the surreplies, the Commission has determined to reconsider its determination that the '903 patent is unenforceable for failure to name an inventor, and its consequent finding of no violation of section 337 with respect to the '903 patent. On reconsideration, the record will be reopened and the investigation remanded to the presiding administrative law judge, Judge Paul J. Luckern, for the limited purpose of resolving the issues arising from the issuance of the Certificate of Correction to the '903 patent.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and section 210.47 of the Commission's Rules of Practice and Procedure (19 CFR 210.47). The Commission waived the 14-day limit under rule 210.47 pursuant to rule 210.4(b) (19 CFR 210.4(b)).

Copies of Atmel's petition and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202-205-2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>).

Issued: January 25, 1999.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 99-2227 Filed 1-29-99; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-298-299 (Review)]

Porcelain-on-Steel Cooking Ware From China and Taiwan

Porcelain-on-Steel Cooking Ware From Mexico (Investigations Nos. 701-TA-265 and 731-TA-297 (Review))

Top-of-the-Stove Stainless Steel Cooking Ware From Korea (Investigations Nos. 701-TA-267 and 731-TA-304 (Review))

Top-of-the-Stove Stainless Steel Cooking Ware From Taiwan (Investigations Nos. 701-TA-268 and 731-TA-305 (Review))

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the countervailing duty orders on porcelain-on-steel cooking ware from Mexico and top-of-the-stove stainless steel cooking ware from Korea and Taiwan and the antidumping duty orders on porcelain-on-steel cooking ware from China, Mexico, and Taiwan and top-of-the-stove stainless steel cooking ware from Korea and Taiwan.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing duty orders on porcelain-on-steel cooking ware from Mexico and top-of-the-stove stainless steel cooking ware from Korea and Taiwan and the antidumping duty orders on porcelain-on-steel cooking ware from China, Mexico, and Taiwan and top-of-the-stove stainless steel cooking ware from Korea and Taiwan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; the deadline for responses is March 23, 1999. Comments on the adequacy of responses may be filed with the Commission by April 16, 1999.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: February 1, 1999.

FOR FURTHER INFORMATION CONTACT:

Mary Messer (202-205-3193) or Vera Libeau (202-205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Background.—On December 2, 1986, the Department of Commerce issued antidumping duty orders on imports of porcelain-on-steel cooking ware from China, Mexico, and Taiwan (51 FR 43414). On December 12, 1986, the Department of Commerce issued a countervailing duty order on imports of porcelain-on-steel cooking ware from Mexico (51 FR 44827). On January 20, 1987, the Department of Commerce issued antidumping and countervailing duty orders on imports of top-of-the-stove stainless steel cooking ware from Korea and Taiwan (52 FR 2138). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

Definitions.—The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The Subject Countries in these reviews are China, Korea, Mexico, and Taiwan.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations concerning porcelain-on-steel cooking ware from China, Mexico, and Taiwan, the Commission defined the Domestic Like Product as all porcelain-on-steel cooking ware, including teakettles. One Commissioner defined the Domestic Like Product differently in the original antidumping and countervailing duty determinations concerning porcelain-on-steel cooking ware from China, Mexico, and Taiwan.

In the original antidumping and countervailing duty determinations concerning top-of-the-stove stainless steel cooking ware from Korea and Taiwan, the Commission defined the Domestic Like Product to correspond with the Subject Merchandise, that is, all top-of-the-stove stainless steel cooking ware, excluding teakettles, ovenware, and kitchen ware.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations concerning porcelain-on-steel cooking ware from China, Mexico, and Taiwan, the Commission defined the Domestic Industry as producers of porcelain-on-steel cooking ware, including teakettles. One Commissioner defined the Domestic Industry differently in the original antidumping and countervailing duty determinations concerning porcelain-on-steel cooking ware from China, Mexico, and Taiwan. In the original antidumping and countervailing duty determinations concerning top-of-the-stove stainless steel cooking ware from Korea and Taiwan, the Commission defined the Domestic Industry as producers of top-of-the-stove stainless steel cooking ware.

(5) The Order Dates are the dates that the antidumping and countervailing duty orders under review became effective. In the reviews concerning the antidumping duty orders on porcelain-on-steel cooking ware from China, Mexico, and Taiwan, the Order Date is December 2, 1986. In the review concerning the countervailing duty order on porcelain-on-steel cooking ware from Mexico, the Order Date is December 12, 1986. In the reviews concerning the antidumping and countervailing duty orders on top-of-the-stove stainless steel cooking ware from Korea and Taiwan, the Order Date is January 20, 1987.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the

Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is March 23, 1999. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is April 16, 1999. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of

submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information to be Provided in Response to This Notice of Institution: Please provide the requested information separately for each Domestic Like Product, as defined by the Commission in its original determinations, and for each of the products identified by Commerce as Subject Merchandise. If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product to which your response pertains, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a

union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping and countervailing duty orders on each Domestic Industry for which you are filing a response in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. § 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of each Domestic Like Product for which you are filing a response. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. § 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of porcelain-on-steel cooking ware and producers of porcelain-on-steel cooking ware in China, Mexico, and Taiwan that currently export or have exported Subject Merchandise to the United States or other countries since 1985. A list of all known and currently operating U.S. importers of top-of-the-stove stainless steel cooking ware and producers of top-of-the-stove stainless steel cooking ware in Korea and Taiwan that currently export or have exported Subject Merchandise to the United States or other countries since 1986.

(7) If you are a U.S. producer of a Domestic Like Product, provide the following information separately on your firm's operations on each product during calendar year 1998 (report quantity data in thousands of units and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in thousands of units and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Countries accounted for by your firm's(s') imports; and

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Countries.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in thousands of units and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Countries accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for each Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Dates, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods;

development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: January 27, 1999.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 99-2353 Filed 1-29-99; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701-TA-278 (Review), etc.]

Standard Chrysanthemums From the Netherlands, et al.

Fresh Cut Flowers From Colombia, Ecuador, and Mexico (Investigations Nos. 731-TA-329, 331, and 333 (Review))

Standard Carnations From Chile (Investigations Nos. 701-TA-276 and 731-TA-328 (Review))

Standard Carnations From Kenya (Investigation No. 731-TA-332 (Review))

Pompon Chrysanthemums From Peru (Investigation No. 303-TA-18 (Review))

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the countervailing duty orders on standard chrysanthemums from the Netherlands, standard carnations from Chile, and pompon chrysanthemums from Peru and the antidumping duty orders on fresh cut flowers from Colombia, Ecuador, and

Mexico and standard carnations from Chile and Kenya.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing duty orders on standard chrysanthemums from the Netherlands, standard carnations from Chile, and pompon chrysanthemums from Peru and the antidumping duty orders on fresh cut flowers from Colombia, Ecuador, and Mexico and standard carnations from Chile and Kenya would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; the deadline for responses is March 23, 1999. Comments on the adequacy of responses may be filed with the Commission by April 16, 1999.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: February 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202-205-3193) or Vera Libeau (202-205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Background.—On the dates listed below, the Department of Commerce issued orders on the subject imports:

Date	Product/country	Investigation No.	FEDERAL REGISTER cite
3/12/87	Standard chrysanthemums/Netherlands	701-TA-278	52 F.R. 7646.
3/18/87	Fresh cut flowers ¹ /Colombia	731-TA-329	52 F.R. 8492.
3/18/87	Fresh cut flowers ² /Ecuador	731-TA-331	52 F.R. 8494.
3/19/87	Standard carnations/Chile	701-TA-276	52 F.R. 8635.
3/20/87	Standard carnations/Chile	731-TA-328	52 F.R. 8939.
4/23/87	Standard carnations/Kenya	731-TA-332	52 F.R. 13490.
4/23/87	Fresh cut flowers ³ /Mexico	731-TA-333	52 F.R. 13491.
4/23/87	Pompon chrysanthemums/Peru	303-TA-18	52 F.R. 13491.

¹ Consists of standard carnations, miniature carnations, standard chrysanthemums, and pompon chrysanthemums.

² Consists of standard carnations, standard chrysanthemums, and pompon chrysanthemums.

³ Consists of standard carnations, standard chrysanthemums, and pompon chrysanthemums.

The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

Definitions.—The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The Subject Countries in these reviews are Chile, Colombia, Ecuador, Kenya, Mexico, the Netherlands, and Peru.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, consistent with the remand from the Court of International Trade, the Commission defined separate like products based on the types of subject flowers. The Commission made affirmative determinations with respect to each of four like products: standard carnations, miniature carnations, standard chrysanthemums, and pompon chrysanthemums. Certain Commissioners defined the Domestic Like Product differently.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, consistent with the remand from the Court of International Trade, the Commission defined four separate Domestic Industries, each devoted to the production of one of the four Domestic Like Products, as defined above. The Domestic Like Products and the corresponding Domestic Industries and subject countries for which affirmative determinations were made are listed below:

Domestic like product	Domestic industry	Subject country
Standard carnations	Standard carnations	Chile, Colombia, Ecuador, Kenya, and Mexico.
Miniature carnations	Miniature carnations	Colombia.
Standard chrysanthemums	Standard chrysanthemums	Colombia, Ecuador, Mexico, and the Netherlands.
Pompon chrysanthemums	Pompon chrysanthemums	Colombia, Ecuador, Mexico, and Peru.

Certain Commissioners defined the Domestic Industry differently.

(5) The Order Dates are the dates that the antidumping and countervailing duty orders under review became

effective. In these reviews, the Order Dates are as follows:

Order date	Product/country	Investigation No.
3/12/87	Standard chrysanthemums/Netherlands	701-TA-278.
3/18/87	Fresh cut flowers/Colombia	731-TA-329.
3/18/87	Fresh cut flowers/Ecuador	731-TA-331.
3/19/87	Standard carnations/Chile	701-TA-276.
3/20/87	Standard carnations/Chile	731-TA-328.
4/23/87	Standard carnations/Kenya	731-TA-332.
4/23/87	Fresh cut flowers/Mexico	731-TA-333.
4/23/87	Pompon chrysanthemums/Peru	303-TA-18.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is

sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons,

or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the

application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is March 23, 1999. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is April 16, 1999. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the

information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information to be Provided in Response to This Notice of Institution: Please provide the requested information separately for each Domestic Like Product, as defined by the Commission in its original determinations, and for each of the products identified by Commerce as Subject Merchandise. If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product to which your response pertains, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping and countervailing duty orders on each Domestic Industry for which you are filing a response in general and/or your firm/entity specifically. In your response, please discuss the various

factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of each Domestic Like Product for which you are filing a response. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Countries that currently export or have exported Subject Merchandise to the United States or other countries since 1986.

(7) If you are a U.S. producer of a Domestic Like Product, provide the following information separately on your firm's operations on each product during calendar year 1998 (report quantity data in thousands of stems for standard carnations and standard chrysanthemums and thousands of bunches for miniature carnations and pompon chrysanthemums; report value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in thousands of stems for standard carnations and standard chrysanthemums and thousands of bunches for miniature carnations and pompon chrysanthemums; report value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an

estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Countries accounted for by your firm's(s') imports; and

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Countries.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in thousands of stems for standard carnations and standard chrysanthemums and thousands of bunches for miniature carnations and pompon chrysanthemums; report value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Countries accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for each Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Dates, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the

Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: January 27, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99-2352 Filed 1-29-99; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 104-TAA-7 (Review), AA1921-198-200 (Review), and 731-TA-3 (Review)]

Sugar From the European Union; Sugar From Belgium, France, and Germany; and Sugar and Syrups From Canada (Investigation No. 731-TA-3 (Review))

AGENCY: United States International Trade Commission.

ACTION: Notice of Commission determination to conduct full five-year reviews concerning the countervailing duty order on sugar from the European Union, the antidumping duty orders on sugar from Belgium, France, and Germany, and the antidumping duty order on sugar and syrups from Canada.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the countervailing duty order on sugar from the European Union, the antidumping duty orders on sugar from Belgium, France, and Germany, and the antidumping duty order on sugar and syrups from Canada would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the reviews will be established and announced at a later date.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through

E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: January 7, 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 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: On January 7, 1999, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Act. The Commission, in consultation with the Department of Commerce, grouped these reviews because they involve similar domestic like products. See 19 U.S.C. 1675(c)(5)(D); 63 FR 29372, 29374 (May 29, 1998).

With regard to sugar and syrups from Canada, Inv. No. 731-TA-3 (Review), the Commission determined that both domestic and respondent group responses to its notice of institution¹ were adequate and voted to conduct a full review.

With regard to sugar from the European Union, Inv. No. 104-TAA-7 (Review), the Commission determined that the domestic interested party group response was adequate,² and that the respondent interested party group response was inadequate. The Commission further determined that other circumstances warranted a full review.³

With regard to sugar from Belgium, France, and Germany, Invs. Nos. AA1921-198-200 (Review), the Commission determined that the domestic interested party group

¹ The notice of institution for all of the subject reviews was published in the **Federal Register** on Oct. 1, 1998 (63 FR 52759).

² Commissioner Askey dissenting.

³ Commissioner Crawford dissenting.

response was inadequate,⁴ and that the respondent interested party group response was inadequate. The Commission further determined that other circumstances warranted full reviews.⁵

A record of the Commissioners' votes and statements are available from the Office of the Secretary and at the Commission's web site.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: January 26, 1999.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 99-2229 Filed 1-29-99; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Justice Management Division; Information Resources Management/ Telecommunications Services Staff Meeting of the Global Criminal Justice Information Network Ad Hoc Bylaws Committee

AGENCY: Justice Management Division, Information Resources Management, Telecommunications Services, Justice.

ACTION: Notice of meeting of the Global Criminal Justice Information Network Ad Hoc Bylaws Committee.

SUPPLEMENTARY INFORMATION: 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 Global Criminal Justice Information Network Ad Hoc Bylaws Committee will be held on February 10, 1999. The Group will meet from 8:30 a.m.-1 p.m. at the Grand Hyatt Washington Hotel, located at 1000 H Street, NW., Washington, DC 20001. The Bylaws Committee will meet to determine the internal structure of the Global Advisory Committee in order to facilitate the accomplishment of its activities as identified under the National Performance Review's "Access America" Initiative A07. This meeting will be open to the public. Any interested person must register two (2) weeks in advance of the meeting. Registrations will then be accepted on a space available basis. For information on how to register, contact Kathy Albert, the Designated Federal Employee (DFE), 901 E Street, NW, Suite 510, Washington, DC 20530, or call (202)

514-3337. Interested persons whose registrations have been accepted may be permitted to participate in the discussions at the discretion of the meeting chairman and with the approval of the DFE.

If you need special accommodations due to a disability, please contact Komita Primalani at (202) 637-4927 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Kathy Albert, the DFE, 901 E Street, NW, Suite 510, Washington, DC 20530, or call (202) 514-3337.

Dated: January 27, 1999.

Kathy Albert,

*Global Network Coordinator,
Telecommunications Services Staff,
Information Resources Management, Justice
Management Division, Department of Justice.*

[FR Doc. 99-2333 Filed 1-29-99; 8:45 am]

BILLING CODE 4410-AR-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-160]

Notice and Solicitation of Comments Pursuant to 10 CFR 20.1405 and 10 CFR 50.82(b)(5) Concerning Proposed Action to Decommission Georgia Institute of Technology Georgia Tech Research Reactor

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has received an application from the Georgia Institute of Technology dated July 1, 1998, for a license amendment approving its proposed decommissioning plan for the Georgia Tech Research Reactor (Facility License No. R-97) located in the Neely Nuclear Research Center on the campus of the Georgia Institute of Technology in Atlanta, Georgia.

In accordance with 10 CFR 20.1405, the Commission is providing notice and soliciting comments from local and State governments in the vicinity of the site and any Indian Nation or other indigenous people that have treaty or statutory rights that could be affected by the decommissioning. This notice and solicitation of comments is published pursuant to 10 CFR 20.1405, which requires publication in the **Federal Register** and in a forum such as local newspapers, letters to State or local organizations, or other appropriate forum that is readily accessible to individuals in the vicinity of the site. Comments should be provided within 60 days of the date of this notice in accordance with 10 CFR 20.1007, "Communications," to the Executive

Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Further, in accordance with 10 CFR 50.82(b)(5), notice is also provided of the Commission's intent to approve the plan by amendment, subject to such conditions and limitations as it deems appropriate and necessary, if the plan demonstrates that decommissioning will be performed in accordance with the regulations in this chapter and will not be inimical to the common defense and security or to the health and safety of the public.

A copy of the application is available for public inspection at the Commission's Public Document Room, the Gelman Building, at 2120 L Street NW, Washington, D.C. 20037.

Dated at Rockville, Maryland, this 25th day of January 1999.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

*Director, Non-Power Reactors and
Decommissioning Project Directorate,
Division of Reactor Program Management,
Office of Nuclear Reactor Regulation.*

[FR Doc. 99-2305 Filed 1-29-99; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-331]

IES Utilities Inc.; Central Iowa Power Cooperative, Corn Belt Power Cooperative; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-49, issued to IES Utilities Inc., Central Iowa Power Cooperative, and Corn Belt Power Cooperative (the licensees), for operation of the Duane Arnold Energy Center (DAEC) located in Linn County, Iowa.

The proposed amendment would revise Technical Specification (TS) Surveillance Requirement (SR) 3.8.1.7 to better match plant conditions during testing by clarifying which voltage and frequency limits are applicable during the transient and steady state portions of the diesel generator start.

The licensee requested that this proposed amendment be processed as an exigent request, pursuant to 10 CFR 50.91(a)(6). The exigency is created by the existing TS surveillance, SR 3.8.1.7,

⁴Chairman Bragg dissenting.

⁵Commissioners Crawford and Askey dissenting.

containing inappropriate acceptance criteria that the diesel generator (DG) is not designed to meet and which is overly conservative with respect to the DAEC Updated Final Safety Analysis Report (UFSAR) requirements for the DGs. This acceptance criteria was incorporated into the TS just prior to the approval of DAEC's conversion to Improved Standard TS (NUREG 1433). The licensee did not intend that the basic requirements of this testing be different from those contained in the former custom TS (CTS 4.8.A.2.a.2). However, a significant change was introduced due to the adoption of the wording of NUREG-1433. Because this change was not recognized at that time, the plant procedure for the new SR did not correctly implement the TS. It was only recently, during the review of the BASES for this SR for another issue, that this error was recognized.

Based on the circumstances described above, the NRC verbally issued a Notice of Enforcement Discretion (NOED) on January 20, 1999. The NOED was documented by letter dated January 22, 1999. The NOED expressed the NRC's intention to exercise discretion not to enforce compliance with SR 3.8.1.7 until the exigent TS amendment request to revise SR 3.8.1.7, which the licensee submitted on January 22, 1999, is processed.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

After reviewing this proposed amendment, the licensee concluded:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The safety function of the DG is to provide AC power to required safety systems during any Loss of Offsite Power (LOOP) event. The limiting design basis accident is the Loss of Coolant Accident with concurrent LOOP (LOOP-LOCA). This proposed amendment modifies a DG surveillance requirement and does not impact the off-site AC distribution system; therefore the probability of any LOOP event, including the LOOP-LOCA is not significantly increased.

This proposed change revises the SR to better match the plant conditions during the test. SR 3.8.1.7 is performed with the DG unloaded. As a result, the DG initially overshoots its target nominal voltage and frequency during testing. In an actual event, the DG would be almost immediately loaded once minimum voltage and frequency requirements are met, thereby limiting the over-shoot.

To ensure the DGs are able to fulfill their safety function, the proposed SR requires DG voltage and frequency to achieve the specified minimum acceptable values within 10 seconds and settle to a steady state voltage and frequency within the specified minimum and maximum values. That is, the upper limits are only applicable for steady state operation and do not apply during the transient portion of the DG start. The revision changes the SR 3.8.1.7 criteria to clarify which voltage and frequency limits are applicable during the transient and steady state portions of the DG start.

This change does not affect the DG's ability to supply the minimum voltage and frequency required within 10 seconds or the steady state voltage and frequency required by the UFSAR. The DGs will continue to perform their intended safety function, in accordance with the DAEC accident analysis. Thus, the consequences of any previously-analyzed event are not significantly increased by this change.

Therefore, the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The revision changes the SR 3.8.1.7 criteria to clarify which voltage and frequency limits are applicable during the transient and steady state portions of the DG start. No changes are being made in how the system actually operates or is physically tested.

Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment will not involve a significant reduction in a margin of safety.

The margin of safety is not significantly reduced. The DGs will perform their intended safety function, in accordance with the DAEC accident analysis. The revised test criteria are a better match for the tested condition (unloaded). The performance of other TS Surveillances (in particular, SRs 3.8.1.9, 3.8.1.12 and 3.8.1.13) demonstrate DG Operability in conditions which are more representative of postulated accident

conditions (loaded in the actual time sequence assumed in the accident analysis). The DGs will continue to perform their intended safety function in accordance with the DAEC accident analysis and UFSAR requirements. Therefore, the proposed amendment will not involve a significant reduction in a margin of safety.

Based upon the above, the licensee determined that the proposed amendment will not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 3, 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 located at the Cedar Rapids Public Library, 500 First Street SE, Cedar Rapids, Iowa 52401. 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.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the 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 Al Gutterman; Morgan, Lewis & Bockius, 1800 M Street NW, Washington, D.C. 20036-5869, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 22, 1999, 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 Cedar Rapids Public Library, 500 First Street SE, Cedar Rapids, Iowa 52401.

Dated at Rockville, Maryland, this 26th day of January 1999.

For the Nuclear Regulatory Commission.

Richard J. Laufer,

Project Manager, Project Directorate III-1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 99-2304 Filed 1-29-99; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-388]

PP&L, Inc.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. 22 issued to PP&L, Inc. (the licensee) for operation of the Susquehanna Steam Electric Station (SSES), Unit 2, located in Luzerne County, Pennsylvania.

This notice supersedes the previous notice published on September 9, 1998, (63 FR 48263) in its entirety. The proposed amendment would change the allowable values for both the core spray system and low pressure coolant injection system reactor steam dome pressure low functions.

Before issuance of the proposed license amendment, the Commission will have made findings required by the

Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This proposal does not involve an increase in the probability or consequences of an accident previously evaluated. The proposed amendment changes the "Reactor Steam Dome Pressure-Low" Allowable Values so to provide further assurance that the Core Spray and RHR systems will perform their LOCA design basis function.

The functional design basis of the Core Spray and LPCI is to inject water into the reactor vessel to cool the core during a LOCA by opening the Core Spray and LPCI injection valves when reactor pressure drops below the reactor vessel low pressure permissive. The upper analytical limit for the permissive is the Core Spray and LPCI systems' maximum design pressure, and the lower analytical limit is the lowest pressure which allows injection to prevent exceeding the fuel cladding temperature limit. The new allowable values were selected to lie within the upper and lower limits to ensure there will be no change in the required logic or functions of the Core Spray and LPCI systems. These new values do not affect the LOCA or its "limiting fault" frequency of occurrence and do not introduce any new accidents or malfunctions of equipment important to safety. Since they do not affect the LOCA, they do not change the probability of occurrence of the LOCA. The new allowable values do not change the logic or function of the reactor vessel low pressure permissive. These new allowable values simply provide the basis for which the associated pressure instruments are to be set to ensure proper operation of Core Spray and LPCI within the design pressures as described above. Therefore, the change in allowable values does not increase the probability of occurrence or the consequences of an accident or malfunction of equipment important to safety.

Based upon the analysis presented 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 new allowable values do not change any plant systems, structures, or components, nor do they change any existing or create any new Core Spray and LPCI logic or functions. The new allowable values were selected to ensure the required operation of the Core Spray and LPCI systems within the design pressures described above.

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 change does not involve a reduction in the margin of safety. Technical Specification Bases Section B3.3.5.1.9 (ECCS Instrumentation) identifies that the low reactor steam dome pressure signals are used as permissives for operation of the low pressure ECCS subsystems. The new allowable values were selected so to not impact the logic, redundancy, operability or surveillance requirements for these subsystems. The new allowable values maintain the margin requirements that the Core Spray and LPCI system pressures such that they do not exceed their system maximum design pressures and that system pressures are high enough to ensure that the ECCS injection prevents the fuel peak cladding temperature from exceeding the limits of 10CFR50.46.

The margin of safety is unaffected by the proposed changes.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public

and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 3, 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 located at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition

should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final

determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated November 23, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Dated at Rockville, Maryland, this 27th day of January, 1999.

For the Nuclear Regulatory Commission.

Victor Nerses,

Senior Project Manager, Project Directorate I-1, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 99-2306 Filed 1-29-99; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-440]

FirstEnergy Nuclear Operating Company (Perry Nuclear Power Plant, Unit No. 1); Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR Part 50, Appendix A, General Design Criterion (GDC) 19 to FirstEnergy Nuclear Operating Company (the licensee), for the Perry Nuclear Power Plant, Unit No. 1 (PNPP) located in Lake County, Ohio.

Environmental Assessment

Identification of the Proposed Action

By application dated December 3, 1998, the licensee requested an exemption from the control room dose acceptance criterion of 10 CFR part 50, Appendix A, General Design Criterion (GDC) 19, "Control Room." The proposed action would permit use of a 5 rem total effective dose equivalent (TEDE) control room dose acceptance criterion in lieu of "5 rem whole body, or its equivalent to any part of the body" as currently stated in GDC 19.

The Need for the Proposed Action

The NRC has established control room dose acceptance criteria in 10 CFR part 50, Appendix A, GDC 19 for all light-water power reactors. GDC 19 requires, in part, that, "Adequate radiation protection shall be provided to permit access and occupancy of the control room under accident conditions without personnel receiving radiation exposures in excess of 5 rem whole body, or its equivalent to any part of the body, for the duration of the accident."

As described in SECY-96-242, "Use of the NUREG-1465 Source Term at Operating Reactors," the staff informed the Commission of its approach to allow the use of the revised accident source term described in NUREG-1465, "Accident Source Terms for Light-Water Nuclear Power Plants," at operating plants. In the SECY paper, the staff described its plans to review plant applications implementing this source term and that the TEDE methodology would be incorporated in these reviews. The Commission approved these plans and directed the staff to commence rulemaking and requested the use of a TEDE dose methodology in the implementation of the revised accident source term. The TEDE dose guidelines,

which are needed to support revised accident source term applications, are not currently provided in regulations governing operating reactors.

By letter dated December 3, 1998, the licensee submitted an exemption request to the control room dose acceptance criteria of 10 CFR part 50, Appendix A, General Design Criterion (GDC) 19. The exemption request would permit use of a 5 rem total effective dose equivalent (TEDE) dose acceptance criterion in place of the "5 rem whole body, or its equivalent to any part of the body" dose acceptance criterion that is currently specified in GDC 19.

Environmental Impacts of the Proposed Action

The staff has completed its evaluation of the proposed action and concludes that it is acceptable because the staff has concluded that the TEDE methodology provides an alternate means of meeting the current regulatory requirement. The proposed action will not increase the probability or consequences of accidents, no significant changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable occupational or public radiation exposure. The staff has concluded that there is no significant radiological environmental impact associated with the proposed action.

The proposed action does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the staff has concluded that there is no significant environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the action (no-action alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously

considered in the Final Environmental Statement which was issued August 1982.

Agencies and Persons Consulted

In accordance with its stated policy, the Ohio State official was contacted regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the staff concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the staff has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated December 3, 1998, which is available for public inspection at the Commission's Public Document room, The Gelman Building, 2120 L Street, NW, Washington, DC, and at the local public document room located at the Perry Public Library, 3753 Main Street, Perry, OH 44081.

Dated at Rockville, Maryland, this 26th day of January 1999.

For the Nuclear Regulatory Commission.

Douglas V. Pickett,

Senior Project Manager, Project Directorate III-2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 99-2307 Filed 1-29-99; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Thermal-Hydraulic Phenomena

The ACRS Subcommittee on Thermal-Hydraulic Phenomena will hold a meeting on February 23, 1999, Room T-2B1, 11545 Rockville Pike, Rockville, Maryland.

Portions of this meeting will be closed to public attendance to discuss Westinghouse proprietary information pursuant to 5 U.S.C. 552b(c)(4).

The agenda for the subject meeting shall be as follows:

Tuesday, February 23, 1999—8:30 a.m. until the conclusion of business

The Subcommittee will continue its review of the application of

Westinghouse Electric Company's WCOBRA/TRAC best-estimate large-break LOCA code to Westinghouse plants with Upper Plenum Injection (UPI). The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Westinghouse Electric Company, the NRC staff, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the scheduling of sessions which are open to the public, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Mr. Paul A. Boehnert (telephone 301/415-8065) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: January 26, 1999.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 99-2308 Filed 1-29-99; 8:45 am]

BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40961; File No. 10-100]

Exempted Exchanges; AZX, Inc.; Amendment to Application for Exemption From Registration as an Exchange Under Section 5 of the Securities Exchange Act of 1934; Request for Comments

January 22, 1999.

I. Introduction and Summary

AZX, Inc. operates the Arizona Stock Exchange ("AZX"), a computerized, single-price auction system that facilitates trading of registered equity securities by broker-dealers and institutions. AZX operates three off-hours auctions in Nasdaq National Market ("NNM") and exchange listed securities, at 9:15 a.m., 4:20 p.m., and 5:00 p.m. (ET), each trading day. AZX also operates one auction during regular trading hours,¹ at 10:30 a.m. (ET), for NNM securities only. AZX operates pursuant to the terms and conditions of a Commission order granting AZX a "limited volume" exemption from registration as a national securities exchange² and a staff no-action letter with respect to the nonregistration of AZX as a broker-dealer, clearing agency, transfer agent, and exclusive securities information processor.³ Under the terms of its exemption, AZX trades only NNM securities during regular trading hours.⁴ Although the statute provides no guidelines as to what level of volume qualifies as "limited," the Exemption Order stated that the Commission may rescind the exemption and require AZX to register as a national securities exchange if AZX's volume exceeds that of any of the registered stock exchanges.

On July 30, 1998, AZX, Inc. filed with the Commission pursuant to Rule 6a-1 under the Securities Exchange Act of

1934 ("Act"),⁵ an amendment to its application for exemption from registration as a national securities exchange. In its amendment, AZX proposes to operate two additional auctions during regular trading hours, at 12:30 p.m. and 2:30 p.m. (ET) each trading day. AZX also proposes to trade exchange-listed and NNM securities during all three regular hours auctions. In addition, AZX proposes to consolidate its two evening after-hours auctions into one after-hours auction ending at 4:30 p.m. (ET).

If the proposal is approved, there will be five AZX auction—two off-hours and three regular hours. All five auctions will be permitted to trade both exchange-listed and NNM securities, and will be subject to real-time transaction reporting under the National Association of Securities Dealers, Inc. ("NASD") rules.⁶

The Commission is soliciting public comment on whether it is appropriate to amend the Exemption Order to reflect AZX's proposal to add two auction sessions during regular trading hours for exchange-listed and NNM securities, trade exchange-listed securities at all day auctions, and consolidate AZX's two off-hours evening auctions.⁷

II. Additional Trading Sessions

The proposed regular trading hours auctions are to be operated in the same manner as the morning auction held during regular trading hours. However, the proposal would allow exchange-listed securities, as well as NNM securities, to be traded during all three regular trading hours auctions. Commenters are invited to express their views on whether trading listed securities during regular trading hours is consistent with the language of Section 5 of the Act⁸ governing limited volume exemptions or whether it will affect AZX's ability to comply with the terms and conditions of its Exemption Order.⁹ Commenters may also wish to

express their views on whether (1) the Commission should impose additional conditions on AZX in light of the proposed changes, (2) the proposal affects AZX participants' obligations under the order handling rules,¹⁰ or (3) the proposal raises issues regarding surveillance by AZX of trading activity in listed securities. In this regard, in connection with its current regular hours auction for NNM Securities, AZX undertook to implement surveillance procedures to detect possible market manipulation and insider trading. These procedures require AZX to compare auction prices and bids and offers entered into AZX with activity in the primary market, and to monitor the effects of an order cancellation or revision on the primary market. Commenters may wish to comment on whether these surveillance procedures are sufficient for monitoring both NNM and exchange-listed securities.

III. Solicitation of Comments

The Commission is soliciting public comment on whether to amend the AZX Exemption Order to reflect the trading sessions during regular trading hours for exchange listed and NNM securities, the trading of exchange listed securities at its 10:30 (ET) auction, and the consolidation of its two after hours evening auctions. Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. All comment letters should refer to File No. 10-100. Copies will be available for inspection and copying in the Commission's Public Reference Room in Washington, DC. All submissions should refer to the file number in the caption above and should be submitted by March 3, 1999.

(3) the submission of activity reports to the Commission; (4) the adoption and implementation of procedures to conduct surveillance of trading by AZX employees and to detect possible insider trading or manipulative abuses; (5) continued compliance with the capacity, security and contingency plan requirements of the Commission's Automation Review Policy; and (6) the provision of 30 days prior notice of any material changes in the operation of the auction.

¹⁰ The Division of Market Regulation ("Division") previously issued a letter confirming that AZX is not an electronic communications network ("ECN") as defined in Rule 11Ac1-1 under the Act (17 CFR 240.11Ac1-1). Letter from Richard R. Lindsey, Director, Division, SEC, to R. Steven Wunsch, President, AZX, Inc., dated January 14, 1997. Because AZX is not an ECN, market maker participants entering priced orders into AZX will not be required to update their market maker quotes to reflect their AZX orders under the amendments to the Quote Rule.

¹ "Regular trading hours" refers to the time period in which the New York Stock Exchange, Inc. permits trading, which is 9:30 a.m. to 4:00 p.m. (ET) each trading day.

² Securities Exchange Act Release No. 28899 (February 20, 1991), 56 FR 8377 (February 28, 1991), amended by Securities Exchange Act Release No. 37272 (June 3, 1996), 61 FR 29145 (June 7, 1996) (collectively "Exemption Order").

³ Letter regarding Wunsch Auction Systems, Inc., predecessor to AZX, Inc., (February 28, 1991). The no-action letter also provided AZX's original crossing broker, Bankers Trust Brokerage Corporation ("BTBC") with relief with respect to non-registration as an exchange, clearing agency, transfer agent, and exclusive securities information processor. BTBC was replaced as AZX's crossing broker by Investment Technology Group, Inc. ("ITG") in February 1995. ITG is a registered broker-dealer.

⁴ See Securities Exchange Act Release No. 37272, *supra* note 2.

⁵ 17 CFR 240.6a-1.

⁶ See NASD Rules 4630, 4631, 4632, 6400, 6410 and 6420.

⁷ Notwithstanding a statement to the contrary contained in the application, the Commission has not previously approved any portion of AZX's proposal.

⁸ 15 U.S.C. 78(e).

⁹ The most significant terms and conditions include: (1) the continued registration of AZX's crossing-broker as a broker-dealer under Section 15(b) of the Act and the continued membership of AZX's crossing-broker in at least one self-regulatory organization; (2) the effective registration of any security traded on AZX under Sections 12(b) or 12(g) of the Act, or the provision of information with respect to a security pursuant to Section 15(d) of the Act, or an exemption from registration because the security is a "government security" as defined in Section 3(a)(42)(A), (B), or (C) of the Act;

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-2252 Filed 1-29-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-23662; 812-10916]

The Victory Portfolios, et al.; Notice of Application

January 25, 1999.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under section 17(d) of the Investment Company Act of 1940 (the "Act") and rule 17d-1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit The Victory Portfolios to deposit uninvested cash balances in joint accounts investing in short-term investments, and to permit Key Trust Company of Ohio, N.A. ("Key Trust") to accept fees for acting as securities lending agent.

Applicants: The Victory Portfolios (consisting of Victory Balanced Fund, Victory Convertible Securities Fund, Victory Diversified Stock Fund, Victory Established Value Fund, Victory Federal Money Market Fund, Victory Financial Reserves Fund, Victory Fund for Income, Victory Government Mortgage Fund, Victory Gradison Government Reserves Fund, Victory Growth Fund, Victory Institutional Money Market Fund, Victory Intermediate Income Fund, Victory International Growth Fund, Victory Investment Quality Bond Fund, Victory Lakefront Fund, Victory LifeChoice Conservative Investor Fund, Victory LifeChoice Growth Investor Fund, Victory LifeChoice Moderate Investor Fund, Victory Limited Term Income Fund, Victory National Municipal Bond Fund, Victory New York Tax-Free Fund, Victory Ohio Municipal Bond Fund, Victory Ohio Municipal Money Market Fund, Victory Ohio Regional Stock Fund, Victory Prime Obligations Fund, Victory Real Estate Investment Fund, Victory Special Growth Fund, Victory Special Value Fund, Victory Stock Index Fund, Victory Tax-Free Money Market Fund, Victory U.S. Government Obligations Fund, Victory Value Fund (each a "Fund")), Key Asset Management Inc. ("KAM"), and Key Trust.¹

¹ Applicants request that the relief apply to all existing and future series of The Victory Portfolios and any other registered management investment companies for which KAM or any entity

Filing Dates: The application was filed on December 22, 1997, and amended on October 5, 1998, and on December 14, 1998.

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 applicants 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 18, 1999, and should be accompanied by proof of service on applicants, 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, NW, Washington, DC 20549. Applicants, 3435 Stelzer Road, Columbus, OH 43219.

FOR FURTHER INFORMATION CONTACT: Lisa McCrea, Attorney Adviser, at (202) 942-0562, or Mary Kay Frech, Branch Chief, at (202) 942-0564 (Office of Investment Company Regulation, Division of Investment Management).

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, 450 5th Street NW, Washington, DC 20549 (tel. 202-942-8090).

Applicant's Representations

1. The Victory Portfolios is an open-end management investment company registered under the Act, currently consisting of thirty-two Funds. KAM is registered as an investment adviser under the Investment Advisers Act of 1940, and serves as investment adviser to the Funds. Both KAM and Key Trust are subsidiaries of KeyCorp.

2. All of the Funds are authorized by their investment policies to invest in short-term liquid assets including repurchase agreements, United States government securities, or other short-term debt obligations. The investment objectives, policies and restrictions of most Funds permit them to engage in securities lending transactions. No Fund

controlling, controlled by, or under common control with KAM acts as investment adviser. Each existing registered management investment company that currently intends to rely on the requested order has been named as an applicant. Any other existing or future registered investment companies that subsequently rely on the order will comply with the terms and conditions in the application.

will engage in securities lending unless so permitted.

3. Applicants propose to deposit uninvested cash balances of participating Funds ("Participants") that remain at the end of the trading day and/or cash for investment purposes ("Uninvested Cash") into one or more joint accounts (the "Joint Investment Account"). Applicants also propose to deposit the cash received as collateral in a securities lending transaction ("Cash Collateral") in a joint account ("Joint Collateral Account", together with the Joint Investment Account, the "Joint Accounts").

4. The Joint Accounts will be established at Key Trust, the Funds' custodian, and the daily balance of the Joint Accounts will be invested in the following short-term investments: (a) Repurchase agreements that are collateralized fully within the meaning of rule 2a-7 under the Act;² (b) interest-bearing or discounted commercial paper, including dollar denominated commercial paper of foreign issuers; and (c) any other short-term taxable and tax-exempt money market instruments, including variable rate demand notes, that constitute "Eligible Securities" within the meaning of rule 2a-7 under the Act (collectively, "Short-Term Investments").

5. Applicants also propose to permit Key Trust to act as the Funds' securities lending agent, to invest the Cash Collateral at the direction of KAM in Short-Term Investments, and to enter into a fee splitting arrangement with the Funds whereby Key Trust would receive a fee based on a percentage of the net returns generated by the lending transactions. Under the proposed arrangement, Key Trust would receive a pre-negotiated percentage of the net earnings on the investment of the Cash Collateral.

6. A Participant's decision to use a Joint Account would be based on the same factors as its decision to make any other Short-Term Investment. Key Trust, at the direction of KAM, would be responsible for investing funds held by the Joint Accounts, establishing accounting and control procedures, operating the Joint Accounts in accordance with the procedures discussed below, and ensuring fair treatment of Participants. KAM (or Key Trust at KAM's direction) would manage investments in the Joint Accounts in essentially the same manner as if it had invested in the instruments on an individual basis for each Participant. All purchases through

² Applicants will not invest in hold-in-custody repurchase agreements.

the Joint Accounts will comply with all present and future SEC staff positions relating to the investment of cash collateral in connection with securities lending activities.

7. Any repurchase agreements entered into through the Joint Accounts will comply with the terms of Investment Company Act Release No. 13005 (February 2, 1983). Applicants acknowledge that they have a continuing obligation to monitor the Commission's published statements on repurchase agreements, and represent that repurchase agreement transactions would comply with future positions of the Commission to the extent that such positions set forth different or additional requirements regarding repurchase agreements. In the event that the Commission sets forth guidelines with respect to other Short-Term Investments, all such investments made through the Joint Accounts would comply with those guidelines.

Applicants' Legal Analysis

1. Section 17(d) of the Act and rule 17d-1 under the Act prohibit an affiliated person of a registered investment company, or an affiliated person of that person, acting as principal, from participating in any joint arrangement or profit-sharing plan with the investment company unless the SEC has issued an order authorizing the arrangement. In passing on such applications, the SEC considers whether the investment company's participation in the joint enterprise is consistent with the provisions, policies, and purposes of the Act, and the extent to which that participation is on a basis different from, or less advantageous than, that of other participants.

2. Section 2(a)(3) of the Act defines an affiliated person of an investment company to include any investment adviser of the investment company and any person directly or indirectly controlling, controlled by, or under common control with such investment adviser. Applicants state that the Funds may be deemed to be affiliated persons of each other because they are under the common control of KAM. Applicants further state that KAM and Key Trust may be deemed to be under the common control of KeyCorp, and Key Trust therefore may be deemed an affiliated person of an affiliated person of the Funds.

3. Applicants state that the Participants, by participating in the proposed Joint Accounts, and Key Trust, managing the proposed Joint Accounts, could be deemed "joint participants" in a transaction within the meaning of section 17(d) of the Act. Applicants

further state that the proposed Joint Accounts also could be deemed to be a "joint enterprise or other joint arrangement" within the meaning of rule 17d-1. In addition, applicants state that the Funds' securities lending fee arrangement with Key Trust may be deemed a joint enterprise or profit sharing plan within the meaning of rule 17d-1.

4. Applicants state that the proposed operation of the Joint Accounts, and Key Trust's activities as securities lending agent, are consistent with the standards of section 17(d) and rule 17d-1 under the Act. Applicants also assert that Key Trust is the most advantageous choice for the Funds to use as lending agent because, as the Funds' custodian, it can administer the lending program efficiently.

5. Applicants state that Participants may earn a higher rate of return on investments through the Joint Accounts. Applicants also state that the Joint Accounts may increase the number of dealers and issuers willing to enter into Short-Term Investments with Participants. Applicants assert that no Participant would be in a less favorable position as a result of participating in the Joint Accounts. Each Participant's liability on any Short-Term Investment would be limited to its interest in such investment; no Participant would be jointly liable for the investments of any other Participant.

6. Applicants agree to implement the following procedural safeguards to ensure that the fee arrangement and other terms governing the Funds' relationship with Key Trust, as lending agent, will be fair:

(a) In connection with the approval of Key Trust as lending agent to a Fund and implementation of the proposed fee arrangement, a majority of the board of trustees (the "Board") (including a majority of the trustees who are not "interested persons" of the Funds within the meaning of section 2(a)(19) of the Act (the "Disinterested Trustees")), will determine that (i) the contract with Key Trust is in the best interests of the Fund and its shareholders; (ii) the services to be performed by Key Trust are required by the Fund; (iii) the nature and quality of the services provided by Key Trust are at least equal to those provided by others offering the same or similar services; and (iv) the fees for Key Trust's services are fair and reasonable in light of the usual and customary charges imposed by others for services of the same nature and quality.

(b) In connection with the approval of Key Trust as lending agent to a Fund and implementation of the proposed fee arrangement, the Board will obtain

competing quotes with respect to lending agent fees from at least three independent lending agents to assist the Board in making the findings referred to in paragraph (a) above.

(c) Each Fund's contract with Key Trust for lending agent services will be reviewed annually and will be approved for continuation only if a majority of the Board (including a majority of the Disinterested Trustees) makes the findings referred to in paragraph (a) above.

(d) The Board (including a majority of the Disinterested Trustees), will (i) determine at each quarterly meeting, that the loan transactions during the prior quarter were effected in compliance with the conditions and procedures set forth in the application, and (ii) review no less frequently than annually the conditions and procedures set forth in the application for continuing appropriateness.

(e) The Funds will maintain and preserve permanently in an easily accessible place a written copy of the conditions and procedures (and any modifications thereto) described in the application or otherwise followed in connection with lending securities and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any loan transaction occurred, the first two years in an easily accessible place, a written record of each such loan transaction setting forth a description of the security loaned, the identity of the person on the other side of the loan transaction, the terms of the loan transaction, and the information or materials upon which the determination was made that each loan was in accordance with the procedures set forth above and the conditions to the application.

Applicants' Conditions

Applicants agree that the requested order will be subject to the following conditions:

Joint Accounts

1. The Joint Accounts would not be distinguishable from any other accounts maintained by Participants at their custodian, except that monies from Participants will be deposited in the Joint Accounts on a commingled basis. The Joint Accounts will not have a separate existence and will not have indicia of a separate legal entity. The sole function of the Joint Accounts will be to provide a convenient way of aggregating individual transactions which would otherwise require daily management of Uninvested Cash or Cash Collateral.

2. Cash in the Joint Accounts would be invested in Short-Term Investments as directed by KAM (or, in the case of Cash Collateral, Key Trust, at the direction of KAM). Short-Term Investments that are repurchase agreements would have a remaining maturity of 60 days or less and other Short-Term Investments would have a remaining maturity of 90 days or less, each as calculated in accordance with rule 2a-7 under the Act. Cash Collateral in a Joint Account would be invested in Short-Term Investments that have a remaining maturity of 397 days or less, as calculated in accordance with rule 2a-7 under the Act.

3. All assets held in the Joint Investment Account would be valued on an amortized cost basis to the extent permitted by applicable SEC releases, rules or orders.

4. Each Participant valuing its net assets in reliance on rule 2a-7 under the Act will use the average maturity of the instruments in the Joint Investment Account in which such Participant has an interest (determined on a dollar weighted basis) for the purpose of computing its average portfolio maturity with respect to its portion of the assets held in a Joint Investment Account on that day.

5. In order to assure that there will be no opportunity for any Participant to use any part of a balance of a Joint Account credited to another Participant, no Participant will be allowed to create a negative balance in any Joint Account for any reason, although each Participant would be permitted to draw down its entire balance at any time. Each Participant's decision to invest in a Joint Account would be solely at its option, and no Participant will be obligated to invest in the Joint Account or to maintain any minimum balance in the Joint Account. In addition, each Participant will retain the sole rights of ownership to any of its assets in the Joint Account.

6. KAM would administer the investment of cash balances in and operation of the Joint Accounts as part of its general duties under its existing or any future investment advisory or sub-advisory agreements with Participants and will not collect any additional or separate fees for advising any Joint Account.

7. The administration of Joint Accounts would be within the fidelity bond coverage required by section 17(g) of the Act and rule 17g-1 under the Act.

8. The Board will adopt procedures pursuant to which the Joint Accounts will operate, which will be reasonably designed to provide that the requirements of the application will be

met. The Board will make and approve such changes as it deems necessary to ensure that such procedures are followed. In addition, the Board will determine, no less frequently than annually, that the Joint Accounts have been operated in accordance with the proposed procedures and will permit a Fund to continue to participate therein only if it determines that there is a reasonable likelihood that the Fund and its shareholders will benefit from the Fund's continued participation.

9. Any Short-Term Investments made through the Joint Accounts will satisfy the investment criteria of all Participants in that investment.

10. KAM and/or the custodian of each Participant will maintain records documenting, for any given day, each Participant's aggregate investment in a Joint Account and each Participant's pro rata share of each investment made through such Joint Account. The records maintained for each Participant shall be maintained in conformity with section 31 of the Act and rules and regulations thereunder.

11. Short-Term Investments held in a Joint Account generally will not be sold prior to maturity except if: (i) KAM believes the investment no longer presents minimal credit risks; (ii) the investment no longer satisfies the investment criteria of all Participants in the investment because of a downgrading or otherwise; or (iii) in the case of a repurchase agreement, the counterparty defaults. KAM may, however, sell any Short-Term Investment (or any fractional portion thereof) on behalf of some or all Participants prior to the maturity of the investment if the cost of such transaction will be borne solely by the selling Participants and the transaction will not adversely affect other Participants in the Joint Account. In no case would an early termination by less than all Participants be permitted if it would reduce the principal amount or yield received by other Participants in a particular Joint Account or otherwise adversely affect the other Participants. Each Participant in a Joint Account will be deemed to have consented to such sale and partition of the investments in the Joint Account.

12. Short-Term Investments held through a Joint Account with a remaining maturity of more than seven days, as calculated pursuant to rule 2a-7 under the Act, would be considered illiquid and would be subject to the restriction that a Fund may not invest more than 15% or, in the case of a money market fund, more than 10% (or, in either such case, such other percentage as set forth by the SEC from

time to time) of its net assets in illiquid securities, if KAM cannot sell the instrument, or the Fund's fractional interest in such instrument, pursuant to the preceding condition, or if such investment would otherwise be considered illiquid if held by a money market fund.

13. Not every Participant participating in the Joint Accounts will necessarily have its cash invested in every Joint Account. However, to the extent a Participant's cash is applied to a particular Joint Account, the Participant will participate in and own a proportionate share of the investment in such Joint Account, and the income earned or accrued thereon, based upon the percentage of such investment in such Joint Account purchased with monies contributed by the Participant.

Securities Lending

14. The securities lending program of each Fund will comply with all present and future applicable Commission and staff positions regarding securities lending arrangements.

15. The approval of the Board, including a majority of the Disinterested Trustees, shall be required for the initial and subsequent approvals of Key Trust's service as lending agent for each Fund, for the institution of all procedures relating to the securities lending program of the Funds, and for any periodic review of loan transactions for which Key Trust acted as lending agent.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-2250 Filed 1-29-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40969; File No. SR-CBOE-98-23]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment Nos. 1, 2 and 3 Relating to an Elimination of Position and Exercise Limits for Certain Broad-Based Index Options

January 22, 1999.

I. Introduction

On June 11, 1998, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section

19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to establish a two year pilot program eliminating position and exercise limits for certain broad-based index options.

The proposed rule change was published for comment in the **Federal Register** on July 9, 1998.³ CBOE filed amendments to the proposed rule change on August 19, 1998, November 13, 1998, and January 21, 1999, respectively.⁴ One comment letter was

received on the proposal.⁵ This order approves the proposal, as amended.

II. Description

CBOE proposes to eliminate position and exercise limits for certain broad-based index options on a two year pilot basis. Specifically, CBOE proposes to eliminate position and exercise limits for SPX, OEX, and DJX options.⁶ The proposal would also apply to FLEX broad-based index options on SPX, OEX, and DJX. These indexes will be subject to new reporting thresholds.⁷ OEX, SPX and all FLEX broad-based index options will be subject to a 100,000 contract reporting requirement and DJX options, which are 1/10th the size of a full value index contract, will be subject to a 1 million contract reporting threshold. These reporting thresholds reflect an increase from the current levels (*i.e.*, 45,000 for SPX and 65,000 for OEX).⁸ The proposal also reiterates that the Exchange has the authority, pursuant to CBOE Rule 12.10, to impose additional margin as it deems necessary upon an account maintaining an under-hedged option position in SPX, OEX, DJX or FLEX options on these indexes. Finally, three months prior to completion of the pilot program, CBOE will provide a report to the Commission, including data for the first eighteen months of the pilot. The report will detail the size and different types of strategies employed with respect to positions established in those classes not subject to position limits. The report will also discuss whether any problems resulted from the no limit approach and any other information that may be useful in evaluating the effectiveness of the pilot program.

III. Discussion

The Commission finds that the proposed rule change is consistent with

No. 3 specified that that CBOE would provide a report to the Commission detailing the impact of the pilot program no later than three months prior to the expiration of the two year pilot program, containing certain data from the first eighteen month period of the pilot.

⁵ See Letter to Jonathan G. Katz, Secretary, Commission, from Kathryn N. Natale, Deputy General Counsel/Director of Compliance-Americas, Credit Suisse First Boston, dated September 23, 1998 ("CSFB Letter"). CSFB general supported the proposal.

⁶ The current position limits for SPX, OEX and DJX are 100,000 contracts, 150,000 contracts, and 1,000,000 contracts, respectively. See CBOE Rule 24.4.

⁷ Reporting thresholds are the contract levels at which members are required to report certain information regarding customer positions to the Exchange.

⁸ Currently, DJX is not subject to an index reporting requirement. Because DJX is part of the proposal, CBOE is imposing new reporting requirement for DJX options.

the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.⁹ Specifically, the Commission believes the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

Position limits serve as a regulatory tool designed to address potential manipulative schemes and adverse market impact surrounding the use of options. In the past, the Commission has stated that:

Since the inception of standardized options trading, the options exchanges have had rules imposing limits on the aggregate number of options contracts that a member or customer could hold or exercise. These rules are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position. In particular, position and exercise limits are designed to minimize the potential for mini-manipulations and for corners or squeezes of the underlying market. In addition such limits serve to reduce the possibility for disruption of the options market itself, especially in illiquid options classes.¹⁰

In general, the Commission has taken a gradual, evolutionary approach toward expansion of position and exercise limits.¹¹ The Commission has been careful to balance two competing concerns when considering the appropriate level at which to set option position and exercise limits. The Commission has recognized that the limits must be sufficient to prevent investors from disrupting the market in the component securities comprising

⁹ See 15 U.S.C. 78f(b). In approving this rule change, the commission notes that it has considered the proposal's impact on efficiency, competition, and capital formation, consistent with Section 3 of the Act. *Id.* at 78c(f).

¹⁰ Exchange Act Release Nos. 39489 (December 24, 1997), 63 FR 276 (January 5, 1998) (SR-CBOE-97-11) (order approving an increase in OEX position and exercise limits); 31330 (October 16, 1992), 57 FR 48408 (October 23, 1992) (SR-Amex-91-13) (order approving an increase in Institutional Index Options position and exercise limits).

¹¹ This gradual approach to increasing position limits is evident with both the SPX and OEX. See Exchange Act Release Nos. 37676 (September 13, 1996), 61 FR 49508 (September 20, 1996) (order approving SR-CBOE-96-01; increasing position limits for the SPX from 45,000 to 100,000 contracts); 39789 (December 24, 1997), 63 FR 276 (January 5, 1998) (order approving SR-CBOE-97-11; increasing position limits for the OEX from 75,000 to 150,000 contracts).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Exchange Act Release No. 40158 (July 1, 1998), 63 FR 37153.

⁴ See Letter to Christine Richardson, Attorney, Division of Market Regulation, Commission, from Timothy Thompson, CBOE, dated August 18, 1998 ("Amendment No. 1"). CBOE's original submission proposed to eliminate position and exercise limits for all broad-based index options on a permanent basis. Amendment No. 1 limited the proposal to a two year pilot program. Amendment No. 1 also limited the proposal to those broad-based indexes meeting the following criteria: (1) a total capitalization of at least \$2 trillion or (2) an average capitalization of at least \$15 billion. Amendment No. 1 also stated that, near the end of the program, CBOE would provide a report detailing the size and different types of strategies employed with respect to positions established in those classes not subject to position limits. The report would also indicate whether any problems resulted from the no limit approach and provide any other information that may be useful in evaluating the effectiveness of the pilot program.

See Letter to Michael Walinskas, Deputy Associate Director, Division of Market Regulation, Commission, from Mary Bender, CBOE, dated October 28, 1998 ("Amendment No. 2"). Superseding the index criteria set forth in Amendment No. 1, Amendment No. 2 limited the proposal to three specific broad-based indexes. Specifically, the proposal was limited to options on the S&P 500 ("SPX"), options on the S&P 100 ("OEX"), and options on the Dow Jones Industrial Average ("DJX"). Amendment No. 2 also clarified that OEX and SPX options would be subject to a 100,000 contract reporting threshold requirement and DJX options, 1/10th the size of a full value index contract, would be subject to a 1 million contract reporting threshold requirement. Amendment No. 2 also stated that the contract thresholds, which would trigger an inquiry into whether additional margin should be imposed, were being changed to 100,000 contracts for OEX and SPX options and 1 million contracts for DJX options.

See Letter to Michael Walinskas, Deputy Associate Director, Division of Market Regulation, Commission, from Mary Bender, CBOE, dated January 20, 1999 ("Amendment No. 3"). Amendment No. 3 deleted the margin review thresholds proposed in Amendment No. 2. Amendment No. 3 also clarified that the elimination of position limits for FLEX broad-based index options will apply only to FLEX options on the SPX, OEX and DJX, and not to all broad-based index options as originally proposed. Furthermore, SPX, OEX and DJX FLEX options contracts will be subject to a 100,000 reporting requirement, and DJX will be subject to a 1 million contract reporting thresholds. Language was also added to reflect that the Exchange has the authority, pursuant to CBOE Rule 12.10, to impose additional margin upon and account maintaining an underhedged FLEX SPX, OEX or DJX option position. Finally, Amendment

the indexes. At the same time, the Commission has determined that limits must not be established at levels that are so low as to discourage participation in the options market by institutions and other investors with substantial hedging needs or to prevent specialists and market-makers from adequately meeting their obligations to maintain a fair and orderly market.¹²

The Commission has carefully considered the CBOE's proposal. At the outset, the Commission notes that it still believes the fundamental purposes of position and exercise limits are being served by their existence. Nevertheless, the Commission believes that the current experience with the trading of index options as well as the surveillance capabilities of the CBOE have made it permissible to consider other, less prophylactic alternatives to regulating the index options market while still ensuring that large positions in such index options will not unduly disrupt the options or underlying cash markets. At this time, the Commission believes that it is appropriate to allow for an elimination of position and exercise limits for certain broad-based index options on a two-year pilot basis.

The Commission believes that an elimination of position and exercise limits for certain broad-based index options on a pilot basis is appropriate for several reasons. Overall, the Commission believes that the pilot will allow the CBOE to allocate certain of its surveillance resources differently, focusing on enhanced reporting and surveillance of trading to detect potential manipulation and risky positions that may unduly affect the cash market, rather than focusing on the strict enforcement of position limits. Although this regulatory approach deviates from the current structure that has been in place since the beginning of index options trading, the Commission believes that the enhanced reporting and surveillance CBOE is providing, as well as the fact that the pilot is limited to the CBOE's three most highly capitalized and actively traded index options, provides a sound basis for approving a two year pilot program eliminating position and exercise limits.

The Commission notes first that the proposal is limited to options on three broad-based indexes, the SPX, OEX, DJX, and FLEX options on those indexes. The Commission believes that the enormous capitalization of and deep, liquid markets for the underlying securities contained in these indexes significantly reduces concerns regarding

market manipulation or disruption in the underlying market.¹³ Removing position and exercise limits for these index options may also bring additional depth and liquidity, in terms of both volume and open interest, to the affected index options classes without significantly increasing concerns regarding intermarket manipulations or disruptions of the options or the underlying securities.

Second, eliminating position and exercise limits for these specified indexes should better serve the hedging needs of institutions that engage in trading strategies different from those covered under the index hedge exemption policy (e.g., delta hedges, OTC vs. listed hedges).¹⁴ Furthermore, eliminating position and exercise limits for the SPX, OEX and DJX options will alleviate the regulatory burdens related to the current index hedge exemption, which involves a daily monitoring of positions and reports to the Exchange at the current levels.

Third, the Commission believes that financial requirements imposed by CBOE and by the Commission adequately address concerns that a CBOE member or its customer may try to maintain an inordinately large unhedged position in a broad-based index option. Current margin and risk-based haircut methodologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a member must maintain for a large position held by itself or by its customer.¹⁵ CBOE also

has the authority under its rules to impose a higher margin requirement upon the member or member organization when it determines a higher requirement is warranted. Monitoring accounts maintaining large positions should provide the Exchange with the information necessary to determine whether to impose additional margin and/or whether to assess capital charges upon a member organization carrying the account. In addition, the Commission's net capital rule, Rule 15c3-1 under the Exchange Act, imposes a capital charge on members to the extent of any margin deficiency resulting from the higher margin requirement. The significant increases in unhedged options capital charges resulting from the September 1997 adoption of risk-based haircuts and CBOE's margin requirements applicable to these products under Exchange rules serves as an additional form of protection.¹⁶ The Commission also notes that the OCC will serve as the counter-party guarantor in every exchange-traded transaction.

Fourth, the Commission notes that the index options and other types of index-based derivatives (e.g., forwards and swaps) are not subject to position and exercise limits in the OTC market. The Commission believes that eliminating position and exercise limits for the SPX, OEX, and DJX options on a two-year pilot basis will better allow CBOE to compete with the OTC market.

Fifth, the Commission believes that CBOE has adopted important enhanced surveillance and reporting safeguards that will allow it to detect and deter trading abuses arising from the elimination of position and exercise limits for SPX, OEX, DJX, and FLEX options on those indexes. These safeguards will also allow CBOE to monitor large positions in order to identify instances of potential risk and to assess additional margin and/or capital charges, if deemed necessary. Specifically, CBOE will subject SPX, OEX and FLEX options on those indexes to a 100,000 contract hedge reporting requirement, and DJX, which is one-tenth the size of a full value index contract, and FLEX options on the DJX will be subject to a 1 million contract

¹³ SPX is a capitalization-weighted index composed of 500 stocks from a broad range of industries. As of August 1998, the total market capitalization value for SPX was \$8.5 trillion. See Amendment No. 1. OEX is a capitalization-weighted index composed of 100 stocks from a broad range of industries. As of August 1998, the total market capitalization value for OEX was \$3.8 trillion. *Id.* DJX is a price-weighted index composed of 30 of the largest, most liquid New York Stock Exchange-listed stocks. As of August 1998, the total market capitalization value for DJX was \$2.2 trillion. *Id.*

In addition, the average trading volume for the underlying components of these indexes for the six months preceding January 20, 1999, demonstrates the substantial liquidity of the index components as a group. The average trading share volume underlying the SPX is 757.5 million shares. The average trading share volume underlying the OEX is 244.3 million shares. Finally, the average trading share volume underlying the DJX is 94.77 million shares. Telephone call between Patricia Cerny, CBOE, and Christine Richardson, Commission, on January 21, 1999.

¹⁴ CSFB notes that many institutional traders conduct substantial hedging activity similar to that of the listed options market in other markets that are not restricted by position and exercise limits, e.g., by trading off-shore or in the U.S. treasury bond futures and Eurodollar futures market. See CSFB Letter.

¹⁵ Exchange Act Rule 15c3-1 requires a capital charge equal to the maximum potential loss on a

broker-dealer's aggregate index position over a +(-) 10% market move. Exchange margin rules require margin on naked index options which are in or at-the-money equal to a 15% move in the underlying index; and a minimum 10% charge for naked out-of-the money contracts. At an index value of 9,000 this approximates to a \$135,000 to \$90,000 requirement per each unhedged contract.

¹⁶ See Exchange Act Release No. 38248 (February 6, 1997), 62 FR 6474 (February 12, 1997)(adopting Risk Based Haircuts), and CBOE Rule 24.11 Margins.

¹² See H.R. No. IFC-3, 96th Cong., 1st Sess. at 189-91 (Comm. Print 1978).

hedge reporting threshold.¹⁷ Each member or member organization that maintains a position on the same side of the market in excess of these contract thresholds for its own account or for the account of a customer must file a report that includes, but is not limited to, data related to the option position, whether such position is hedged and if so, a description of the hedge. If applicable, the report must contain information concerning collateral used to carry the position. Exchange market makers would continue to be exempt from this reporting requirement. Although the new reporting thresholds are higher for SPX and OEX, the new levels will enable CBOE to allocate its surveillance resources on those accounts maintaining larger, potentially riskier, positions. CBOE has submitted to the Commission a detailed description of enhanced surveillance procedures the Exchange will implement in order to monitor accounts maintaining large positions. The Commission also believes that CBOE's new surveillance procedures should enable the Exchange to assess and respond to market concerns at an early stage. Although it is inappropriate to discuss the details of CBOE's enhanced surveillance program, the Commission notes that these enhanced procedures were critical in its determination to approve the proposed rule change.¹⁸

Finally, the Commission notes the lack of any discernible problems at existing levels. Although it is difficult to compare a market with position limits and one without, the Commission notes that the lack of any significant problems at existing levels, which are relatively high for these three index options compared to other similar products does provide some basis for going forward with the CBOE's proposal. The Commission further believes that, if problems were to occur during the pilot period, the enhanced market surveillance of large positions should help CBOE to take the appropriate action in order to avoid any manipulation or market risk concerns.

With regard to the elimination of position and exercise limits for FLEX options on the SPX, OEX and DJX, the Commission believes that, given the size and sophisticated nature of the FLEX options market for these indexes, along

with the reporting requirements, eliminating position and exercise limits for FLEX options on the SPX, OEX and DJX for a two-year pilot period should not substantially increase manipulative concerns.

Notwithstanding the protections that have been built into CBOE's proposal, the Commission believes a prudent approach is warranted with respect to the elimination of position limits for these indexes. In this regard, the Commission cannot rule out the potential for adverse effects on the securities markets for the component securities underlying the effected broad-based indexes. To address this concern, the Commission is approving the proposal for a two-year pilot period and limiting the proposal to SPX, OEX, DJX options, and FLEX options on those indexes.¹⁹ Furthermore, three months prior to the end of the pilot program, CBOE will provide the Commission with a report detailing the size and different types of strategies employed with respect to positions established in those classes not subject to position limits. In addition, the report will note whether any problems resulted due to the no limit approach and any other information that may be useful in evaluating the effectiveness of the pilot program.²⁰ The Commission expects that CBOE will take prompt action, including timely communication with the Commission and other marketplace self-regulatory organizations responsible for oversight of trading in component stocks, should any unanticipated adverse market effects develop.

The Commission finds good cause to approve Amendment No. 1 to the proposed rule filing prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Specifically, by restricting the elimination of position and exercise limits for certain broadbased index options to a two-year pilot period, the proposed rule change is more restrictive than the original proposal, which was published for the entire twenty-one day comment period and generated only one response.²¹ Amendment No. 1 also stated that CBOE will provide a report to the Commission three months prior to the end of the pilot period,²² detailing any resulting problems, as well as the size and different types of strategies employed with respect to positions

established in those classes of options not subject to position limits. This report will help CBOE and the Commission to assess the effects of eliminating position and exercise limits on the effected index options. Accordingly, the Commission believes that good cause exists, consistent with Sections 6(b)(5) and 19(b) of the Act to approve Amendment No. 1 to the proposed rule change on an accelerated basis.²³

The Commission finds good cause to approve Amendment No. 2 to the proposed rule filing prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Specifically, Amendment No. 2 limited the proposal to three specific broad-based indexes—SPX, OEX, and DJX options. By restricting the elimination of position and exercise limits to SPX, OEX, and DJX options, the proposed rule change is more restrictive than the original proposal, which was published for the entire twenty-one day comment period and generated only one response.²⁴ Amendment No. 2 also imposed new reporting thresholds on members holding large positions in the effected options. These reporting requirements will better enable CBOE to detect and deter trading abuses arising from the elimination of position and exercise limits. In addition, the Commission notes that CBOE's proposal reiterates the Exchange's ability to impose margin and/or assess capital charges an important safeguard to address concerns regarding potential manipulation or other market disruptions. Accordingly, the Commission believes that good cause exists, consistent with Sections 6(b)(5) and 19(b) of the Act to approve Amendment No. 2 to the proposed rule change on an accelerated basis.

The Commission finds good cause to approve Amendment No. 3 to the proposed rule filing prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Specifically, the Commission believes that deleting the proposed margin review thresholds of 100,000 contracts for SPX and OEX and 1 million for DJX is appropriate to avoid possible a misinterpretation that the

¹⁷ The current hedge reporting thresholds for SPX and OEX are 45,000 contracts and 65,000 contracts, respectively. DJX is not currently subject to a reporting requirement.

¹⁸ Disclosure of specific surveillance procedures could provide market participants with information that could aid potential attempts at avoiding regulatory detection of inappropriate trading activity.

¹⁹ Cf. Exchange Act Release No. 30932 (September 9, 1997), 62 FR 48683 (September 16, 1997) (order approving the elimination of position and exercise limits for FLEX equity options on a two year pilot basis).

²⁰ See Amendment No. 1.

²¹ See CSFB Letter.

²² See Amendment No. 3.

²³ The Commission notes that Amendment No. 1 also limited the proposal to all broad-based indexes meeting the following criteria: (1) a total capitalization of at least \$2 trillion or (2) an average capitalization of at least \$15 billion. Although this provision narrowed the application of the proposed rule change, at the request of the Commission, CBOE filed Amendment No. 2 which replaced this provision and further narrowed application of the proposed rule change to SPX, OEX, and DJX options.

²⁴ See CSFB Letter.

Exchange may only impose additional margin under CBOE Rule 12.10 when these thresholds are reached. Amendment No. 3 clarifies that the Exchange may impose additional margin as it deems necessary. The Commission also believes that narrowing the elimination of position and exercise limits to FLEX options on the SPX, OEX, and DJX, rather than all FLEX broad-based index options is appropriate because it is more restrictive than the original proposal and it will allow the Exchange to focus initially on a smaller number of accounts maintaining positions in FLEX SPX, OEX and DJX options. Amendment No. 3 also appropriately clarifies when the CBOE will provide the Commission with a report concerning the impact of the pilot program. Accordingly, the Commission believes that good cause exists, consistent with Sections 6(b)(5) and 19(b) of the Act to approve Amendment No. 3 to the proposed rule change on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendments No. 1, 2 and 3, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspecting and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-CBOE-98-23 and should be submitted by February 22, 1999.

V. Conclusion

It is therefore Ordered, pursuant to section 19(b)(2) of the Act,²⁵ that the proposed rule change (SR-CBOE-98-23) is approved, as amended, on a two-year pilot basis until January 22, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁶

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-2251 Filed 1-29-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40973; File No. SR-CBOE-98-55]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Inc. Relating to Exchange Fees for CBOT Exercisers.

January 25, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 30, 1998, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On January 13, 1999, the Exchange submitted Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested person.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend certain fees so that these fees are charged to Chicago Board of Trade ("CBOT") exercise members of CBOE in the same manner that they are charged to other CBOE members. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

²⁶ 17 CFR 200.30-3(a)(12).

¹ 17 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Arthur B. Reinstein, Assistant General Counsel, CBOE, to Richard Strasser, Assistant Director, SEC, dated January 12, 1999. ("Amendment No. 1"). In Amendment No. 1, CBOE described the amount of CBOE dues and the technology fee which the rule change imposes on CBOT Exercisers. Additionally, CBOE summarized the fee waiver provisions of CBOE Rule 3.16(c) and the Agreement entered into on September 1, 1992, between the Chicago Board of Trade and CBOE.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statement may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend certain fees so that these fees are charged to CBOE members that are also members of the CBOT ("CBOT Exercisers") in the same manner they are charged to the other CBOE members.

Article Five(b) of the CBOE Certificate of Incorporation provides that:

[E]very present and future member of the [the Board of Trade of the City of Chicago] who applies for membership in the [CBOE] and who otherwise qualifies shall, so long as he remains a member of said Board of Trade, be entitled to be a member of the [CBOE] notwithstanding any such limitation on the number of members and without the necessity of acquiring such membership for consideration or value from the [CBOE], its members, or elsewhere. Members of the [CBOE] admitted pursuant to this paragraph (b) shall, as a condition of membership in the [CBOE], be subject to fees, dues, assessments and other like charges, and shall otherwise be vested with all rights and privileges and subject to all obligations of membership, as provided in the by-laws.

CBOE Rule 3.16(c) further provides that for the purpose of entitlement to membership on the CBOE in accordance with Article Fifth(b), the term "member of the Board of Trade of the City of Chicago" is interpreted to mean an individual who is either an "Eligible CBOT Full Member" or an "Eligible CBOT Full Member Delegate" as those terms are defined in the Agreement entered into on September 1, 1992, between CBOT and CBOE ("1992 Agreement"), and shall not mean any other person.

On February 12, 1988, CBOE and CBOT entered into a Joint Venture Agreement ("JV Agreement"). The JV Agreement provided, among other things, that the CBOE would waive dues in a given quarter for CBOT Exercisers who made no trades in CBOE contracts

²⁵ 15 U.S.C. 78s(b)(2).

for the immediate previous quarter and that the access/exerciser fee for CBOT Exercisers would be zero for the duration of the joint venture. The JV Agreement terminated on December 29, 1998. As a result, CBOE dues will no longer be waived for CBOT Exercisers who make no trades in CBOE contracts in the immediate previous quarter, and all CBOT Exercisers will be charged CBOE dues to the same extent that other CBOE members are charged CBOE dues. Accordingly, each person who is an effective CBOT Exerciser member of CBOE at the end of the first business day of a calendar quarter will be charged the applicable CBOE dues for that quarter.⁴

Similarly, the CBOE technology fee will no longer be waived for CBOT Exercisers who make no trades in CBOE contracts in the immediate previous month. As a result, each person who is an effective CBOT Exerciser member of CBOE at the end of the first business day of a month will be charged the technology fee for that month.⁵ CBOE began assessing dues and the technology fee to CBOT Exercisers on January 4, 1999.

Due to the termination of the JV Agreement, the CBOE membership application fees will also no longer be waived for CBOT Exercisers. Accordingly, commencing on December 29, 1998, each CBOT Exerciser membership applicant will be charged CBOE membership application fees to the same extent that other CBOE membership applicants are charged CBOE membership application fees. These membership application fees include, but are not limited to, the \$2,000 fee for new membership applicants and the \$100 renewal/change of status fee. These amendments to CBOE's membership application fees will be incorporated into CBOE's Membership Fee Circular.

Prior to the JV Agreement, CBOT Exerciser applicants were charged a \$500 CBOT Exerciser application fee. Because CBOT Exerciser applicants will now be charged the same membership application fees as other CBOE membership applicants, the \$500 CBOT Exerciser application fee will be eliminated.

⁴ Amendment No. 1 states that CBOE dues are currently \$625.00 per quarter, subject to a 25% discount if CBOE average daily volume on a fiscal year-to-date basis ("ADV") is between 800,001–850,000 contracts, a 50% discount if CBOE ADV is between 850,001–875,000 contracts, a 75% discount if CBOE ADV is between 875,001–900,000 contracts, and a 100% discount if CBOE ADV exceeds 900,000 contracts. See note 3, *supra*.

⁵ According to Amendment No. 1, the technology fee is \$200.00 a month. See note 3, *supra*.

The Exchange believes that it is appropriate to charge CBOT Exerciser applicants the same membership application fees as other CBOE membership applicants because CBOT Exerciser applications require the same staff resources and effort to process as applications submitted by other CBOE membership applicants. Finally, it should be noted that this rule filing is not intended to affect the fee waiver provisions that are set forth in the 1992 Agreement and Rule 3.16(c).⁶

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section 6(b)⁷ of the Act in general and furthers the objectives of Section 6(b)(4)⁸ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.⁹

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change, which establishes or changes a due, fee, or other charge imposed by the Exchange, has become effective pursuant to section 19(b)(3)(A) of the Act¹⁰ and subparagraph (e)(2) of Rule 19b–4 thereunder.¹¹ At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors,

⁶ Amendment No. 1 explains that Rule 3.16(c) and the 1992 Agreement provide for CBOE to waive all membership dues, fees, and other charges and all qualification requirements, other than those imposed by law, in order to permit Eligible CBOT Full Members and Eligible CBOT Full Member Delegates to participate in certain CBOE offers, distributions, and redemptions defined by the 1992 Agreement. See note 3, *supra*.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4).

⁹ In reviewing the proposed rule change, the Commission considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b–4(e)(2).

or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–98–55 and should be submitted by February 22, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–2297 Filed 1–29–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40971; File No. SR–CBOE–98–11]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 to the Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Adjustments in Market Maker Equity

January 25, 1999.

I. Introduction

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")¹ and Rule 19b–4 thereunder,² the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange

¹⁷ CFR 200.30–3(a)(12).

¹⁵ U.S.C. 78s(b)(1).

¹⁷ CFR 240.19b–4.

Commission ("SEC" or "Commission") a proposal to amend CBOE Rule 12.3, "Margin Requirements" by adopting Interpretation and Policy .06, which will allow a clearing broker to adjust the equity in the account of a market maker whose net liquidating equity is in deficit and permit the clearing broker to extend credit for opening transactions. Specifically, Interpretation and Policy .06 will allow a clearing broker to adjust the equity in the account of a market maker whose account is in deficit because the dissemination of the last sale price of a stock after the options close at 3:02 p.m.³ has resulted in a discrepancy between the last sale price of the stock and the closing quotes and last sale price of the overlying options series. Under these circumstances, Interpretation and Policy .06 will permit the clearing broker to recalculate the value of the options position in the market maker's account to reflect the movement in the price of the underlying stock.

On May 7, 1998, the CBOE filed Amendment No. 1 to the proposal.⁴ On August 18, 1998, the CBOE filed Amendment No. 2 to the proposal.⁵ In Amendment No. 2, the CBOE indicated that without the adjustment permitted under the proposal, Exchange Act Rule 15c3-1 would prohibit a clearing firm from extending credit to a market maker whose account is in deficit and would require the clearing firm to take steps to liquidate the positions in the market maker's account.⁶ In addition, the CBOE represented that the Exchange would ascertain at the end of the business day following the adjustment whether any market maker whose equity was adjusted pursuant to Interpretation and Policy .06 continued to experience

difficulty in maintaining positive equity in its account.⁷

Notice of the proposed rule change and Amendment No. 1 to the proposed rule change was published for comment in the **Federal Register** on May 28, 1998.⁸ The Commission received no comments regarding the proposal. This notice and order solicits comments on Amendment No. 2 to the proposal from interested persons and approves the proposed rule change, as amended.

II. Description of the Proposal

CBOE Rule 12.3(f)(3)(C)(3) prohibits a clearing firm from extending credit to a market maker for opening transactions when the market maker's account fails to maintain positive net liquidating equity.⁹ In addition, Exchange Act Rule 15c3-1(c)(2)(x)(D) prohibits a clearing broker from extending credit to a specialist whose market maker account is in deficit and would require the clearing broker to take steps to liquidate existing positions in the market maker account.¹⁰ The Commission has taken a no-action position with regard to the application of Exchange Act Rule 15c3-1(c)(2)(x)(D) under the circumstances described in the proposal.¹¹

The CBOE proposes to add Interpretation and Policy .06 to CBOE Rule 12.3 to permit a clearing broker to adjust the equity in the account of a market maker whose net liquidating equity is in deficit and allow the clearing broker to extend credit for opening transactions. Specifically, Interpretation and Policy .06 will allow a clearing broker to adjust the equity in the account of a market maker whose account is in deficit because the dissemination of the last sale price of a stock after the options close at 3:02 p.m. has resulted in a discrepancy between the last sale price of the stock and the closing quotes and last sale price of the

overlying options series. Under these circumstances, Interpretation and Policy .06 will permit the clearing broker to recalculate the value of the options position in the market maker's account to reflect the movement in the price of the underlying stock.

According to the CBOE, the closing price for a stock may be disseminated after 3:02 p.m. when news announced near the close of trading results in heavy trading in the stock and a late trade tape. Under these circumstances, the last sale price for the stock may incorporate information that is not reflected in the closing price for the overlying options. As a result, the closing price of the underlying stock may be out of line with the closing quotes and last sale price of the overlying options series.¹²

The discrepancy between the closing prices of the underlying stock and the overlying options series may result in deficit equity in the account of an options market maker.¹³ As noted above, CBOE Rule 12.3(f)(3)(C)(3) requires a clearing broker to request additional equity on any business day when a market maker does not maintain positive net liquidating equity and prohibits a clearing broker from extending additional credit to a market maker when the market maker's account is in deficit. Interpretation and Policy .06 will permit a clearing broker to adjust the market maker's equity when the late dissemination of the closing price for a stock results in a discrepancy between the closing price of the stock and the closing quotes and last sale price of the overlying options.¹⁴ If the adjustment eliminates the deficit in the market maker's account, the clearing broker may extend credit to the market maker for opening transactions.

³ All time references are in Central Time.

⁴ See Letter from Timothy H. Thompson, Director, Regulatory Affairs, Legal Department, CBOE, to Yvonne Fraticelli, Division of Market Regulation ("Division"), Commission, dated May 6, 1998 ("Amendment No. 1"). Amendment No. 1 made technical revisions to the proposal, deleted an incorrect reference to Regulation X of the Board of Governors of the Federal Reserve System, and explained the circumstances under which it might be necessary for a clearing broker to adjust a market maker's account equity.

⁵ See Letter from Timothy H. Thompson, Director, Regulatory Affairs, Legal Department, CBOE, to Yvonne Fraticelli, Division, Commission, dated August 18, 1998 ("Amendment No. 2").

⁶ Subsequent to the filing of this proposal, the Division has granted the CBOE's request for a no-action position with regard to the application of SEC Rule 15c3-1(c)(2)(x)(D) under the circumstances described in the proposal. See Letter from Michael A. Macchiaroli, Associate Director, Division, Commission, to Richard Lewandowski, Vice President, Department of Financial and Sales Practice Compliance, Regulatory Division, CBOE, dated January 19, 1999 ("January 19 Letter"). The CBOE's request for no-action relief and the Division's response are attached as Exhibit A.

⁷ See Amendment No. 2, *supra* note 5.

⁸ See Securities Exchange Act Release No. 40015 (May 20, 1998), 63 FR 29274.

⁹ Specifically, CBOE Rule 12.3(f)(3)(C)(3) states that on any day when a market maker does not maintain positive net liquidating equity is his or her account(s), the carrying member must request additional equity at least equal to the deficit and may not extend further credit in the account(s) until the account(s) maintains a positive net liquidating equity. If the market maker fails to meet the call for additional equity, the carrying member should promptly take steps to liquidate the positions in the account(s).

¹⁰ Specifically, Exchange Act Rule 15c3-1(c)(2)(x)(D) prohibits a broker or dealer guaranteeing, endorsing, or carrying listed options transactions in a specialist's market maker account from extending any further credit if at any time there is a liquidating deficit in the account. Among other things, the broker or dealer also must take steps to liquidate promptly existing positions in the account.

¹¹ See January 19 Letter, *supra* note 6.

¹² In 1997, the CBOE and the other options exchanges changed the closing time for trading equity options and certain narrow-based index options from 3:10 p.m. to 3:02 p.m. See e.g., Securities Exchange Act Release No. 38543 (May 14, 1997), 62 FR 28082 (May 22, 1997) (order approving File No. SR-CBOE-96-71). According to the CBOE, this pricing discrepancy rarely arose when the options markets closed at 3:10 p.m. because final stock prices generally were disseminated by the time the options markets closed, thereby allowing options market makers to adjust their quotes to reflect the last sale price of the underlying stock.

¹³ According to the CBOE, this deficit equity condition may occur even though the market maker is hedged in terms of market risk.

¹⁴ To adjust the market maker's equity, the clearing broker will recalculate the value of the options position to reflect the price movement of the underlying stock. In recalculating the value of the options position, the clearing broker will use the same methodology as that used by the Options Clearing Corporation to reprice the options assuming different prices for the underlying securities. See January 19 Letter, *supra* note 6.

Interpretation and Policy .06 requires the clearing broker to document any adjustment to a market maker's equity and file it with the CBOE's Department of Financial and Sales Practice Compliance ("Department"). The clearing broker should file the adjustment with the Department before the next day's opening, but in any case before the clearing broker extends credit to the market maker for opening transactions. The Department must approve any adjustment before the clearing broker may finance opening trades. All information regarding the adjustments must be retained by the clearing broker and by the CBOE. In addition, the CBOE will ascertain at the end of the business day following the adjustment whether any market maker whose equity was adjusted pursuant to Interpretation and Policy .06 continues to experience difficulty in maintaining positive equity in his or her account.¹⁵ If a market maker fails to maintain positive equity in its account at the end of the business day following the adjustment, the requirements of Exchange Act Rule 15c3-1(c)(2)(x)(D) and CBOE Rule 12.3(f)(3)(C)(3) will apply to the account.¹⁶ The CBOE estimates that the pricing discrepancy described in Interpretation and Policy .06 occurs, on average, approximately once each quarter.¹⁷

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of section 6(b) of the Act.¹⁸ Specifically, the Commission finds that the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.¹⁹

CBOE Rule 12.3(f)(3)(C)(3) requires a clearing broker carrying a market

maker's account to call for additional equity on any business day on which the market maker's account fails to maintain positive net liquidating equity. In addition, that rule prohibits a clearing broker from extending additional credit to a market maker whose account does not maintain positive net liquidating equity and requires the clearing broker to take steps to liquidate the market maker's account if the market maker fails to satisfy the clearing broker's call for additional equity. Interpretation and Policy .06 will allow a clearing broker to adjust the equity in the account of a market maker whose account is in deficit because the last sale price of a stock is disseminated after the overlying options cease trading at 3:03 p.m., resulting in a discrepancy between the last sale price of a stock and the closing quotations and last sale price of the overlying options. The adjustments will permit the clearing broker to extend credit to the market maker for opening transactions.

The Commission believes that it is appropriate for the CBOE to adopt Interpretation and Policy .06. In this regard, the Commission notes that Interpretation and Policy .06 will allow a clearing broker to adjust the equity of a market maker whose account is in deficit only in the limited circumstances described in Interpretation and Policy .06, i.e., when a market maker's account liquidates to a deficit because the last sale price of a stock is disseminated after the overlying options cease trading and the late dissemination of the closing stock price results in a discrepancy between the closing stock price and the closing quotations and last sale price of the overlying options. In such narrow instances, the adjusted equity should provide a more accurate picture of the market maker's financial condition than would be provided by using last sale numbers for the options in the market maker's account (at last with respect to those options). By allowing the clearing broker to extend credit for opening transactions under these limited circumstances, Interpretation and Policy .06 will permit the market maker to continue to operate with CBOE 12.3(f)(3)(C)(3) otherwise would require the clearing broker to take steps to liquidate the positions in the market maker's account unless the market maker provided additional equity.

The Commission notes that the proposal contains several safeguards that should help to ensure appropriate use of the extension of credit permitted under Interpretation and Policy .06. Specifically, Interpretation and Policy .06 requires a clearing broker to document and file with the CBOE any

adjustment to a market maker's equity prior to the next day's opening, or at least before the firm may extend credit for opening transactions. Accordingly, the CBOE must approve the adjustment before a clearing broker may finance opening transactions. The clearing broker and the CBOE must retain all information regarding the adjustments. In additions, at the end of the business day following the adjustment, the CBOE will determine whether any market maker whose account was adjusted pursuant to Interpretation and Policy .06 continues to experience difficulty in maintaining positive equity in its account.²⁰ If the market maker fails to maintain positive equity in its account at the end of the business day following the adjustment, the requirements of Exchange Act Rule 15c3-1(c)(2)(x)(D) and CBOE Rule 12.3(f)(3)(C)(3), which would prohibit the clearing broker from extending additional credit to the market maker and require the liquidation of positions in the market maker's account, will apply to the account.²¹ These procedures should help to ensure that CBOE market makers experiencing financial difficulties are monitored closely and are not permitted to continue to obtain credit from clearing firms if their financial difficulties appear to be chronic.

Finally, the Commission notes that the adjustment permitted under Interpretation and Policy .06 should occur infrequently. In this regard, the CBOE has estimated that the pricing discrepancy described in Interpretation and Policy .06 occurs, on average, approximately once each quarter.²² The Commission expects that should this issue arise more frequently than the average in two consecutive quarters that the CBOE will advise the Commission staff and consider whether the adjustment should be discontinued or limited.

The Commission finds good cause for approving Amendment No. 2 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing of the amendment in the **Federal Register**. As discussed above, Amendment No. 2 clarifies the CBOE's reasons for adopting Interpretation and Policy .06 and indicates that the CBOE will determine at the end of the business day following an adjustment whether a market maker whose account equity was adjusted pursuant to Interpretation and Policy .06 continues to experience difficulties in maintaining positive

¹⁵ See Amendment No. 2, *supra* note 5.

¹⁶ Telephone conversation among Timothy H. Thompson, Director, Regulatory Affairs, Legal Department, CBOE, Richard Lewandowski, Vice President, Department of Financial and Sales Practice Compliance, Regulatory Division, CBOE, and Yvonne Fraticelli, Special Counsel, Division, Commission, on January 20, 1999 ("January 20 Conversation").

¹⁷ See January 20 Conversation, *supra* note 16.

¹⁸ 15 U.S.C. 78f(b).

¹⁹ In approving the rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

²⁰ See Amendment No., *supra* note 5.

²¹ See January 20 Conversation, *supra* note 16.

²² See January 20 Conversation, *supra* note 16.

equity in its account. The Amendment does not raise new regulatory issues. Accordingly, the Commission believes it is consistent with sections 6(b)(5) and 19(b)(2) of the Act to approve Amendment No. 2 to the proposed rule change on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2, including whether Amendment No. 2 is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-98-11 and should be submitted by February 20, 1999.

V. Conclusion

It is Therefore *Ordered*, pursuant to Section 19(b)(2) of the Act,²³ that the proposed rule change (File No. SR-CBOE-98-11), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁴

Margaret H. McFarland,
Deputy Secretary.

Exhibit A

January 19, 1999.

Mr. Richard Lewandowski,
Vice President,
Department of Financial and Sales Practice
Compliance,
Regulatory Division,
The Chicago Board Options Exchange,
400 South LaSalle Street,
Chicago, Illinois 60605.

Re: Computation of Equity by Broker-Dealers
Carrying Market-Maker Accounts of
Listed Options Specialists

Dear Mr. Lewandowski: This is in response to your letter dated January 11, 1999, in which you request that broker-dealers, in computing equity in specialist market-maker accounts for purposes of Rule 15c3-1 of the Securities Exchange Act of 1934 ("Exchange

Act") (17 CFR 240.15c3-1), be permitted to adjust the value of options positions to reflect substantial price movements of the underlying common stock when closing price information for the common stock is reported after closing quotations for the options series are established.

Based on your letter and subsequent discussions with the staff of the Division of Market Regulation ("Division"), I understand the following facts to be pertinent to your request. A specialist in listed options on The Chicago Board Options Exchange ("CBOE" or "Exchange") maintains in a market-maker account, carried by a broker-dealer, positions in listed equity options and common stock underlying those options. In certain situations, last sale information for the common stock is reported after closing quotations and last sale information for the options series overlying the common stock are established.¹ In these situations, the closing price of the common stock may not be reflected in the closing quotation information for the options series. Because of the discrepancy between the last sale price of the underlying common stock and the closing quotations of the options series, the net liquidating equity in the specialist's market-maker account may be valued at a liquidating deficit.

Pursuant to Rule 15c3-1(c)(2)(x)(D), a broker-dealer guaranteeing, endorsing, or carrying listed options transactions in a specialist market-maker account is prohibited from extending any further credit if at any time there is a liquidating deficit in the account. The broker-dealer is also required to take steps to liquidate promptly existing positions in the account and to transmit telegraphic facsimile notice of the deficit and its amount by the close of business of the following business day to its Designated Examining Authority and the Designated Examining Authority of the specialist, if different from its own. The broker-dealer, upon approval by the broker-dealer's Designated Examining Authority, is permitted to enter into hedging positions in the specialist's market-maker account.

Rule 15c3-1(c)(2)(x)(B)(2) provides the formula for computing equity in market-maker accounts for listed option specialists. Broker-dealers carrying accounts of listed options specialists must (i) mark all securities positions long or short in the account to their respective current market values; (ii) add (deduct in the case of a debit balance) the credit balance carried in such specialist's market-maker account; and (iii) add (deduct in the case of short positions) the market value of positions long in such account.

¹ CBOE Rule 6.1 Interpretation .01 permits transactions in options on individual stocks to be effect on the Exchange until two minutes after the normal time set for the close of trading of the underlying stock on its primary exchange. See File No. SR-CBOE-96-71 approved in Securities Exchange Act Release No. 34-38543 (May 14, 1997), 62 FR 28082 (May 22, 1997). CBOE has discovered that when news of a stock underlying a CBOE option is disseminated near the close, heavy trading often results in dissemination of last sale information for the common stock well after the overlying options stop trading.

Recalculation of the closing price would be done by the carrying broker-dealer using in the same methodology as that used by the Options Clearing Corporation to reprice options assuming different prices for the underlying securities. You believe that it is unduly harsh to use a closing price for the option which does not reflect the strong market movement of the underlying stop when there was a reporting delay in that price.

Based upon the facts set forth above, the Division will not recommend enforcement action to the Securities and Exchange Commission ("Commission") if, for the purpose of determining whether a net liquidating deficit exists in a specialist market-maker account under Rule 15c3-1(c)(2)(x)(D) a broker-dealer carrying market-maker accounts for listed options specialists adjusts the value of options positions in the specialist market-maker account, long or short, to reflect substantial price movement of the underlying common stock when the closing price of the common stock is reported after closing prices for the options series are established and a liquidating deficit results. Any broker-dealer adjusting equity in a specialist market-maker account must provide documentation to the Exchange for such adjustments before the opening of trading the next business day (or before the broker-dealer may extend credit for opening transactions). In situations where the deficit is eliminated by the adjustment and the adjustment is approved by the Exchange's Department of Financial and Sales Practice Compliance, the specialist will be permitted to continue trading.

You should be aware that this is a staff position with respect to enforcement only and does not purport to express any legal conclusions. This position is based solely on the foregoing description. Factual variations could warrant a different response, and any material change in the facts must be brought to the Division's attention. This position may be withdrawn or modified if the staff determines that such action is necessary for the protection of investors, in the public interest, or otherwise in furtherance of the purposes of the securities laws.

Sincerely,

Michael A. Macchiaroli,
Associate Director.

January 11, 1999.

Mr. Michael Macchiaroli,
Associate Director, Division of Market
Regulation, Securities and Exchange
Commission, 450 Fifth Street, N.W.,
Washington, DC 20549.

Re: Adjustment of Closing Option Prices for
Purposes of Calculating Equity in
Accounts of Options Market-Makers

Dear Mr. Macchiaroli: Often, a situation arises wherein, due to heavy volume just prior to the close of trading, last sale information for transactions in a common stock will continue to be reported past the time that trading in listed options on the common stock has ceased. When this occurs, the closing price established for the options is not adjusted to reflect the actual last sale price for the stock. The closing option prices are used to calculate equity in the accounts

²³ 15 U.S.C. 78s(b)(2).

²⁴ 17 CFR 200.30-3(a)(12).

of options market-makers. If the equity in a market-maker's account calculates to a deficit in this situation, adjusting the closing option prices to reflect the underlying stock's true last sale price and recalculating the equity can alleviate a deficit situation in many instances. This can allow the market-maker to continue trading whereas in the deficit situation, further market-making activity is prohibited.

Market-makers on the Chicago Board Options Exchange are generally not self-clearing. They maintain market-maker accounts with other broker-dealer firms that specialize in clearing and carrying such accounts. If the equity in the account of an options market-maker calculates to a deficit, Rule 15c3-1(c)(2)(x)(D) of the Securities and Exchange Act of 1934 prohibits the clearing broker-dealer from extending any further credit to the market-maker account. The clearing broker-dealer must promptly liquidate existing positions in the account. Although, the clearing broker-dealer may, upon approval of its Designated Examining Authority, itself effect or allow the market-maker to effect, opening hedging transactions in the options market-maker's account. The clearing broker-dealer is also required to send telegraphic or facsimile notice of a deficit and its amount to its Designated Examining Authority and the market-maker's Designated Examining Authority, if different, by the close of business of the following business day.

Equity in an options market-maker's account is calculated pursuant to a formula found in Rule 15c3-1(c)(2)(x)(B)(2) of the Securities and Exchange Act of 1934. In calculating equity in an options market-maker's account, all securities positions are marked to their current market value. Equity is equal to the market value of all long positions, less the market value of all short positions, plus the credit (or minus the debit) balance in the account.

The Exchange requests that the Division of Market Regulation not recommend enforcement action to the Securities and Exchange Commission if broker-dealers clearing and carrying the accounts of options market-makers adjust the equity value of the market-maker's option positions to reflect a substantial move in the price of the underlying stock when the closing price of the stock is reported after closing quotations for the options are established and a liquidating deficit results. Any broker-dealer adjusting equity in a market-maker's account under these circumstances would be required to provide documentation to the Exchange's Department of Financial and Sales Practice Compliance for such adjustments before the opening of trading the next business day or before extending further credit to the market-maker for opening transactions. If the Exchange approves the adjustments and the adjustments eliminate the deficit, the market-maker will be permitted to continue trading.

The Exchange greatly appreciates the attention you and your staff have given to this matter. Please feel free to contact me should you have any questions or require further information.

Sincerely,

Richard Lewandowski.

cc:

Mary Bender—CBOE
Douglas Beck—CBOE
Timothy Thompson—CBOE

[FR Doc. 99-2298 Filed 1-29-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40975; File No. SR-NSCC-98-16]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fees

January 25, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on December 28, 1998, National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change modifies NSCC's fee schedule with regard to its Annuities Processing Service ("APS").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.²

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On December 16, 1998, the Commission approved a proposed rule change that allowed NSCC to implement phase two of APS.³ Phase two enables

multiple insurance product distribution channels such as insurance agencies, broker-dealers, and other trading partners (collectively, "distributors") to transmit to insurance carriers information with respect to an initial annuity application and premium transfers on the sale of an annuity and subsequent annuity activity, as well as the related money settlement between the distributors and insurance carriers. In addition, insurance carriers can transmit to distributors a financial activity report ("FAR") that provides information relating to events and transactions occurring with respect to existing annuity contracts that have been issued by the insurance carriers.

Currently, no fees are being charged to users of these new APS services. With respect to use of these services on or after January 1, 1999, NSCC will charge its members as follows. NSCC will charge members that submit or receive information relating to the initial application or premium transfer a fee of \$7.50 for each submission or receipt. NSCC will charge members that submit or receive information on subsequent annuity activity a fee of \$0.50 for each such transaction. NSCC will charge members that submit or receive a FAR a fee of \$0.50 for each FAR transmitted or received.⁴

NSCC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder because it provides for the equitable allocation of dues, fees, and other charges among NSCC's participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

NSCC-98-07]. See also Securities Exchange Act Release No. 39096 (September 19, 1997), 62 FR 50416 [File No. SR-NSCC-96-21] (order approving the establishment of APS and the implementation of phase one of APS). For a more detailed description of APS, refer to the foregoing releases.

⁴ The text of the proposed amendments to NSCC's fee schedule is attached as an exhibit to NSCC's filing, which is available for inspection and copying in the Commission's Public Reference Room and through NSCC.

¹ 15 U.S.C. 78s(b)(1).

² The Commission has modified the text of the summaries prepared by NSCC.

³ Securities Exchange Act Release No. 40799 (December 16, 1998), 63 FR 71175 [File No. SR-

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act⁵ and pursuant to Rule 19b-4 (e)(2)⁶ thereunder because the proposal establishes or changes a due, fee, or other charge imposed by NSCC. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR-NSCC-98-16 and should be submitted by February 22, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-2299 Filed 1-29-99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40963; File No. SR-Phlx-98-42]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change Increasing Maximum OTX AUTO-X Order Size Eligibility

January 22, 1999.

I. Introduction

On October 6, 1998, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend Phlx Rule 1080 increasing to 100 contracts the maximum order size for eligibility for public customer market and marketable limit orders for OTC Prime Index ("OTX") options contracts to be executed on AUTO-X, the automatic execution feature of the Phlx's Automated Options Market ("AUTOM") system. Notice of the proposed rule change appeared in the **Federal Register** on December 23, 1998.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposed to amend Phlx Rule 1080 to increase the maximum order size for eligibility for public customer market and marketable limit orders for OTC⁴ options contracts to be executed on AUTO-X. AUTO-X is the automatic execution feature of AUTOM, the Phlx's electronic order routing, delivery, and reporting system for options. Orders are routed from member firms directly to the appropriate specialist on the Phlx's trading floor. Certain orders are eligible for AUTOM's automatic execution feature, AUTO-X. These AUTO-X orders are automatically executed at the disseminated quotation price on the Exchange and reported to the originating firm. Those orders not eligible for AUTO-X are manually

handled by the specialist. The Phlx proposed to increase the maximum order size eligible for AUTO-X from 50 to 100 contracts.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁵ The Commission believes the proposal is consistent with the requirements of Sections 6 and 11A of the Act⁶ in general, and in particular, with Sections 6(b)(5) and 11A(a)(1)(C)(i) of the Act.⁷ The Commission notes that the development and implementation to date of the AUTOM system has provided for more efficient handling and reporting of orders in PHLX equity and index options through the use of new data processing and communications techniques, thereby improving order processing and turnaround time. At this time, the Commission consents to extending the benefits available through the use of an automated system to larger-size customer OTX options orders of up to 100 contracts.

Public customers may benefit from the proposal because public customer orders for up to 100 OTX option contracts may be executed automatically and guaranteed by the specialist at the displayed market quote. Additionally, public customers will have the benefit of receiving immediate executions and nearly instantaneous confirmations for orders of up to 100 contracts. The Commission also believes, based on representations by the Exchange, that expanding the order eligibility size of OTX AUTO-X options to 100 contracts will not expose the Phlx's AUTOM system to risk of failure or operational break-down. The Commission believes that the proposed rule change is consistent with section 6(b)(5) of the Act, in that it is designed to promote just and equitable principles of trade and to facilitate transactions in securities, as well as to protect investors and the public interest, by extending the benefits of AUTO-X to a larger number of customer orders. Further, the proposal is consistent with Section 11A(a)(1)(C)(i) of the Act because increasing the maximum OTX option order size eligible for automatic execution should provide for more efficient handling and reporting of

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 40802 (December 17, 1998), 63 FR 71183 (December 23, 1998).

⁴ The OTC Prime Index is composed of the fifteen stocks which had the largest trading volume on the Nasdaq during the preceding year. See Securities Exchange Act Release No. 40058 (June 2, 1998), 63 FR 31543 (June 9, 1998).

⁵ In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f and 78k-1.

⁷ 15 U.S.C. 78f(b)(5) and 78k-1(a)(1)(C)(i).

⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

⁶ 17 CFR 240.19b-4(e)(2).

⁷ 17 CFR 200.30-3(a)(12).

orders, thereby promoting the economically efficient execution of transactions.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-PHLX-98-42) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-2249 Filed 1-29-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40970; File No. SR-PHLX-98-44]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc. to Amend Exchange Rule 1080 To Permit Automatic Execution of U.S. Top 100 Index Options Orders for the Accounts of Broker-Dealers

January 25, 1999.

I. Introduction

On October 20, 1998, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder.² In its proposal, the Phlx seeks to allow automatic execution of broker-dealer orders in U.S. Top 100 Index ("TPX") options through the Phlx's AUTO-X system. Notice of the proposal was published in the **Federal Register** on November 23, 1998.³ The Commission received no comments on the proposal. This order approves the proposal.

II. Description of the Proposal

AUTOM is Phlx's electronic order routing system for options orders. Until 1995, only public customer orders were eligible for routing through AUTOM.⁴ For purposes of AUTOM eligibility, public customer orders do not include any order entered for the account of a broker-dealer or any account in which a

broker-dealer or an associated person of a broker-dealer has any direct or indirect interest. In 1995, however, the Commission approved the Exchange's proposal to route Phlx member and non-member broker-dealer orders for TPX options through AUTOM.⁵ The Phlx limits AUTOM routed public customer and broker-dealer TPX orders to 500 contracts.⁶ Currently, when a broker-dealer TPX order is entered into AUTOM, the order is executed manually by the specialist.

AUTO-X is a feature of AUTOM that automatically executes public customer orders. AUTO-X currently is limited to public customer orders. AUTO-X orders are executed automatically at the disseminated quotation price on the Exchange and reported to the originating firm. Presently, public customer orders for up to 50 contracts can be automatically executed through AUTO-X.⁷

The Phlx seeks to amend Rule 1080 to allow broker-dealer orders for TPX options contracts to be automatically executed through AUTO-X. In making this change, the Phlx will still limit the size of orders that can be automatically executed through AUTO-X to 50 contracts. The Phlx believes that the change will help attract more broker-dealer orders in TPX options. According to the Phlx, TPX options appeal more to broker-dealers because these options are high-priced.⁸ Further, the Phlx believes that permitting broker-dealer TPX orders to be executed via AUTO-X will allow broker-dealers to benefit from prompt and efficient automatic execution and reporting.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of sections 6 and 11A.⁹ Specifically, the Commission believes that the proposal is consistent with section 6(b)(5) of the Act,¹⁰ which requires that the rules of an Exchange be designed to promote just and equitable principles of trade, foster cooperation

and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. Moreover, the Commission believes that the proposal is consistent with section 11A(a)(1)(C)(i) of the Act,¹¹ stating Congress's finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure economically efficient execution of securities transactions.

The Commission believes that allowing broker-dealers to use AUTO-X for TPX options orders may facilitate the efficient handling and reporting of broker-dealer orders in TPX options, thereby improving TPX order processing and turnaround time. In addition, by providing prompt execution for broker-dealer TPX orders, the proposal may help to attract broker-dealer TPX orders, and thus help to improve the depth and liquidity of the market for TPX options.

The Phlx has represented to the Commission that the Exchange anticipates that its systems are capable of processing potential resulting increased order flow through the AUTO-X system and that public customer TPX orders will continue to be executed efficiently through the AUTO-X system.¹² According to the Exchange, TPX options appeal more to broker-dealers because these options are high-priced relative to other options.¹³ The Commission believes that it is reasonable for the Phlx to allow automatic execution of broker-dealer orders in TPX option contracts as long as retail customers are not adversely affected. The Commission anticipates that the Exchange will monitor its AUTO-X system in light of the addition of broker-dealer TPX orders and will implement necessary systems enhancement should they be necessary to accommodate any increase in volume resulting from this proposal.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁴ that the proposed rule change (SR-PHLX-98-44) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-2300 Filed 1-29-99; 8:45 am]

BILLING CODE 8010-01-M

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 40681 (Nov. 16, 1998), 63 FR 64751 (File No. SR-PHLX-98-44).

⁴ See Securities Exchange Act Release No. 36429 (Oct. 27, 1995), 60 FR 55874 (Nov. 3, 1995) (File No. SR-PHLX-95-35) (order approving the Phlx's proposal seeking to route broker-dealer TPX options orders through AUTOM).

⁵ Pursuant to Phlx Rule 1080(b)(i), with the exception of orders for TPX options contracts, broker-dealer orders are not eligible for AUTOM.

⁶ Phlx Rule 1080(b)(ii).

⁷ Phlx Rule 1080(c).

⁸ See letter from Richard Rudolph, Counsel, Phlx, to Joe Corcoran, Attorney, Division of Market Regulation, Commission, dated December 22, 1998 ("Phlx Letter"). According to the Phlx, the average price for a TPX option contract during the third quarter of 1998 was \$4,165.62.

⁹ 15 U.S.C. 78f and 78k-1.

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ 15 U.S.C. 78k-1(a)(1)(C)(i).

¹² See Phlx Letter, *supra* note 8.

¹³ *Id.*

¹⁴ 15 U.S.C. 78s(b)(2).

¹⁵ 17 CFR 200.30-3(a)(12).

SMALL BUSINESS ADMINISTRATION**Data Collection Available for Public Comments and Recommendations**

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Comments should be submitted on or before April 2, 1999.

FOR FURTHER INFORMATION CONTACT:

Curtis B. Rich, Management Analyst, Small Business Administration, 409 3rd Street, SW, Suite 5000, Washington, DC 20416. Phone Number: 202-205-6629.

SUPPLEMENTARY INFORMATION:

Title: "Verification of Damaged Property".

Type of Request: Revision of a currently approved collection.

Form No's: 5C, 739, 1632.

Description of Respondents: Applicants requesting SBA Disaster Home Loans.

Annual Responses: 63,205.

Annual Burden: 115,665.

Comments: Send all comments regarding this information collection to, Bridget Dusenbury, Disaster Resource Specialist, Office of Disaster Assistance, Small Business Administration, 409 3rd Street SW, Suite 6500, Washington, DC 20416. Phone No: 202-205-6734.

Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

Dated: January 27, 1999.

Jacqueline K. White,

Chief, Administrative Information Branch.

[FR Doc. 99-2312 Filed 1-29-99; 8:45 am]

BILLING CODE 8025-01-P

SOCIAL SECURITY ADMINISTRATION**[Social Security Acquiescence Ruling 99-1(2)]**

Florez on Behalf of Wallace v. Callahan; Supplemental Security Income—Deeming of Income From a Stepparent to a Child When the Natural Parent is Not Living in the Same Household—Title XVI of the Social Security Act

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Acquiescence Ruling.

SUMMARY: In accordance with 20 CFR 402.35(b)(2), the Commissioner of Social Security gives notice of Social Security Acquiescence Ruling 99-1(2).

EFFECTIVE DATE: February 1, 1999.

FOR FURTHER INFORMATION CONTACT:

Gary Sargent, Litigation Staff, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1695.

SUPPLEMENTARY INFORMATION: Although not required to do so pursuant to 5 U.S.C. 522(a)(1) and (a)(2), we are publishing this Social Security Acquiescence Ruling in accordance with 20 CFR 402.35(b)(2).

A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act (the Act) or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

We will apply the holding of the Court of Appeals' decision as explained in this Social Security Acquiescence Ruling to claims at all levels of administrative adjudication within the Second Circuit. This Social Security Acquiescence Ruling will apply to all determinations or decisions made on or after February 1, 1999. If we made a determination or decision on your application for benefits between September 29, 1998, the date of the Court of Appeals' decision, and February 1, 1999, the effective date of this Social Security Acquiescence Ruling, you may request application of the Social Security Acquiescence Ruling to your claim if you first demonstrate, pursuant to 416.1485(b), that application of the Ruling could change our prior determination or decision. If you file a request for application of an Acquiescence Ruling within the 60-day appeal period for requesting administrative review and we deny that request, we shall extend the time to file an appeal on the merits of the claim to 60 days after the date that we deny the request for readjudication.

Additionally, after we receive a precedential circuit court decision and determine that an Acquiescence Ruling may be required, we will begin to identify those claims that are pending before us within the circuit and that might be subject to readjudication if an Acquiescence Ruling is subsequently issued. When an Acquiescence Ruling is published, we will send a notice to those individuals whose claims we have identified which may be affected by the Acquiescence Ruling. It is not necessary

for an individual to receive a notice in order to request application of an Acquiescence Ruling to their claim.

If this Social Security Acquiescence Ruling is later rescinded as obsolete, we will publish a notice in the **Federal Register** to that effect as provided for in 20 CFR 416.1485(e). If we decide to relitigate the issue covered by this Social Security Acquiescence Ruling as provided for by 20 CFR 416.1485(c), we will publish a notice in the **Federal Register** stating that we will apply our interpretation of the Act or regulations involved and explaining why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance Programs Nos. 96.001 Social Security - Disability Insurance; 96.006 - Supplemental Security Income.)

Dated: January 21, 1999.

Kenneth S. Apfel,

Commissioner of Social Security.

Acquiescence Ruling 99-1(2)

Florez on Behalf of Wallace v. Callahan, 156 F.3d 438 (2d Cir. 1998)—Supplemental Security Income—Deeming of Income From a Stepparent to a Child When the Natural Parent is Not Living in the Same Household—Title XVI of the Social Security Act.

Issue: Whether a stepparent is considered an ineligible parent whose income is subject to deeming to a child eligible for Supplemental Security Income (SSI) when the natural or adoptive parent is not living in the same household.

Statute/Regulation/Ruling Citation: Section 1614 of the Social Security Act (42 U.S.C. 1382c), 20 CFR 416.1101, 416.1160, 416.1806.

Circuit: Second (Connecticut, New York and Vermont).

Florez on Behalf of Wallace v. Callahan, 156 F.3d 438 (2d Cir. 1998).

Applicability of Ruling: This Ruling applies to all determinations, including all post-eligibility determinations, or decisions at all administrative levels (i.e., initial, reconsideration, Administrative Law Judge (ALJ) hearing and Appeals Council).

Description of Case: Raul Wallace was born on October 28, 1982. His natural father is deceased. His natural mother is married to Jorge Florez, the plaintiff, but she abandoned her husband and children in 1985. Mr. Florez later obtained full custody of Raul and an order of protection against Raul's mother that instructed her to stay away from the family residence and the plaintiff's place of business. Mr. Florez has unsuccessfully attempted to obtain a divorce from Raul's mother and remains married to her. Raul lived with

his stepfather until July 31, 1991, when Raul voluntarily began inpatient psychiatric treatments on a weekly basis from Monday afternoon through Friday morning. During the weekends he lived at the Florez apartment.

Mr. Florez filed an application, on behalf of Raul, for SSI based on disability on March 24, 1992. The Social Security Administration (SSA) determined that Raul satisfied the disability requirements of the Social Security Act (the Act) retroactive to August 1, 1989, based on an earlier application. SSA also determined that Raul was not eligible for any payments for the 16-month period between August 1989 and December 1990 because Mr. Florez' income was too high. Mr. Florez requested reconsideration of the benefit amount, which was denied on the grounds that his income as a stepparent was deemable to Raul. The plaintiff requested and received a hearing before an ALJ who found that SSA had correctly calculated the SSI benefits. After the Appeals Council denied the claimant's request for review, he sought judicial review but the district court affirmed SSA's application of the regulations providing for deeming a stepparent's income. Mr. Florez appealed this decision to the United States Court of Appeals for the Second Circuit.

Holding: The Second Circuit reversed in part the judgment of the district court and remanded the case with instructions to recalculate Raul's SSI benefits excluding the income earned by his stepfather. After reviewing SSA's regulations governing deeming of income and defining who is the spouse of a natural or adoptive parent, the court held that 20 CFR 416.1101 creates a two-part test for determining whether a spouse, who lives with a child eligible for SSI, is an ineligible parent for deeming purposes under 20 CFR 416.1160:

- (1) the spouse must live with the natural or adoptive parent; and
- (2) the relationship must be as husband or wife, as further defined in 20 CFR 416.1806.

Under the Second Circuit's construction of this regulation, it found that Mr. Florez's marriage to Raul's mother ended, for all intents and purposes, when she abandoned the family home. Although the court recognized SSA's concern about holding a natural parent financially responsible for contributing to the care of a child eligible for SSI, the court believed that SSA should not discourage a stepparent from voluntarily accepting such financial responsibility, when the natural parent has abandoned the child,

by reducing the stepchild's SSI benefits. The court concluded that the plain language of the regulations (20 CFR 416.1101 and 416.1806), supported by the legislative history of the Act, required SSA to exclude a stepparent's income from the calculations used to determine the amount of a child's SSI benefits when the natural parent no longer lives in the family home.

Statement as to How Florez Differs From SSA's Interpretation of the Regulations

Section 1614(f) of the Act, as implemented by the regulations, provides that, when determining SSI eligibility and the benefit amount of a child under age 18, the child's income shall be deemed to include the income of a parent (or the spouse of such parent) who is ineligible for SSI benefits and is living in the same household as the child. Under SSA's regulations, 20 CFR 416.1160 defines an ineligible parent as "a natural or adoptive parent, or the spouse (as defined in §416.1101) of a natural or adoptive parent, who lives with [the child] and is not eligible for SSI benefits." Spouse is defined in 20 CFR 416.1101 as "someone who lives with another person as that person's husband or wife. (See §416.1806)" Under 20 CFR 416.1806(a)(1), SSA considers someone to be a person's spouse for SSI purposes if they are legally married under State law.

SSA considers 20 CFR 416.1806 to be the controlling regulation for determining who is a person's spouse for SSI purposes and for deeming of income. Accordingly, SSA deems the income of a stepparent to a child eligible for SSI benefits living in the same household when the stepparent is legally married under State law to that child's natural or adoptive parent, even if the natural or adoptive parent is not living in the same household.

The Second Circuit held that 20 CFR 416.1101 is the controlling regulation for the purpose of determining who is a person's spouse under the deeming regulations. The court concluded that, under the two-part test created by this regulation, a stepparent is not an ineligible spouse and deeming of income does not apply when the natural parent no longer lives in the family home.

Explanation of How SSA Will Apply The Florez Decision Within the Circuit

This Ruling applies only where the SSI claimant is an eligible child who resides in Connecticut, New York or Vermont at the time of the determination (including all post-eligibility determinations) or decision at any administrative level of review, i.e.,

initial, reconsideration, ALJ hearing or Appeals Council.

When deeming income from an ineligible parent who is a stepparent to reduce a child's SSI benefit, adjudicators must exclude the income of the stepparent from the deeming calculation if the natural or adoptive parent is not living in the same household with that child and stepparent. Adjudicators will continue to apply SSA's other rules for applying and calculating deeming of income, including the rules regarding temporary absences.

[FR Doc. 99-2302 Filed 1-29-99; 8:45 am]

BILLING CODE 4190-29-F

TENNESSEE VALLEY AUTHORITY

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Tennessee Valley Authority.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published 26 January 1999 (Docket No. 991804).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m. (EST), Wednesday, January 27, 1999.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: Chattanooga Office Complex, 110 Market Street, Chattanooga, Tennessee.

CHANGES IN THE MEETING: Each member of the TVA Board of Directors has approved the addition of the following items to be previously announced agenda:

Agenda Items: F—Unclassified

F1. Authority to license TVA intellectual property.

F2. Participation in capital funding entities.

CONTACT PERSON FOR MORE INFORMATION: Please call TVA Media Relations at (423) 632-6000, Knoxville, Tennessee. Information is also available through TVA's Washington Office at (202) 898-2999.

Edward S. Christenbury,

General Counsel and Secretary to the Board.

[FR Doc. 99-2466 Filed 1-28-99; 3:34 pm]

BILLING CODE 8120-08-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements filed during the week ending January 22, 1999

The following Agreements were filed with the Department of Transportation

under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST-99-5015.

Date Filed: January 19, 1999.

Parties: Members of the International Air Transport Association.

Subject: PTC31 Telex Mail Vote 985, Japan-Hawaii Spouse Fares—Reso 091p, Intended effective date: April 1, 1999.

Docket Number: OST-99-5017.

Date Filed: January 19, 1999.

Parties: Members of the International Air Transport Association.

Subject: PTC1 Telex Mail Vote 984, PEX fares between Argentina and Paraguay, Intended effective date: February 1, 1999.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 99-2328 Filed 1-29-99; 8:45 am]

BILLING CODE 4910-62-P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q during the Week Ending January 22, 1999

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases

a final order without further proceedings.

Docket Number: OST-97-3187.

Date Filed: January 22, 1999.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: February 19, 1999.

Description: Application of Transportes Aereos Ejecutivos, S.A. de C.V. pursuant to 49 U.S.C. Section 41302 and Subpart Q, applies for amendment and re-issuance of its foreign air carrier permit issued to it by Order 95-3-11 to permit TAESA to engage in scheduled air transportation of property and mail on the following Mexico-United States scheduled all-cargo routes Cancun, Mexico-Los Angeles, California; Cancun, Mexico-Miami, Florida.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 99-2329 Filed 1-29-99; 8:45 am]

BILLING CODE 4910-62-P

Final Rule

**Monday
February 1, 1999**

Part II

**Department of
Agriculture**

Agricultural Marketing Service

7 CFR Part 956

**Sweet Onions Grown in the Walla Walla
Valley of Southeast Washington and
Northeast Oregon; Order Amending
Marketing Agreement and Order No. 956;
Final Rule**

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 956

[Docket Nos. 98AMA-FV-956-1; FV98-956-1]

Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon; Order Amending Marketing Agreement and Order No. 956

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the marketing agreement and order (order) for sweet onions grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon. The amendments were submitted by the Walla Walla Sweet Onion Committee (committee), the agency responsible for local administration of the order. The changes broaden the scope of the order by adding authority for grade, size, quality, maturity, and pack regulations, mandatory inspection, marketing policy statements, and minimum quantity exemptions. In addition, a minor change is made in the committee's name. These changes were favored by Walla Walla Sweet Onion growers in a mail referendum and will improve the operation and functioning of the Walla Walla Sweet Onion marketing order program.

EFFECTIVE DATE: February 2, 1999.

FOR FURTHER INFORMATION CONTACT:

Robert Curry, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Northwest Marketing Field Office, 1220 SW Third Avenue, room 369, Portland, Oregon 97204; telephone: (503) 326-2724, or Fax: (503) 326-7440; or Anne M. Dec, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, Washington, DC 20250-0200; telephone: (202) 720-2491, or Fax: (202) 205-6632. Small businesses may request information on compliance with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone (202) 720-2491; Fax (202) 205-6632.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing issued on March 25, 1998, and

published in the April 1, 1998, issue of the **Federal Register** (63 FR 15787). Recommended Decision and Opportunity to File Written Exceptions issued on September 17, 1998, and published in the **Federal Register** on September 23, 1998 (63 FR 50802). Secretary's Decision and Referendum Order issued November 13, 1998, and published in the **Federal Register** on November 19, 1998 (63 FR 64215).

This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

Preliminary Statement

This final rule was formulated on the record of a public hearing held in Walla Walla, Washington, on April 7, 1998, to consider the proposed amendment of Marketing Agreement and Order No. 956, regulating the handling of sweet onions grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon, hereinafter referred to collectively as the "order." The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), hereinafter referred to as the Act, and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR part 900). The Notice of Hearing contained amendment proposals submitted by the committee and the U.S. Department of Agriculture.

The committee's proposals pertained to adding authority for grade, size, quality, maturity, and pack regulations, mandatory inspection, marketing policy statements, and minimum quantity exemptions. In addition, the committee proposed changing its name from the Walla Walla Sweet Onion Committee to the Walla Walla Sweet Onion Marketing Committee.

Also, the Fruit and Vegetable Programs of the Agricultural Marketing Service (AMS), U.S. Department of Agriculture, proposed to allow such changes as may be necessary to the order, if any or all of the above amendments are adopted, so that all of its provisions conform with the proposed amendment. No conforming changes have been deemed necessary.

Upon the basis of evidence introduced at the hearing and the record thereof, the Administrator of the Agricultural Marketing Service (AMS) on September 17, 1998, filed with the Hearing Clerk, U.S. Department of Agriculture, a Recommended Decision and Opportunity to File Written Exceptions thereto by October 23, 1998. None were received.

A Secretary's Decision and Referendum Order was issued on November 13, 1998, directing that a referendum be conducted during the period November 25 through December 10, 1998, among growers of Walla Walla sweet onions to determine whether they favored the proposed amendments to the order. In the referendum, both amendments were favored by more than two-thirds of the growers voting in the referendum by number and volume.

The amended marketing agreement was subsequently mailed to all Walla Walla sweet onion handlers in the production area for their approval. The marketing agreement was approved by handlers representing more than 50 percent of the volume of Walla Walla sweet onions handled by all handlers during the representative period of June 1, 1997, through May 31, 1998.

Small Business Considerations

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions so that small businesses will not be unduly or disproportionately burdened. Small agricultural producers have been defined by the Small Business Administration (SBA) (13 CFR 121.601) as those having annual receipts of less than \$500,000. Small agricultural service firms, which include handlers regulated under the order, are defined as those with annual receipts of less than \$5,000,000.

Interested persons were invited to present evidence at the hearing on the probable regulatory and informational impact of the proposed amendments on small businesses. The record indicates that growers and handlers would not be unduly burdened by any additional regulatory requirements, including those pertaining to reporting and recordkeeping, that might result from this proceeding.

During the 1996-97 crop year, approximately 33 handlers were regulated under Marketing Order No. 956. In addition, there were about 64 producers of Walla Walla sweet onions in the production area. Marketing orders and amendments thereto are unique in that they are normally brought about through group action of essentially small entities for their own benefit. Thus, both the RFA and the Act are compatible with respect to small entities.

Twenty-four of the 33 handlers are also producers who handle their own onions. There are seven commercial packinghouses that pack approximately 90 percent of all Walla Walla sweet onions. In the 1996-97 season, the average f.o.b. price for Walla Walla sweet onions was \$8.70 per 50-pound sack. Total production for the 1996-97 season was 666,000 50-pound containers. A handler who packed over 550,000 50-pound units would exceed the SBA definition of a small handler. According to record evidence, there are two dominant handlers in the industry and at least one of these handlers could be considered a large handler under this definition. The record revealed that all Walla Walla sweet onion growers would be considered small producers. Therefore, it can be concluded that the majority of growers and handlers would be considered small businesses.

The marketing order, promulgated in 1995, currently defines the production area where onions must be grown to be designated as Walla Walla sweet onions. It also provides the authority to fund research and promotion activities through assessments on handlers, as well as establish container regulations. Although the marketing order as currently written addresses some of the marketing problems facing the industry, the Walla Walla sweet onion industry continues to experience marketing problems.

Economic data presented on the record indicates that the acres planted have decreased from 1,800 in 1988 to 900 acres planted in 1997. This is a 50% decrease since 1988. Similarly, acres harvested have decreased from 1,600 in 1988 to 900 in 1997.

In addition, the data shows production has decreased dramatically from 1,280,000 50-pound containers in 1988 to 666,000 50-pound containers in 1997. This is a 48% decrease in production in the last 10 years.

Total crop values have declined from \$9,345,000 in 1989 to \$5,794,000 in 1997. This is a 38% decrease in total crop values in 9 years.

U.S. per capita consumption of fresh onions has increased from 10.7 pounds per year in 1981 to 17.5 pounds per year in 1997. This is a 64% increase in per capita use of fresh onions, while the production of Walla Walla sweet onions has decreased. This increased consumption shows that this industry has the potential to improve.

In addition, economic data shows that competition from other sweet onion producing areas has increased dramatically. Producers of Walla Walla sweet onions have lost market share to other sweet onions such as Georgia

Vidalia onions, California Imperial onions, Hawaii Maui Sweets, New Mex. Sweets from New Mexico, and Texas hybrid 1015Y's.

The acres harvested and production of Vidalia onions have increased by 236% and 447%, respectively, since 1989. The Vidalia sweet onion industry's normal harvesting and shipping season begins in the middle of April and ends in late July. The Vidalia onion industry has been successful in extending its shipping season into September and October by establishing controlled atmosphere storage capabilities. This may be having a price dampening effect on Walla Walla sweet onions because of the overlap of shipping seasons and direct competition caused by the extended season of Vidalia onions.

Of the six sweet onion-producing areas in the U.S., Walla Walla sweet onion prices are lower than Maui, Vidalia and Texas onions. In addition, the economic report presented on the record shows that Vidalia onions always receive higher prices than Walla Walla sweet onions with an average price differential of \$5 per 50-pound container.

The Walla Walla sweet onion season begins in middle or late June and continues until the end of July. The shipping season lasts for approximately six weeks. Prices for Walla Walla sweet onions at the beginning of the season start relatively high. As the season progresses, prices generally fall. This seasonal price behavior has resulted in producers harvesting onions before they are fully matured. This has led to poor quality onions being sold on the market that make an unfavorable impression on consumers, supermarkets, and other outlets that handle Walla Walla sweet onions. In addition, this situation appears to have shortened the marketing season.

The quality at the beginning of the season has a tendency to set the market tone for the remainder of the season. If quality is high at the beginning of the season, this makes a favorable impression on buyers as well as consumers. With high quality onions at the start of the season, consumers are likely to become repeat customers. However, if quality is low at the beginning of the season, receivers as well as consumers are disappointed. Initial low quality will result in consumers shopping for alternative sweet onions and they will not be repeat purchasers.

Minimum quality and size requirements are established under marketing orders to ensure that substandard produce does not find its way to the market and destroy consumer

confidence and harm producers' returns. The objective of implementing quality control and size provisions under marketing orders is to make the markets work more efficiently, improve quality, and to market preferred sizes. The use of quality and size standards through a grading scheme benefits consumers by assuring the buyers that they are getting high quality produce of desirable size. This helps build consumer demand in the long run. Minimum quality and size standards are deemed desirable because they prevent the shipment of poor quality produce, which ends up harming producers' ability to sell their product and consumers' willingness to buy.

The reputation of Walla Walla sweet onions has deteriorated over the recent years due to the poor quality of some of the onions marketed. Record evidence indicated that a surveillance project conducted during the 1997 harvest season by the Washington State Department of Agriculture on behalf of the committee noted that a significant amount of onions sold within the immediate Walla Walla area did not meet minimum U.S. standards. Walla Walla sweet onions usually meet at least U.S. No. 2 grade, but only a small volume meets U.S. No. 1 grade.

Establishing quality and size provisions under the Walla Walla sweet onion marketing order would provide an incentive for producers to allow their onions to fully mature, resulting in a higher quality of onion marketed. Establishing quality and size requirements would ensure consistent quality and acceptable sizes of onions throughout the season. This tends to benefit consumers through a higher quality of onion and benefits producers with a higher demand for their product. In the long run, high quality, seasonal produce builds name recognition and helps enhance demand.

The Walla Walla sweet onion industry has attempted to voluntarily implement quality control. Prior to implementation of the marketing order, the Walla Walla Sweet Onion Commission, a voluntary organization composed of producers and handlers, implemented quality rules for its members. These rules restricted the sale of U.S. No. 2 grade onions and culls from fresh market use, and included random inspections. Common defects that caused the onions to fail to meet these requirements were seed stems, immaturity, and decay. Because of the voluntary nature of these imposed regulations, this project was unsuccessful.

Currently, the marketing order allows only onions grown in the designated production area to be marketed as Walla

Walla sweet onions. Research activities as well as promotional activities are also authorized under the current order. Broadening the scope of the order by authorizing minimum quality and size requirements will add another marketing tool to help the industry solve marketing problems, especially those related to quality. Minimum quality and size requirements would allow the industry to improve their name recognition with a quality product. Amending the order by authorizing the establishment of minimum quality and size requirements will help to expand markets and deliver a more consistent quality product of desirable size to the consumer.

Without any quality and size provisions in place, industry members can place substandard product on the market that is severely impacting the credibility and marketability of all Walla Walla sweet onions. Because of these current practices, the industry is experiencing problems establishing and maintaining markets in areas that have traditionally been strong. The industry has lost markets due to poor quality, short shelf life and increased competition from other sweet onion producing areas.

Minimum quality and size requirements would help alleviate some of these problems and work to improve producer returns by strengthening consumer and retail demand. Mandatory inspection requirements would make all producers and handlers responsible for the quality of the industry's output. Poor quality would not be mixed with better quality. The record revealed that most handlers are already sorting by size. The Department's Market News Service reports prices for jumbo and medium onions, which further indicates that handlers are sorting by size. Most handlers also pack to a certain quality standards, usually based on U.S. grade standards. Therefore, handlers would not be required to drastically modify their packing operations or purchase new equipment. The committee considered grower and handler costs very seriously and even discussed the cost burden between larger and smaller handlers. The minimum quantity exemption should address such concerns.

Growers may be faced with a potential cost item related to improved equipment that could be needed in order to meet minimum quality or size standards. A handler testified that growers could update their mechanical seeders so that the seeds could be planted equidistant from each other, which would result in onions with

better shape, more uniformity and larger size. There are increasingly more growers that are purchasing this equipment or contracting with other growers that have the seeders. Seed coating or pelleting is another alternative for better seed placement, which is less expensive than the purchase of a highly advanced seeder. The seed coating adds a clay-like material to the exterior of the seed, so that the seeders do not cause two or three seeds to drop at the same time. It appears that costs associated with growers modifying their cultural practices to abide by minimum quality and size standards would be minimal and offset by improved producer returns.

A witness for the committee testified that the benefits of including the authority for minimum quality and size standards would far outweigh any negative impact to producers and handlers and the industry could start rebuilding markets and creating new ones.

The Federal-State Inspection Service Office that is responsible for inspecting Walla Walla sweet onions is currently located in Pasco, Washington, less than 50 miles from Walla Walla. According to record testimony, inspectors would be staffed in Walla Walla during the season if mandatory inspection was implemented.

Inspection costs in the State of Washington are computed on an hourly basis or a per unit basis, whichever is greater. If the hourly rate is used, the rate applies to the total number of the inspector's hours, including travel time. Depending upon the workload, inspectors could be based in Walla Walla during the season, which would lessen travel costs. Record testimony indicated that the hourly inspection rate is \$26, with a two-hour minimum, or \$52, for inspection or \$208 for an eight-hour day. However, the State of Washington Agriculture Code regulations appearing at Chapter 16–400–210 WAC provide that the hourly inspection rate is \$23, with no minimum time required. In accordance with the Rules of Practice and Procedure governing the formulation of marketing agreements and orders (7 CFR Part 900), official notice has been taken of the fees set forth in the State of Washington regulations at Chapter 16–400–210 WAC. The fee schedule will be used in our analysis. On a per unit basis, the inspection fee is \$.04 per 50-pound unit.

As stated above, inspection costs are computed on an hourly basis or a per unit basis, whichever is greater. For example, if an inspection was requested

on 100 50-pound containers and the inspection lasted one hour, the per unit cost for inspecting the lot would be \$4, and the per hour cost would be \$23. Under this scenario, the handler would be charged \$23 for the inspection, the greater amount. This would average \$.23 per unit.

Under the current fee schedule, it would be necessary for the inspection office to inspect over 4,600 50-pound units of onions per day in order to maintain the fee at \$.04 per 50-pound unit. If handlers do not handle over 4,600 50-pound units per day, their inspection costs would be computed at the hourly rate. Even for handlers who normally handle that volume, there would be times during the season, particularly in the beginning and end of the season, where the volume of onions inspected would not be at a level where the \$.04 per 50-pound unit could be used. The fees would convert to the hourly rate.

Record testimony indicated that the committee is concerned with increased costs associated with these proposals, particularly, the costs of inspection. The committee discussed options to address these concerns and developed two remedies intended to alleviate the cost burdens on small handlers. First, the committee recommended adding authority in the order for the committee to contract with the Federal-State Inspection Service and pay for all inspections of Walla Walla sweet onions. Second, the committee recommended an exemption from inspection for handlers of small lots of onions.

Under the scenario of contracting with the inspection service, each handler would pay a separate assessment for inspection costs at a per unit price. All handlers would pay the same price per bag for inspection, whether exempt or not. Under such a contract, the larger volume handlers would pay more of the inspection costs because they handle so many more units of onions. In this manner, the burden of inspection costs for smaller volume handlers could be minimized. This was discussed with representatives of the inspection service.

A Washington State inspector confirmed that travel costs would be lessened if an inspector was based in Walla Walla. However, the inspector indicated that \$.04 per 50-pound unit would be the minimum cost for the inspection. Costs could increase depending on the workload. If the workload was light, such as late in the season when the quantities of onions are diminishing, it could be more costly for an inspector to conduct inspections on

smaller lots. It could be necessary to convert the cost to an hourly cost, which would exceed \$.04 per 50-pound unit.

There have been discussions regarding contractual relationships with the inspection service but factors such as inspection of small quantities would need to be addressed in the contract. The inspector testified that the inspection office must cover the cost of inspectors and if there was not a full days work in Walla Walla, the inspector would need to travel elsewhere. These situations would need to be factored into any contractual agreements. A witness for the proposals testified that because of the variables associated with inspecting Walla Walla sweet onions, it is estimated the cost of inspection would range between \$.04 and \$.06 per 50-pound unit if the per unit price were used in a contractual agreement. The committee could consider only contracting with the inspection service during the busiest parts of the season in order to keep the inspection cost lower. The committee could also consider only regulating for part of the season.

Another option the committee developed to address the issues of costs on small handlers would provide an exemption for handlers who handle up to, but not more than 2,000 pounds of Walla Walla sweet onions per shipment. These handlers would be exempt from inspection requirements, but these exempt onions would still be required to meet the quality and size requirements in effect at the time of shipment. Handlers could make more than one exempt shipment per day as long as each shipment was at or below the 2,000-pound exemption. These exempt onions would not be exempt from assessments. The committee would be able to recommend modification of the minimum quantity exemption through informal rulemaking, if necessary. The committee would be responsible for monitoring compliance with this proposal. If necessary, the committee would conduct spot inspections at the committee's expense to ensure that inspection-exempt onions were meeting the established quality and size regulations.

Record testimony indicated the implementation of these amendments could necessitate that the committee increase the manager's work hours in order to monitor compliance with these provisions. This could result in the need to recommend an increase in the marketing order assessment rate. However, an increase is not expected because the increased production, demand, and expanded markets would help to supply ample funds to

administer the program without increasing the assessment rate.

When the committee was considering amending the marketing order to include quality and size requirements, a compliance subcommittee was appointed to address concerns of small producers and handlers. The subcommittee is composed of producers and handlers who developed the minimum quantity exemption provisions of the committee's proposals. The subcommittee considered different options during their deliberations and determined that the amendments set forth in this rule are the most advantageous to small growers and handlers while still allowing quality objectives to be met.

Inspection requirements would not apply to shipments of Walla Walla sweet onions that are 2,000 pounds or less. However, these onions would be required to meet any minimum requirements in effect at the time of shipment. This would be enforced through periodic spot examinations conducted by the committee. A general consensus among industry members was that establishing a minimum quantity exemption was necessary to relieve any undue financial burden on small volume handlers. The committee would be responsible for monitoring compliance by conducting spot inspections, if necessary, at the committee's expense. It is estimated that compliance activities could increase administrative costs for the committee by \$3,000, or a 3 percent increase in the current committee budget.

As previously stated, 7 commercial handlers pack 90 percent of the industry's crop. Approximately 26 handlers handle the remaining 10 percent. With the 2,000 pound inspection exemption implemented, it is estimated that 50 percent of the remaining 26 handlers would be exempt from mandatory inspection. This represents approximately 42 acres or 25,000 50-lb. units, which is 5 percent of the crop. Therefore, it appears that at least 13 handlers would be exempt from inspection, while 95 percent of the production would still be inspected. This amendment would minimize the impact on small handlers without jeopardizing quality objectives.

These exempt onions would not be exempt from assessments. In addition, exempt onions would still be required to meet the minimum quality and size requirements established by the committee and approved by the Secretary. Committee staff would conduct spot inspections to monitor the exempt handlers' activities. The amendment allows for modification of

this provision depending on industry needs. The committee does not believe it would ever recommend not having a minimum quantity exemption.

A witness for the amendments testified that the only cost increase would be the cost of inspection. He further stated that the cost of inspection is a minor cost item, compared to labor and growing costs. Walla Walla sweet onion production is labor-intensive and high cost. A premium price is necessary for the onions to pay the costs of production.

This witness testified that a grower normally has \$1,800 to \$2,000 an acre invested in production prior to harvest. Using this estimate and assuming a yield of 190 50-pound units per acre, inspection costs (estimated at \$.04 to \$.06 per 50-pound unit) are estimated to be \$7.60 to \$11.40 per acre, or an estimated 0.4 to 0.6 percent increase of pre-harvest cost.

Following is an example of possible costs associated with implementing quality and size standards. Testimony revealed that if a U.S. Commercial grade were established as a minimum quality standard, 5 to 10 percent of the onions would not meet that grade and would have to be disposed of in secondary outlets. Using last year's production figures (1996-97), 666,000 50-pound containers were produced for sale. If 10 percent would not make U.S. Commercial grade, 66,600 50-pound containers would need to be disposed in secondary outlets. It is estimated that 5 percent of the crop, or 33,300 pounds, would be exempt from inspection. Therefore, approximately 566,100 50-pound containers would need to be inspected. Using the high inspection cost estimate of \$.06 per container, inspection costs for the entire crop would be \$33,966. Seven commercial packing houses pack 90 percent of the crop which would account for \$30,569.40 of the costs. The remaining 26 small handlers would be responsible for the remaining inspection costs of \$3,396.60, or approximately \$131 per handler for inspection fees for that season.

Minimum quality and size standards would maintain the integrity of the product so that the commodities' overall quality image is not diminished by a low quality sample. The principle objective of a grading system is to make the market work more efficiently. Minimum quality and size requirements would improve information between buyers and sellers. Contracts could be made based on grade specifications, and buyers need not personally inspect each lot of product. Standardization of quality and size reduces uncertainty

between buyers and sellers, and this helps reduce marketing costs. The goal of an effective grading system is to improve quality and size. Minimum quality and size standards would help ensure that substandard produce does not find its way to the market and destroy consumer confidence and harm producers' returns.

The ability of producers of Walla Walla sweet onions to increase the demand for their product depends on their ability to differentiate their product and to create a favorable image (including quality) with consumers. In recent years, this favorable image has deteriorated. Culling out low quality produce of undesirable size, even though the demand for it may be elastic, may increase total returns. The price increase from the higher quality sold is expected to be large enough to offset the effect of the reduced quantity sold, even after the costs of culling are covered.

Record evidence also shows that the collection of information under the marketing order would not be effected by these amendments to the marketing order. No increase in information collection will occur with the adoption of the amendments alone. However, if these amendments are implemented and the committee recommends regulations to impose quality and size requirements, it is possible that additional information would be needed from handlers to aid in administering the program effectively. It is also possible that because inspection certificates would be received by the committee, needed information could be collected from the certificates and the information collection requirements could be reduced. Whatever information collection changes result from any regulations, the committee and the Department would submit such changes to the Office of Management and Budget (OMB) for approval. Current information collection requirements for Part 956 are approved by OMB under OMB number 0581-0172.

The amendment to modify the name of the committee from the Walla Walla Sweet Onion Committee to the Walla Walla Sweet Onion Marketing Committee will have no regulatory impact on handlers or growers.

Accordingly, this action will not impose any additional reporting or recordkeeping requirements on either small or large Walla Walla sweet onion handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule. All of these amendments are designed to enhance the administration and functioning of the marketing order to the benefit of the industry.

While the implementation of quality and size requirements may impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of these costs may be passed on to growers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the meetings regarding these amendments as well as the hearing date were widely publicized throughout the Walla Walla sweet onion production area industry and all interested persons were invited to attend the meetings and the hearing and participate in committee deliberations on all issues. All committee meetings and the hearing were public forums and all entities, both large and small, were able to express views on these issues. Finally, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses.

Civil Justice Reform

The amendments contained in this rule have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have retroactive effect. The amendments will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with the amendments.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

Order Amending the Order Regulating the Handling of Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the order; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) Findings and Determinations Upon the Basis of the Hearing Record.

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure effective thereunder (7 CFR part 900), a public hearing was held upon the proposed amendments to the Marketing Agreement and Order No. 956 (7 CFR part 956), regulating the handling of sweet onions grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The marketing agreement and order, as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The marketing agreement and order, as hereby amended, regulate the handling of sweet onions grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in the marketing order upon which hearings have been held;

(3) The marketing agreement and order, as hereby amended, are limited in application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

(4) The marketing agreement and order, as hereby amended, prescribe, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of sweet onions grown in the production area; and

(5) All handling of sweet onions grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Additional findings.* It is necessary and in the public interest to make these order amendments effective one day after publication. A later effective date would unnecessarily delay the implementation of the amendments and the improvement in operation of the marketing order program. The committee, producers and handlers need as much time as possible to make plans to implement the amended order and discuss any needed changes to the regulations and committee operating procedures. Furthermore, the fiscal period for 1999 begins on June 1.

In view of the foregoing, it is hereby found and determined that good causes exists for making these amendments effective one day after publication, and that it would be contrary to the public interest to delay the effective date of these amendments for 30 days after publication in the **Federal Register** (5 U.S.C. 553).

(c) *Determinations.* It is hereby determined that:

(1) Handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping Walla Walla sweet onions covered by the order as hereby amended) who, during the period June 1, 1997, through May 31, 1998, handled 50 percent or more of the volume of such onions covered by said order, as hereby amended, have signed an amended marketing agreement; and

(2) The issuance of this amendatory order is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of approval and who, during the period June 1, 1997, through May 31, 1998 (which has been deemed to be a representative period), have been engaged within the production area in the production of such onions for fresh market.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, all handling of sweet onions grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon, shall be in conformity to, and in compliance with, the terms and conditions of the said order as hereby amended as follows:

The provisions of the proposed marketing agreement and order amendments contained in the Secretary's Decision issued by the Administrator on November 13, 1998,

and published in the **Federal Register** on November 19, 1998, shall be and are the terms and provisions of this order amending the order and are set forth in full herein.

List of Subjects in 7 CFR Part 956

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 956 is amended as follows:

PART 956—SWEET ONIONS GROWN IN THE WALLA WALLA VALLEY OF SOUTHEAST WASHINGTON AND NORTHEAST OREGON

1. The authority citation for 7 CFR part 956 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In part 956, § 956.14 is added and reserved, and new §§ 956.15 and 956.16 are added to read as follows:

§ 956.15 Grade and size.

Grade means any of the officially established grades of onions, including maturity requirements and *size* means any of the officially established sizes of onions as set forth in the United States standards for grades of onions or amendments thereto, or modifications thereof, or variations based thereon, or States of Washington or Oregon standards of onions or amendments thereto or modifications thereof or variations based thereon, recommended by the committee and approved by the Secretary.

§ 956.16 Pack.

Pack means a quantity of Walla Walla Sweet Onions specified by grade, size, weight, or count, or by type or condition of container, or any combination of these recommended by the committee and approved by the Secretary.

§ 956.20 [Amended]

3. In § 956.20, paragraph (a) is amended by adding the word “Marketing” immediately following the word “Onion” in the first sentence.

4. In part 956, a new § 956.60 is added to read as follows:

§ 956.60 Marketing policy.

(a) *Preparation.* Prior to each marketing season, the committee shall consider and prepare a proposed policy for the marketing of Walla Walla Sweet Onions. In developing its marketing policy, the committee shall investigate relevant supply and demand conditions for Walla Walla Sweet Onions. In such investigations, the committee shall give appropriate consideration to the following:

(1) Market prices for sweet onions, including prices by variety, grade, size, quality, and maturity, and by different packs;

(2) Supply of sweet onions by grade, size, quality, maturity, and variety in the production area and in other sweet onion producing sections;

(3) The trend and level of consumer income;

(4) Establishing and maintaining orderly marketing conditions for Walla Walla Sweet Onions;

(5) Orderly marketing of Walla Walla Sweet Onions as will be in the public interest; and

(6) Other relevant factors.

(b) *Reports.* (1) The committee shall submit a report to the Secretary setting forth the aforesaid marketing policy, and the committee shall notify producers and handlers of the contents of such report.

(2) In the event it becomes advisable to shift from such marketing policy because of changed supply and demand conditions, the committee shall prepare an amended or revised marketing policy in accordance with the manner previously outlined. The committee shall submit a report thereon to the Secretary and notify producers and handlers of the contents of such report on the revised or amended marketing policy.

5. Section 956.62 is revised to read as follows:

§ 956.62 Issuance of regulations.

(a) Except as otherwise provided in this part, the Secretary shall limit the shipment of Walla Walla Sweet Onions by any one or more of the methods hereinafter set forth whenever the Secretary finds from the recommendations and information submitted by the committee, or from other available information, that such regulation would tend to effectuate the declared policy of the Act. Such limitation may:

(1) Regulate in any or all portions of the production area, the handling of particular grades, sizes, qualities, or maturities of any or all varieties of Walla Walla Sweet Onions, or combinations thereof, during any period or periods;

(2) Regulate the handling of particular grades, sizes, qualities, or maturities of Walla Walla Sweet Onions differently, for different varieties or packs, or for any combination of the foregoing, during any period or periods;

(3) Provide a method, through rules and regulations issued pursuant to this part, for fixing the size, capacity, weight, dimensions, markings or pack of the container or containers, which may

be used in the packaging or handling of Walla Walla Sweet Onions, including appropriate logo or other container markings to identify the contents thereof;

(4) Regulate the handling of Walla Walla Sweet Onions by establishing, in terms of grades, sizes, or both, minimum standards of quality and maturity.

(b) The Secretary may amend any regulation issued under this part whenever the Secretary finds that such amendment would tend to effectuate the declared policy of the Act. The Secretary may also terminate or suspend any regulation or amendment thereof whenever the Secretary finds that such regulation or amendment obstructs or no longer tends to effectuate the declared policy of the Act.

6. Section 956.64 is revised to read as follows:

§ 956.64 Minimum quantities.

During any period in which shipments of Walla Walla Sweet Onions are regulated pursuant to this part, each handler may handle up to, but not to exceed, 2,000 pounds of Walla Walla Sweet Onions per shipment without regard to the inspection requirements of this part: *Provided*, That such Walla Walla Sweet Onion shipments meet the minimum requirements in effect at the time of the shipment pursuant to § 956.62. The committee, with the approval of the Secretary, may recommend modifications to this section and the establishment of such other minimum quantities below which Walla Walla Sweet Onion shipments will be free from the requirements in, or pursuant to, §§ 956.42, 956.62, 956.63, and 956.70, or any combination thereof.

7. In part 956, a new center heading and § 956.70 are added to read as follows:

Inspection

§ 956.70 Inspection and certification.

(a) During any period in which shipments of Walla Walla Sweet Onions are regulated pursuant to this subpart, no handler shall handle Walla Walla Sweet Onions unless such onions are inspected by an authorized representative of the Federal-State Inspection Service, or such other inspection service as the Secretary shall designate and are covered by a valid inspection certificate, except when relieved from such requirements pursuant to §§ 956.63 or 956.64, or both. Upon recommendation of the committee, with approval of the Secretary, inspection providers and certification requirements may be modified to facilitate the handling of Walla Walla Sweet Onions.

(b) Regrading, resorting, or repacking any lot of Walla Walla Sweet Onions shall invalidate prior inspection certificates insofar as the requirements of this section are concerned. No handler shall ship Walla Walla Sweet Onions after they have been regraded, resorted, repacked, or in any other way further prepared for market, unless such onions are inspected by an authorized representative of the Federal-State Inspection Service, or such other inspection service as the Secretary shall designate: *Provided*, That such inspection requirements on regraded, resorted, or repacked Walla Walla Sweet Onions may be modified, suspended, or terminated under rules and regulations

recommended by the committee, and approved by the Secretary.

(c) Upon recommendation of the committee, and approval of the Secretary, all Walla Walla Sweet Onions that are required to be inspected and certified in accordance with this section shall be identified by appropriate seals, stamps, tags, or other identification to be furnished by the committee and affixed to the containers by the handler under the direction and supervision of the Federal-State or Federal inspector, or the committee. Master containers may bear the identification instead of the individual containers within said master container.

(d) Insofar as the requirements of this section are concerned, the length of time for which an inspection certificate is valid may be established by the committee with the approval of the Secretary.

(e) When Walla Walla Sweet Onions are inspected in accordance with the requirements of this section, a copy of each inspection certificate issued shall be made available to the committee by the inspection service.

(f) The committee may enter into an agreement with an inspection service with respect to the costs of the inspection as provided by paragraph (a) of this section, and may collect from handlers their respective pro rata shares of such costs.

Dated: January 26, 1999.

Enrique E. Figueroa,

Administrator, Agricultural Marketing Service.

[FR Doc. 99-2371 Filed 1-29-99; 8:45 am]

BILLING CODE 3410-02-P

Federal Register

Monday
February 1, 1999

Part III

**Department of
Education**

National Institute on Disability and
Rehabilitation Research; Notice

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research

AGENCY: Department of Education.

ACTION: Notice of Proposed Funding Priorities for Fiscal Years 1999–2000 for a Center and Certain Projects.

SUMMARY: The Secretary proposes funding priorities for one Rehabilitation Research and Training Center (RRTC) and two Disability and Rehabilitation Research Projects (DRRPs) under the National Institute on Disability and Rehabilitation Research (NIDRR) for fiscal years 1999–2000. The Secretary takes this action to focus research attention on areas of national need. These priorities are intended to improve rehabilitation services and outcomes for individuals with disabilities.

DATES: Comments must be received on or before March 3, 1999.

ADDRESSES: All comments concerning these proposed priorities should be addressed to Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW, room 3418, Switzer Building, Washington, DC 20202–2645. Comments may also be sent through the Internet: comments@ed.gov

You must include the term “NIDRR Center and Projects Proposed Priorities” in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Donna Nangle. Telephone: (202) 205–5880. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–9136. Internet: Donna_Nangle@ed.gov

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.

SUPPLEMENTARY INFORMATION: This notice contains proposed priorities under the Disability and Rehabilitation Research Projects and Centers Program for one RRTC related to health and wellness for persons with long-term disabilities, and two DRRPs related to: health care services for persons with disabilities; and medical rehabilitation services for persons with disabilities. There are references in the proposed priorities to NIDRR’s proposed Long-Range Plan (LRP). The proposed LRP can be accessed on the World Wide Web at: <http://www.ed.gov/legislation/FedRegister/announcements/1998-4/102698a.html>

These proposed priorities support the National Education Goal that calls for

every adult American to possess the skills necessary to compete in a global economy.

The authority for the Secretary to establish research priorities by reserving funds to support particular research activities is contained in sections 202(g) and 204 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 762(g) and 764).

The Secretary will announce the final priorities in a notice in the **Federal Register**. The final priorities will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of a particular project depends on the final priority, the availability of funds, and the quality of the applications received. The publication of these proposed priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priorities does not solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following the publication of the notice of final priorities.

Rehabilitation Research and Training Centers

Authority for the RRTC program of NIDRR is contained in section 204(b)(2) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 764(b)(2)). Under this program the Secretary makes awards to public and private organizations, including institutions of higher education and Indian tribes or tribal organizations for coordinated research and training activities. These entities must be of sufficient size, scope, and quality to effectively carry out the activities of the Center in an efficient manner consistent with appropriate State and Federal laws. They must demonstrate the ability to carry out the training activities either directly or through another entity that can provide that training.

The Secretary may make awards for up to 60 months through grants or cooperative agreements. The purpose of the awards is for planning and conducting research, training, demonstrations, and related activities leading to the development of methods, procedures, and devices that will benefit individuals with disabilities, especially those with the most severe disabilities.

Description of Rehabilitation Research and Training Centers

RRTCs are operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services. RRTCs serve as centers of national excellence and national or regional resources for providers and individuals with disabilities and the parents, family members, guardians, advocates or authorized representatives of the individuals.

RRTCs conduct coordinated, integrated, and advanced programs of research in rehabilitation targeted toward the production of new knowledge to improve rehabilitation methodology and service delivery systems, to alleviate or stabilize disabling conditions, and to promote maximum social and economic independence of individuals with disabilities.

RRTCs provide training, including graduate, pre-service, and in-service training, to assist individuals to more effectively provide rehabilitation services. They also provide training including graduate, pre-service, and in-service training, for rehabilitation research personnel and other rehabilitation personnel.

RRTCs serve as informational and technical assistance resources to providers, individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of these individuals through conferences, workshops, public education programs, in-service training programs and similar activities.

RRTCs disseminate materials in alternate formats to ensure that they are accessible to individuals with a range of disabling conditions.

NIDRR encourages all Centers to involve individuals with disabilities and individuals from minority backgrounds as recipients of research training, as well as clinical training.

The Department is particularly interested in ensuring that the expenditure of public funds is justified by the execution of intended activities and the advancement of knowledge and, thus, has built this accountability into the selection criteria. Not later than three years after the establishment of any RRTC, NIDRR will conduct one or more reviews of the activities and achievements of the Center. In accordance with the provisions of 34 CFR 75.253(a), continued funding depends at all times on satisfactory performance and accomplishment.

Priorities

Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only applications that meet this priority.

Proposed Priority 1: Health and Wellness for Persons With Long-term Disabilities

Introduction

Chapter Four of NIDRR's proposed LRP (63 FR 57190-57219) focuses on maximizing health and function for persons with disabilities. Health maintenance for persons with disabilities includes not only access to care for routine health problems and appropriate specialty care including medical rehabilitation, but also participation in health promotion and wellness activities.

The National Center for Health Statistics defined long-term disabilities as "long-term reduction in activity resulting from chronic disease or impairment." For the purpose of this priority, long-term disabilities include cerebral palsy, multiple sclerosis, post-polio, amputation, and spinal cord injury. This center will assess the health maintenance and promotion practices of persons with long-term disabilities. NIDRR expects this research to clarify whether specialized assessment and health promotion activities are required for persons with long-term disabilities, and how health promotion activities affect the incidence of secondary conditions.

For the purpose of this priority, health promotion strategies include alternative therapies (e.g., therapeutic massage, acupuncture), stress management practices, physical exercise, nutrition, and other activities designed to promote healthy lifestyle and social well-being. These strategies are vitally important in maintaining health and wellness. NIDRR expects the RRTC, through its training and dissemination activities, to encourage self-directed health promotion activities.

Proposed Priority

The Secretary proposes to establish an RRTC for the purpose of developing strategies for health maintenance and reducing secondary conditions for persons with long-term disabilities. The RRTC must:

(1) Evaluate health assessment definitions, policies and practices, and measurement methodologies and instruments, and describe their impact on health promotion activities for persons with long-term disabilities;

(2) Evaluate the impact of selected health maintenance strategies on the incidence and severity of secondary conditions and other outcomes such as function, independence, general health status, and quality of life;

(3) Identify and evaluate best practices in health promotion activities for persons with long-term disabilities;

(4) Provide training on: (i) research methodology and applied research experience; and (ii) knowledge gained from the Center's research activities to persons with disabilities and their families, service providers, and other parties, as appropriate;

(5) Develop informational materials based on knowledge gained from the Center's research activities, and disseminate the materials to persons with disabilities, their representatives, service providers, and other interested parties;

(6) Involve individuals with disabilities and, if appropriate, their representatives, in planning and implementing its research, training, and dissemination activities, and in evaluating the Center;

(7) Conduct a conference on the findings of the RRTC and publish a comprehensive report on the final outcomes of the conference. The report must be published in the fourth year of the grant; and

(8) Coordinate with other entities carrying out related research or training activities.

In carrying out these purposes, the RRTC must coordinate with health and wellness research and demonstration activities sponsored by the National Center on Medical Rehabilitation Research, the Department of Veterans Affairs, and the Centers for Disease Control and Prevention.

Disability and Rehabilitation Research Projects

Authority for Disability and Rehabilitation Research Projects (DRRPs) is contained in section 204(a) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 764(a)). DRRPs carry out one or more of the following types of activities, as specified in 34 CFR 350.13-350.19: research, development, demonstration, training, dissemination, utilization, and technical assistance. Disability and Rehabilitation Research Projects develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities. In addition,

DRRPs improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended.

Proposed Research Priorities in Health Care and Medical Rehabilitation Services for Persons With Disabilities

Introduction

Chapter 4 of NIDRR's proposed LRP (63 FR 57202) discusses the health care service and medical rehabilitation service needs of persons with disabilities. The demand for these services is expected to continue to grow in the coming decades because of increased potential for survival after trauma and disease, prevalence of disability related to the general aging of the population, and the incidence of persons with disabilities acquiring secondary disabilities or chronic conditions. NIDRR proposes to establish a research agenda that examines access to the continuum of health care services, and changes in medical rehabilitation service systems, including demands that new populations of persons with disabilities are placing on medical rehabilitation service systems.

There has been insufficient research on the access of persons with disabilities to the continuum of health care services. Access to this continuum, including primary, acute, and long-term health care services over the course of a lifetime, bears directly on quality of life issues. By developing new knowledge about access to the continuum of health care services for persons with disability, NIDRR expects the DRRP on health care services to contribute to persons with disabilities maintaining their health and decreasing the occurrence of secondary conditions.

Medical rehabilitation service systems are changing in response to a number of factors. One major factor is the rise of managed care as the dominant form of organization and payment for health care services, including medical rehabilitation services. In addition, as discussed in the proposed LRP, new populations of persons with disabilities are emerging and placing new demands on medical rehabilitation service systems. NIDRR expects the DRRP on medical rehabilitation services to generate new knowledge about these changes in order to assist service providers and consumers to achieve desired rehabilitation outcomes. For the purpose of the proposed priority, emergent disabilities include, but are not limited to, AIDS, Attention Deficit Hyperactivity Disorder, violence-induced neurological damage, repetitive motion syndromes, childhood asthma,

drug addiction, and environmental illnesses.

Proposed Priority 2: Health Care Services for Persons With Disabilities

The Secretary proposes to fund a DRRP to improve the continuum of health care services for persons with disabilities over their lifetime. The DRRP must:

(1) Analyze the access of persons with disabilities to the continuum of health care services and identify successful service delivery strategies and barriers to access to the continuum; and

(2) Based on paragraph (1), develop strategies to improve access to the continuum of health care services.

In carrying out the purposes of the priority, the project must:

- Address the health care needs of persons with disabilities of all ages; and
- Coordinate with the RRTC on Managed Care for Persons with Disabilities.

Proposed Priority 3: Medical Rehabilitation Services for Persons With Disabilities

The Secretary proposes to establish a DRRP to improve medical rehabilitation services for persons with disabilities, especially those with emergent disabilities. The DRRP must:

(1) Describe the changes taking place in the delivery of medical rehabilitation services including, but not limited to, those related to the setting where services are provided, length of stay,

qualifications of personnel, and payment systems; and

(2) Develop a methodology to analyze the impact of these changes on outcomes;

(3) Identify the nature and extent of the need for medical rehabilitation services by persons with emergent disabilities;

(4) Analyze persons with emergent disabilities' access to medical rehabilitation services; and

(5) Identify strategies to improve access by persons with emergent disabilities to medical rehabilitation services.

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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**.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed priorities. All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 3424, Switzer Building, 330 C Street S.W., Washington, D.C., between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

Applicable Program Regulations: 34 CFR Part 350.

Program Authority: 29 U.S.C. 760-762.

(Catalog of Federal Domestic Assistance Number 84.133A, Disability and Rehabilitation Research Projects, and 84.133B, Rehabilitation Research and Training Centers)

Dated: January 26, 1999.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 99-2248 Filed 1-29-99; 8:45 am]

BILLING CODE 4000-01-P

Revised
1999

Monday
February 1, 1999

Part IV

**Department of
Justice**

Office of Juvenile Justice and
Delinquency Prevention

Proposed Comprehensive Plan for Fiscal
Year 1999; Notice

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and
Delinquency Prevention

[OJP (OJJDP)-1204]

Proposed Comprehensive Plan for
Fiscal Year 1999

AGENCY: Office of Justice Programs,
Office of Juvenile Justice and
Delinquency Prevention, Justice.

ACTION: Notice of proposed program
plan for fiscal year 1999.

SUMMARY: The Office of Juvenile Justice
and Delinquency Prevention is
publishing this notice of its Proposed
Comprehensive Plan for fiscal year (FY)
1999.

DATES: Comments must be received on
or before March 18, 1999.

ADDRESSES: Comments may be mailed to
Shay Bilchik, Administrator, Office of
Juvenile Justice and Delinquency
Prevention, 800 K Street, NW., Third
Floor, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT:
Eileen M. Garry, Director, Information
Dissemination Unit, at 202-307-5911.
[This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: The Office
of Juvenile Justice and Delinquency
Prevention (OJJDP) is a component of
the Office of Justice Programs in the
U.S. Department of Justice. Pursuant to
the provisions of Section 204(b)(5)(A) of
the Juvenile Justice and Delinquency
Prevention Act of 1974, as amended, 42
U.S.C. 5601 *et seq.* (JJDP Act), the
Administrator of OJJDP is publishing for
public comment a Proposed
Comprehensive Plan describing the
program activities that OJJDP proposes
to carry out during Fiscal Year (FY)
1999. The Proposed Comprehensive
Plan includes activities authorized in
Parts C and D of Title II of the JJDP Act,
codified at 42 U.S.C. 5651-5665a, 5667,
5667a. Taking into consideration
comments received on this Proposed
Comprehensive Plan, the Administrator
will develop and publish a Final
Comprehensive Plan describing the
particular program activities that OJJDP
intends to fund during FY 1999, using
in whole or in part funds appropriated
under Parts C and D of Title II of the
JJDP Act.

Notice of the official solicitation of
grant or cooperative agreement
applications for competitive programs to
be funded under the Final
Comprehensive Plan will be published
at a later date in the **Federal Register**.
No proposals, concept papers, or other
forms of application should be
submitted at this time.

Overview

After a steady climb in the rates of
juvenile violent crime arrests, resulting
in an increase of 60 percent between
1988 and 1994, the Nation experienced
a substantial, 23 percent, decline in the
3 years between 1994 and 1997. More
notable were the trends in the juvenile
arrest rate for murder, which, after
doubling between 1987 and 1993,
dropped by more than 40 percent
between 1993 and 1997. In addition, in
the discussion of trends, it is important
to note that in any given year less than
½ of 1 percent of this country's
juveniles ages 10 to 17 are arrested for
violent crime. Even though rates have
been dropping, however, they are still
more than 20 percent higher than the
average rate of the years between 1980
and 1988.

The serious concerns engendered by
the increase in violent juvenile crime in
the 1980's led many States to enact
legislation to address the changing
nature of juvenile delinquency and to
use a more accountability-based
approach in dealing with serious violent
juvenile offenders. At the same time, a
national dialog began over how best to
reform the juvenile justice system to
make it more effective in preventing and
intervening with juvenile delinquency
and victimization and in protecting the
public. In order to see this become a
reality, the positive achievements of
recent years should lead not to
complacency, but to a renewed
commitment to continue to pursue the
research-based, comprehensive
approach to problems of delinquency,
violence, and victimization that OJJDP
inaugurated with the publication in
December 1993 of its Comprehensive
Strategy for Serious, Violent, and
Chronic Juvenile Offenders.

It is encouraging that in recent years
communities have begun to take on this
work and make the commitment needed
to make a comprehensive strategy a
reality. More and more communities are
coming to the understanding that a long-
term, consistent commitment will be
required to reduce juvenile
delinquency, violence, and
victimization and to ensure public
safety.

This Proposed Comprehensive Plan
describes OJJDP's plans for funding
activities authorized under Part C
(National Programs) and Part D (Gang-
Free Schools and Communities;
Community-Based Gang Intervention) of
Title II of the Juvenile Justice and
Delinquency Prevention (JJDP) Act. The
activities authorized under Parts C and
D make up part of OJJDP's overall
responsibilities under the JJDP Act.

These responsibilities are outlined
briefly below.

In 1974, the JJDP Act established
OJJDP as the Federal agency responsible
for providing national leadership,
coordination, and resources to develop
and implement effective methods to
prevent and reduce juvenile
delinquency and improve the quality of
juvenile justice in the United States.
OJJDP administers State Formula Grants
under Part B of Title II, State Challenge
Grants under Part E of Title II, and
Community Prevention Grants under
Title V of the JJDP Act to assist States
and territories to fund a range of
delinquency prevention, control, and
juvenile justice system improvement
activities. OJJDP provides support
activities for these and other programs
under statutory set-asides that are used
to provide related research, evaluation,
statistics, demonstration, and training
and technical assistance services. OJJDP
also funds Special Emphasis programs
authorized under Part C; school and
community-based gang prevention,
intervention, and suppression programs
under Part D; and mentoring programs
under Part G of Title II of the JJDP Act;
funds numerous research, evaluation,
statistics, demonstration, training and
technical assistance, and information
dissemination activities through its
National Institute for Juvenile Justice
and Delinquency Prevention;
administers the Drug Prevention
Program, the Underage Drinking
Program, the Safe Schools Initiative, a
Native American discretionary grants
program, the Safe Start: Children
Exposed to Violence Initiative, and the
Juvenile Accountability Incentive Block
Grants program. OJJDP also coordinates
Federal activities related to juvenile
justice and delinquency prevention.

OJJDP serves as the staff agency for
the Coordinating Council on Juvenile
Justice and Delinquency Prevention,
coordinates the Concentration of
Federal Efforts Program, and
administers both the Title IV Missing
and Exploited Children's Program and
programs under the Victims of Child
Abuse Act of 1990, as amended, 42
U.S.C. 13001 *et seq.*

OJJDP focuses its assistance on the
development and implementation of
programs with the greatest potential for
reducing juvenile delinquency and
improving the juvenile justice system by
establishing partnerships with State and
local governments, American Indian
and Alaska Native jurisdictions, and
public and private agencies and
organizations. OJJDP performs its role of
national leadership in juvenile justice
and delinquency prevention through a
cycle of activities. These include

collecting data and statistics to determine the extent and nature of issues affecting juveniles; funding research that can lead to demonstrations funded by discretionary grants; evaluating demonstration projects; sharing lessons learned from the field with practitioners through a range of information dissemination vehicles; providing seed money to States through formula and block grants to implement projects or reform efforts; and providing training and technical assistance to assist States and local governments to implement programs effectively and to maintain the integrity of model programs as they are being replicated.

It is important to note that OJJDP emphasizes coordination with other Office of Justice Program (OJP) components and other Federal agencies whenever possible to concentrate Federal resources to achieve maximum results from its programs and initiatives. This coordination, which is evidenced in many of the program descriptions that follow, includes joint funding, interagency agreements, and partnerships to develop, implement, and evaluate projects. More important, it is critical that the reader become familiar with the program activities of the other OJP Bureaus and Offices as reflected in the Office of Justice Programs Fiscal Year 1999 Program Plan. The work undertaken in OJP in many instances cuts across components and areas of practice; therefore, the work undertaken by OJJDP should be viewed as part of a larger OJP composite.

Considering all the factors discussed above, OJJDP has prepared this Proposed Comprehensive Plan for FY 1999 for activities authorized under Part C (National Programs) and Part D (Gang-Free Schools and Communities; Community-Based Gang Intervention) of Title II of the JJDP Act, as described in the following pages.

Fiscal Year 1999 Program Planning Activities

The OJJDP program planning process for FY 1999 is being coordinated with the Assistant Attorney General, Office of Justice Programs (OJP), and all OJP components. The program planning process involves the following steps:

- Internal review of existing programs by OJJDP staff.
- Internal review of proposed programs by OJP bureaus and Department of Justice components.
- Review of information and data from OJJDP grantees and contractors.
- Review of information contained in State comprehensive plans.

- Review of comments from youth service providers, juvenile justice practitioners, and researchers who provide input in proposed new program areas.

- Consideration of suggestions made by juvenile justice policymakers concerning State and local needs.

- Consideration of all comments received during the period of public comment on this Proposed Comprehensive Plan.

Discretionary Program Activities

Discretionary Grant Continuation Policy

OJJDP has listed on the following pages continuation projects currently funded in whole or in part with Part C and Part D funds and eligible for continuation funding in FY 1999, either within an existing project period or through an extension for an additional project period. A grantee's eligibility for continued funding for an additional budget period within an existing project period depends on the grantee's compliance with funding eligibility requirements and achievement of the prior year's objectives. The amount of award is based on prior projections, demonstrated need, and fund availability.

The only projects described in this Proposed Program Plan are those that would receive Part C or Part D FY 1999 continuation funding under project period or discretionary continuation assistance awards and programs that OJJDP is considering for new awards in FY 1999. Readers should note that they will not find descriptions of other OJJDP programs, including mentoring programs under Part G of Title II of the JJDP Act, the Drug Prevention Program, the Underage Drinking Program, the Safe Schools Initiative, the Native American discretionary grants program, the Safe Start: Children Exposed to Violence Initiative, and the Juvenile Accountability Incentive Block Grants program. When appropriate, separate solicitations are issued for applications for funding for programs that are not authorized under Parts C and D.

Consideration for continuation funding for an additional project period for previously funded discretionary grant programs will be based upon several factors, including the following:

- The extent to which the project responds to the applicable requirements of the JJDP Act.
- Responsiveness to OJJDP and Department of Justice FY 1999 program priorities.
- Compliance with performance requirements of prior grant years.
- Compliance with fiscal and regulatory requirements.

- Compliance with any special conditions of the award.

- Availability of funds (based on appropriations and program priority determinations).

In accordance with section 262 (d)(1)(B) of the JJDP Act, as amended, 42 U.S.C. 5665a, the competitive process for the award of Part C funds is not required if the Administrator makes a written determination waiving the competitive process:

1. With respect to programs to be carried out in areas in which the President declares under the Robert T. Stafford Disaster Relief and Emergency Assistance Act codified at 42 U.S.C. 5121 *et seq.* that a major disaster or emergency exists, or
2. With respect to a particular program described in Part C that is uniquely qualified.

Program Goals

The three goals listed below constitute the major elements of a sound policy that ensures public safety and security while establishing effective juvenile justice and delinquency prevention programs. Underlying each of the goals is the overarching premise that their achievement is vital to protecting the long-term safety of the public from juvenile delinquency and violence.

- *Delinquency Prevention and Early Intervention.* OJJDP promotes delinquency prevention and early intervention efforts that reduce the flow of juvenile offenders into the juvenile justice system, the numbers of serious and violent offenders, and the development of chronic delinquent careers. While removing serious and violent juvenile offenders from the street serves to protect the public, long-term solutions lie primarily in taking aggressive steps to stop delinquency before it starts or becomes a pattern of behavior.

- *Improvement of the Juvenile Justice System.* OJJDP seeks to improve the juvenile justice system and the response of the system to juvenile delinquents, status offenders, and dependent, neglected, and abused children.

- *Corrections, Detention, and Community-Based Alternatives.* OJJDP supports efforts to preserve the public safety through the appropriate development and best use of secure detention and corrections options, while at the same time fostering the use of community-based programs for juvenile offenders.

In pursuing these broad goals, OJJDP divides its programs into four categories: public safety and law enforcement; strengthening the juvenile

justice system; delinquency prevention and intervention; and child abuse and neglect and dependency courts. A fifth category, overarching programs, contains programs that have significant elements common to more than one of the other four categories. Following the introductory section below, the programs that OJJDP proposes to fund in FY 1999 are listed and summarized within these five categories.

Introduction to Fiscal Year 1999 Program Plan

Since 1993, when it published the *Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders*, OJJDP has been advocating that States, local governments, and communities adopt this research-based comprehensive strategy approach to address the problems of juvenile crime and victimization. OJJDP has synthesized decades of research and practice from practitioners and established a framework for implementing an effective juvenile justice system. Through support of research, demonstration programs, and training and technical assistance, OJJDP encourages States, local governments, and communities to use the Comprehensive Strategy to develop coordinated, communitywide approaches to preventing and intervening with juvenile delinquency and victimization. OJJDP focuses its support on programs and initiatives that further one or more of the basic principles of the Comprehensive Strategy:

- Strengthen families in their role of guiding, disciplining, and instilling sound values in their children.
- Support core social institutions and their role in supporting families and helping children develop to their maximum potential.
- Promote prevention strategies and activities that reduce the impact of negative (risk) factors and enhance the influence of positive (protective) factors in the lives of youth at greatest risk of delinquency.
- Intervene immediately and appropriately at the first signs of trouble in a child's life and establish a system of graduated sanctions and a continuum of services to respond appropriately to the needs of each juvenile offender.
- Protect the public from the most serious, violent, and chronic juvenile offenders by providing for their incapacitation while at the same time addressing their treatment needs.

For the fourth consecutive year, OJJDP proposes a Program Plan rooted in its Comprehensive Strategy. The Plan also supports the Coordinating Council's

National Juvenile Justice Action Plan released in 1996. This Action Plan, which grew out of the Comprehensive Strategy, provides eight objectives to reduce juvenile violence and describes ways to meet these objectives. OJJDP proposes to continue to support development and refinement of the Comprehensive Strategy and training and technical assistance to help jurisdictions begin to implement it by developing a continuum of care to deal with both juvenile offenders and juveniles at risk of becoming offenders. Development, dissemination, and support of the Comprehensive Strategy and the Action Plan are prime examples of how OJJDP's national leadership is instrumental in moving the field from innovation to infrastructure.

OJJDP-funded programs that emphasize early prevention and family involve a variety of approaches, including parent training, nurse-based home visitation for at-risk first-time mothers, problem solving, parent support groups led by parents themselves, multisystemic therapy, and training and technical assistance for replicating exemplary programs. Other prevention programs reach out to youth in the schools and the community. They include youth development, conflict resolution, mentoring, career preparation, truancy reduction, drug prevention, violence prevention, and antigang outreach programs.

Efforts involving intervention, accountability, and sanctions include dissemination of the principles of balanced and restorative justice, emphasis on reducing overcrowding and disproportionate minority confinement in secure facilities, gender-specific services targeted to female juvenile offenders, intensive aftercare services, services for chemically involved young people, and a communitywide approach to preventing and suppressing gangs. Funds are also provided for collaborations between police and health services agencies and for appropriate training for legislators, prosecutors, and line staff in secure facilities.

Research and evaluation can assure policymakers, practitioners, and the public that juvenile justice is moving in the right direction and that programs being supported do indeed work. OJJDP proposes to continue supporting a range of research studies, including its landmark study of the causes and correlates of delinquency; studies of very young offenders and of the origins of and pathways to youth violence; a cost-benefit analysis of juvenile justice programs; analyses of a range of juvenile justice data; development of a juvenile

sex offender typology; studies of risk reduction for delinquency, substance abuse, and school failure in school children and of delinquency and attention deficit/hyperactivity disorder; and censuses and surveys related to confinement and probation. Continued support would be provided for evaluations of the SafeFutures initiative, Safe Kids/Safe Streets, Partnerships To Reduce Juvenile Gun Violence, Intensive Community-Based Aftercare, teen court training and technical assistance, and several gang-related programs.

OJJDP is also considering support for new programs in several areas related to emerging issues facing the juvenile justice system. This Proposed Plan does not include descriptions of any specific new programs. Ideas for possible programming are discussed generally below. It must be emphasized that this wide range of possibilities exceeds OJJDP's ability to provide new funding. OJJDP wants to consider comments from policymakers, researchers, practitioners, and other concerned citizens about the broad areas it is considering before prioritizing those areas and identifying new programs to be supported with the discretionary funding that is available.

Dissemination of information to the field is an important OJJDP function. Information dissemination support under consideration would focus on events, programs, and activities relating to the 1999 centennial of the juvenile court; on findings from summits, policy forums, centers, and education campaigns devoted to preventing crime and violence, including gun violence, whether deliberate or accidental; on public outreach, especially to youth, via television programming, public service announcements, videos, and CD-ROMS that encourage and model development of life skills and decisionmaking abilities in regard to key issues. Dissemination efforts would also be directed toward supporting various critical partners with juvenile justice system responsibilities, such as city and county officials, legislators, and Governors, to inform them of effective strategies and approaches to prevent delinquency and improve the juvenile justice system.

OJJDP is considering providing funding to increase existing training and technical assistance capacity in the area of jobs and vocational training for juveniles involved in the justice system. The purpose would be to enable them to gain skills, knowledge, and experience that would help them succeed in the workplace.

Effective use of information sharing and the design and implementation of

management information systems (MIS) are important issues for juvenile justice practitioners. OJJDP proposes to support training and technical assistance efforts to model information sharing and to replicate best practices in MIS.

In the area of child abuse and neglect, OJJDP is considering support for a program that helps older foster children make the transition from foster care to independent adult living. Another approach to reducing child abuse and neglect is to support the efforts of community-based organizations to build their capacity to respond appropriately to abused and neglected children. OJJDP also proposes to evaluate the effectiveness of children's advocacy centers, which are designed to prevent the inadvertent revictimization of an abused child by the judicial and social service systems in their efforts to protect the child.

Recognizing that school failure is a risk factor for delinquency and a barrier to positive development, OJJDP proposes to join with the U.S. Department of Education to sponsor a center for students with learning disabilities in the juvenile justice system. Interagency coordination between the Departments of Justice and Education would enhance justice system knowledge and use of research-based strategies and practices and the provisions of the Individuals with Disabilities Education Act. The center would provide guidance and assistance to States, schools, justice programs, families, and communities to design, implement, and evaluate comprehensive educational programs based on research-validated practices, for students with disabilities within the juvenile justice system.

As communities seek to adopt effective methods of dealing with juvenile offenders, OJJDP proposes to continue to support efforts to develop community justice and balanced and restorative justice approaches to enhance the effectiveness of the juvenile justice system.

Mental health issues are an integral part of juvenile justice concerns. OJJDP is considering funding research to systematically review, summarize, and assess what is known about mentally disordered youth in the juvenile justice system and programs that address general and managed mental health care for juvenile justice system involved juveniles.

OJJDP proposes to explore the critical operational issue of risk and needs assessments. What instruments exist, how are they being used, and what is their impact? What do communities

need to do to promote the use of valid risk and needs assessments?

In the broad area of prevention, OJJDP would focus on supporting programs that offer positive growth experiences to youth. Examples would include afterschool programs targeted at high-risk youth, model recreation and parks programs, and other types of programs and services that promote delinquency prevention and positive youth development.

Finally, in the area of research, OJJDP is interested in studies that concentrate on the needs of at-risk female juveniles and girls involved in the juvenile justice system. Demonstration programs focusing on girls would also be considered for funding.

Together, the programs in this Proposed Plan constitute a practical, multifaceted, and comprehensive approach to effectively preventing juvenile delinquency and victimization.

Fiscal Year 1999 Programs

The following are brief summaries of each of the new and continuation programs proposed to receive Part C and Part D funding in FY 1999. As indicated above, the program categories are public safety and law enforcement; strengthening the juvenile justice system; delinquency prevention and intervention; and child abuse and neglect and dependency courts. However, because many programs have significant elements of more than one of these program categories or generally support all of OJJDP's programs, they are listed in an initial program category, called overarching programs. With regard to implementation sites and other descriptive data and information, program priorities within each category will be determined based on grantee performance, application quality, fund availability, and other factors. Programs are listed alphabetically within each category.

A number of OJJDP programs have been identified for funding consideration by Congress with regard to the grantee(s), the amount of funds, or both. These programs, which are listed below, are not included in the program descriptions that follow.

- National Council of Juvenile and Family Court Judges
- Teens, Crime, and the Community
- Parents Anonymous, Inc.
- Juvenile Offender Transition Program
- Suffolk University Center for Juvenile Justice
- Center for Crimes and Violence Against Children
- Metro Denver Gang Coalition
- L.A. Best Youth

- Intensive Services for Juveniles and Families
- Delancy Street
- Juvenile Justice Program in Alaska
- National Association of State Fire Marshals
- Syracuse-Onondaga County Drug and Alcohol Abuse Commission
- Law-Related Education
- Hamilton Fish National Institute on School and Community Violence

In addition, OJJDP has been directed to examine each of the following, provide assistance if warranted, and report to the Committees on Appropriations of both the House and the Senate on its intention for each proposal:

- Low Country Children's Center
- Center for Prevention of Juvenile Crime and Delinquency at Prairie View University
- Project O.A.S.I.S.
- Consortium on Children, Families, and Law
- Women of Vision Program for Youthful Female Offenders
- Violence Institute of New Jersey
- L.A. Bridges Youth Programs
- Compton Youth Intervention Center for AfterSchool Programs
- Kids With a Promise Program
- Operation Quality Time
- Achievable Dream Program
- Secure School Pilot Program
- Youth Advocates Program
- Camden Urban Science Enrichment Program
- Juvenile Crime Reduction Strategies Pilot Program
- School Security Technology Center
- New Mexico Cooperative Service Extension 4-H Youth Development Program
- Adolescent Residential Treatment Program
- Coalition for Drug-Free Lanai
- Youth Courts in Alaska
- Sioux Falls, South Dakota School District for Youth Programs
- South Dakota Unified Judicial System
- Nebraska Commission for Law Enforcement for Youth Programs
- Chicago Public Schools Substance Abuse Program
- Minnehaha, South Dakota, County Sheriff's Office for Youth Programs
- Essex Teen Center and other Vermont Coalition for Teen Center's Members
- Comprehensive Juvenile Justice Crime Prevention Initiative in Gainesville
- Multistate Youth Violence Prevention Network
- State of Hawaii to combat teen prostitution
- Safe Places for Kids
- The FY 1999 Omnibus Appropriations Conference agreement also urges OJJDP to work with the Head

Start Bureau and other Federal agencies to coordinate an effort to increase public/private partnerships, such as Free to Grow, aimed at strengthening families and communities in their efforts to reduce the negative effect of substance abuse and use on the development of young children.

Fiscal Year 1999 Program Listing

Overarching

Coalition for Juvenile Justice
Cost-Benefit Analysis of Juvenile Justice Programs
Evaluation of SafeFutures
Insular Area Support
Intergenerational Transmission of Antisocial Behavior Project
Juvenile Justice Clearinghouse
Juvenile Justice Statistics and Systems Development
OJJDP Management Evaluation Contract
OJJDP Technical Assistance Support Contract—Juvenile Justice Resource Center
Program of Research on the Causes and Correlates of Delinquency
SafeFutures: Partnerships To Reduce Youth Violence and Delinquency
Study Group on Very Young Offenders
Technical Assistance for State Legislatures
Telecommunications Assistance
Training and Technical Assistance Coordination for the SafeFutures and Safe Kids/Safe Streets Initiatives

Public Safety and Law Enforcement

The Chicago Project for Violence Prevention
Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program
Evaluation of the Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program
Evaluation of the Partnerships To Reduce Juvenile Gun Violence Program
Gang Prevention Through Targeted Outreach (Boys & Girls Clubs)
National Youth Gang Center
Partnerships To Reduce Juvenile Gun Violence
Safe Start—Child Development-Community-Oriented Policing (CD-CP)
Survey of School-Based Gang Prevention and Intervention Programs
Training and Technical Assistance for the Rural Gang Initiative

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Strengthening the Juvenile Justice System

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Building Blocks for Youth
Census of Juveniles in Residential Placement
Circles of Care Program
Development of the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders
Evaluation of the Intensive Community-Based Aftercare Program
Evaluation of Teen Courts
Gender-Specific Programming for Female Juvenile Offenders
Intensive Community-Based Aftercare Demonstration and Technical Assistance Program
Intensive Treatment Family Programs (ITF)
The Juvenile Justice Prosecution Unit
Juvenile Residential Facility Census
Juvenile Sex Offender Typology
Juvenile Transfers to Criminal Court Studies
Linking Balanced and Restorative Justice and Adolescents (LIBRA)
National Academy of Sciences Study of Juvenile Justice
National Juvenile Justice Program Directory
The National Longitudinal Survey of Youth 97

Performance-Based Standards for Juvenile Correction and Detention Facilities
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Teen Supreme Career Preparation Initiative
Training and Technical Assistance for National Innovations To Reduce Disproportionate Minority Confinement (The Deborah Ann Wysinger Memorial Program)
Training and Technical Support for State and Local Jurisdictional Teams To Focus on Juvenile Corrections and Detention Overcrowding

Child Abuse and Neglect and Dependency Courts

National Evaluation of the Safe Kids/Safe Streets Program
Safe Kids/Safe Streets: Community Approaches to Reducing Abuse and Neglect and Preventing Delinquency

Overarching

Coalition for Juvenile Justice

This project supports the Coalition in its efforts to meet the statutory mandates through the development of a technical assistance capability that provides training, technical assistance, and information to the State Juvenile Justice Advisory Groups. This will be accomplished through a series of regional training and information workshops and a national conference designed to address the needs of the membership of the Coalition.

This project would be implemented by the current grantee, the Coalition for Juvenile Justice. No additional applications would be solicited in FY 1999.

Cost-Benefit Analysis of Juvenile Justice Programs

The University of Texas and the Dallas County Juvenile Department are working together to perform a substantive cost-benefit analysis of juvenile adjudications in the county to explore the extent to which the method can provide better answers to increasingly urgent questions by decisionmakers. The work, funded under an FY 1997 competitive grant, is examining several important methodological and practical issues, including methods of determining alternative measures for and the extent of beneficial program effects and estimating and allocating unit costs-

benefit relationships of different programs. Through the process of addressing these and related matters under the guidance of an advisory board composed of individuals directly engaged in the juvenile justice field at the local and State level, the project will also show how the method can be made immediately useful to decisionmakers.

This program will be implemented by the current grantee, the University of Texas—Dallas. No additional applications will be solicited in FY 1999.

Evaluation of SafeFutures

A national evaluation competitively awarded with FY 1995 funds is being conducted by the Urban Institute to determine the success of the SafeFutures initiative in creating a comprehensive continuum of care for youth in six participating sites (Boston, Massachusetts; Contra Costa County and Imperial County, California; Fort Belknap, Montana; Seattle, Washington; and St. Louis, Missouri). The evaluation addresses the program implementation process and measures performance outcomes and lessons learned about the challenges and accomplishments across the six sites. A cross-site report will document the process of program implementation and community outcomes for use by other funding agencies or communities that want to develop and implement a comprehensive community-based strategy to address serious, violent, and chronic delinquency.

The evaluation will be implemented by the current grantee, the Urban Institute. No additional applications will be solicited in FY 1999.

Insular Area Support

The purpose of this statutorily required program is to provide support to the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. Funds are available to address the special needs and problems of juvenile delinquency in these insular areas, as specified by Section 261(e) of the JJDP Act of 1974, as amended, 42 U.S.C. § 5665(e).

Intergenerational Transmission of Antisocial Behavior Project

The purpose of this project is to expand on the Rochester Youth Development Study by examining the development of antisocial behavior and delinquency in the children of the original Rochester, New York, subjects of OJJDP's Program of Research on the Causes and Correlates of Delinquency. By age 21, 40 percent of the original

Rochester subjects were parents. This provides a unique opportunity to examine and track the development of delinquent behavior across three generations in a particularly high-risk sample. Results of the study should provide useful findings with policy implications for prevention programs. The program is being funded under an FY 1998 interagency agreement between OJJDP and the National Institute of Mental Health.

The project will be implemented by the current grantee, SUNY Research Foundation. No additional applications will be solicited in FY 1999.

Juvenile Justice Clearinghouse

A component of the National Criminal Justice Reference Service (NCJRS), the Juvenile Justice Clearinghouse (JJC) collects, synthesizes, and disseminates information on all aspects of juvenile justice. OJJDP established the Clearinghouse in 1979 to serve the juvenile justice community, legislators, the media, and the public. JJC offers toll-free telephone access to information; prepares specialized responses to information requests; produces, warehouses, and distributes OJJDP publications; exhibits at national conferences; maintains a comprehensive juvenile justice library and database; and administers several electronic information resources. NCJRS is administered by the National Institute of Justice (NIJ) under a competitively awarded contract to Aspen Systems Corporation.

This program will be implemented by the current contractor, Aspen Systems Corporation. No additional applications will be solicited in FY 1999.

Juvenile Justice Statistics and Systems Development

The Juvenile Justice Statistics and Systems Development (SSD) program was competitively awarded in FY 1990 to the National Center for Juvenile Justice (NCJJ) to improve national, State, and local statistics on juveniles as victims and offenders. The project has focused on three major tasks: (1) Assessing how current information needs are being met with existing data collection efforts and recommending options for improving national level statistics; (2) analyzing data and disseminating information gathered from existing Federal statistical series and national studies; and (3) providing training and technical assistance tools for local agencies in developing or enhancing management information systems.

This project would be implemented by the current grantee, NCJJ. No

additional applications would be solicited in FY 1999.

OJJDP Management Evaluation Contract

This contract was competitively awarded in FY 1995 for a period of 3 years to provide OJJDP with an expert resource to perform independent program evaluations and assist in implementing evaluation activities. Evaluations may be conducted on OJJDP-funded programs and on other programs designed to prevent and treat juvenile delinquency. The time and cost of each evaluation depends on program complexity, availability of data, and purpose of the evaluation. Because the purpose of many evaluations is to inform management decisions, the completion of an evaluation and submission of a report may be required in a specific and, often, short time period.

This contract will be implemented by the current contractor, Caliber Associates. However, a new competitive contract solicitation will also be issued and a new contract awarded in FY 1999.

OJJDP Technical Assistance Support Contract—Juvenile Justice Resource Center

This contract has been competitively awarded since the mid-1980's when OJJDP identified the need for technical assistance support in carrying out its mission. The Juvenile Justice Resource Center (JJRC) provides technical assistance and support to OJJDP, its grantees, and the Coordinating Council on Juvenile Justice and Delinquency Prevention in the areas of program development, evaluation, training, and research. With assistance from expert consultants, JJRC coordinates the peer review process for OJJDP grant applications and grantee reports, conducts research and prepares reports on current juvenile justice issues, plans meetings and conferences, and provides administrative support to various Federal councils and boards.

This contract will be implemented by the current contractor, Aspen Systems Corporation. No additional applications will be solicited in FY 1999.

Program of Research on the Causes and Correlates of Delinquency

Since 1986, this longitudinal study has addressed a variety of issues related to juvenile violence and delinquency and has produced a massive amount of information on the causes and correlates of delinquent behavior. Three project sites participate: Institute of Behavioral Science, University of Colorado at Boulder; Western Psychiatric Institute

and Clinic, University of Pittsburgh; and Hindelang Criminal Justice Research Center, University at Albany, State University of New York. The sites pursue both collaborative research efforts and site-specific research. Results from the study have been used extensively in the field of juvenile justice and contributed significantly to the development of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders and other program initiatives.

This program would be implemented by the current grantees. No additional applications would be solicited in FY 1999.

SafeFutures: Partnerships To Reduce Youth Violence and Delinquency

Since FY 1995, this 5-year project has awarded grants of up to \$1.4 million annually to each of six communities (Boston, Massachusetts; Contra Costa County and Imperial County, California; Fort Belknap, Montana; Seattle, Washington; and St. Louis, Missouri) to assist in implementing comprehensive community programs designed to reduce youth violence, delinquency, and victimization through the creation of a continuum of care in communities. This continuum enables communities to respond to the needs of youth at critical stages of their development through a range of prevention, intervention, treatment, and sanctions programs.

SafeFutures activities will be carried out by the current grantees. No additional applications will be solicited in FY 1999.

Study Group on Very Young Offenders

Modeled after the OJJDP Study Group on Serious and Violent Juvenile Offenders, this program is exploring what is known about the prevalence and frequency of very young (under the age of 13) offending. In FY 1998, OJJDP supplemented a grant to the University of Pittsburgh, the grantee for the Study Group on Serious and Violent Juvenile Offenders. The Study Group on Very Young Offenders is examining whether such offending predicts future delinquent or criminal careers, how these youth are handled by various systems including juvenile justice, mental health, and social services; and what methods are best for preventing very young offending and persistence of offending. This project will disseminate the results of its research to the public, policymakers, and practitioners. The Study Group is also assisting OJJDP in formulating a 5-year research agenda for OJJDP and the juvenile justice field.

This program will be implemented by the current grantee, the Western

Psychiatric Institute and Clinic at the University of Pittsburgh. No additional applications will be solicited in FY 1999.

Technical Assistance for State Legislatures

Since FY 1995, OJJDP has awarded annual grants to the National Conference of State Legislatures (NCSL) to provide relevant, timely information on comprehensive approaches in juvenile justice to aid State legislators in improving State juvenile justice systems. Nearly every State has enacted, or is considering, statutory changes affecting the juvenile justice system. This project has helped policymakers understand the ramifications and nuances of juvenile justice reform. The grant has improved capacity for the delivery of information services to legislatures. The project also supports increased communication between State legislators and State and local leaders who influence decisionmaking regarding juvenile justice issues.

The project will be implemented by the current grantee, NCSL. No additional applications will be solicited in FY 1999.

Telecommunications Assistance

OJJDP uses information technology and distance training to facilitate access to information and training for juvenile justice professionals. This cost-effective medium enhances OJJDP's ability to share with the field salient elements of the most effective or promising approaches to various juvenile justice issues. In FY 1995, OJJDP awarded a competitive grant to Eastern Kentucky University (EKU) to produce live satellite teleconferences. In FY 1998, OJJDP continued the cooperative agreement with EKU to provide program support and technical assistance for a variety of information technologies. The grantee also explored linkages with key constituent groups to advance mutual information goals and objectives. During the past year, EKU has experimented with cybercasting "live" satellite videoconferences on the Internet.

This project would be implemented by the current grantee, EKU. No additional applications would be solicited in FY 1999.

Training and Technical Assistance Coordination for the SafeFutures and Safe Kids/Safe Streets Initiatives

OJJDP proposes to continue to provide funding for long-term training and technical assistance to the SafeFutures and Safe Kids/Safe Streets initiatives. This coordination effort builds local capacity for implementing and

sustaining effective continuum of care and systems change approaches in six SafeFutures and five Safe Kids/Safe Streets sites. Project activities include assessment, identification, and coordination of the implementation of training and technical assistance needs at each of the sites and administration of cross-site training.

This program will be implemented by the current grantee, Patricia Donahue. No additional applications will be solicited in FY 1999.

Public Safety and Law Enforcement

The Chicago Project for Violence Prevention

The Chicago Project for Violence Prevention is a citywide, long-term effort to reduce violence. Objectives include reductions in homicide, physical injury, disability and emotional harm from assault, domestic abuse, sexual abuse and rape, and child abuse and neglect. A partnership among the Chicago Department of Public Health, the Illinois Council for the Prevention of Violence, the University of Illinois, and Chicago communities, the project began in 1995 with joint funding from OJJDP and the Centers for Disease Control and Prevention, the National Center for Injury Prevention and Control, the Bureau of Justice Assistance, and the U.S. Department of Housing and Urban Development. The project provides technical assistance to a variety of community-based and citywide organizations involved in violence prevention planning.

The Chicago Project for Violence Prevention would be implemented by the current grantee, the University of Illinois, School of Public Health. No additional applications would be solicited in FY 1999.

Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program

This program supports implementation of a comprehensive gang program model in five jurisdictions (Bloomington, Illinois; Mesa, Arizona; Riverside, California; San Antonio, Texas; and Tucson, Arizona). OJJDP proposes to continue funding for the program, which was competitively awarded with FY 1994 funds. The demonstration sites are implementing a model developed by the University of Chicago with OJJDP funding support. Implementation requires the mobilization of the community to address gang-related violence by making available and coordinating social interventions, providing social/academic/vocational and other

opportunities, and supporting gang suppression through law enforcement, probation, and other community control mechanisms. Each site has established a multidisciplinary team to coordinate the services that project youth receive. Included in the service mix is accountability or social control. Demonstration sites also receive training and technical assistance.

This project would be implemented by the current demonstration sites. No additional applications would be solicited in FY 1999.

Evaluation of the Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program

OJJDP proposes to continue funding this evaluation. Under a 4-year competitive cooperative agreement awarded in FY 1995, the evaluation grantee assisted the five program sites (Bloomington, Illinois; Mesa, Arizona; Riverside, California; San Antonio, Texas; and Tucson, Arizona) in establishing realistic and measurable objectives, documenting program implementation, and measuring the impact of this comprehensive approach. It has also provided interim feedback to the program implementors and trained the local site interviewers. The grantee will continue to gather and analyze data required to evaluate the program; monitor and oversee the quality control of data; provide assistance for completion of interviews; and provide ongoing feedback to project sites.

This project would be implemented by the current grantee, the University of Chicago, School of Social Service Administration. No additional applications would be solicited in FY 1999.

Evaluation of the Partnerships To Reduce Juvenile Gun Violence Program

This 3-year project began with a competitive award in FY 1997 to document and evaluate the process of community mobilization, planning, and collaboration needed to develop a comprehensive, collaborative approach to reducing gun violence involving juveniles. The Partnerships to Reduce Juvenile Gun Violence Program is being implemented in four sites: Baton Rouge and Shreveport, Louisiana; Oakland, California; and Syracuse, New York. In addition to working with these sites, the grantee will also identify additional promising or effective programs underway in communities across the country and evaluate a select number of these programs. An expanded base of youth gun violence programs offers greater opportunity to identify sites that

are employing similar strategies with different populations.

This evaluation will be implemented by the current grantee, COSMOS Corporation. No additional applications will be solicited in FY 1999.

Gang Prevention Through Targeted Outreach (Boys & Girls Clubs)

The purpose of this program is to enable local Boys & Girls Clubs to prevent youth from entering gangs, intervene with gang members in the early stages of gang involvement, and divert youth from gang activities into more constructive programs. This program reflects the ongoing pattern of cooperation between OJJDP and the Boys & Girls Clubs to reduce problems of juvenile delinquency and violence. The Boys & Girls Clubs of America provides training and technical assistance to local gang prevention and intervention sites, including some at SafeFutures and OJJDP Comprehensive Gang sites. The project includes funds for local clubs to implement the Targeted Outreach program. A national evaluation of this program is being implemented by Public/Private Ventures.

This program would be implemented by the current grantee, the Boys & Girls Clubs of America. No additional applications would be solicited in FY 1999.

National Youth Gang Center

The proliferation of gang problems over the past two decades led OJJDP to develop a comprehensive, coordinated response to America's gang problem. This response involved five program components, one of which was implementation and operation of the National Youth Gang Center (NYGC), competitively funded with FY 1994 funds, to expand and maintain the body of critical knowledge about youth gangs and effective responses to them. NYGC provides support services to the National Youth Gang Consortium, composed of Federal agencies with responsibilities in this area. NYGC is also providing technical assistance for the Rural Gang Initiative planning and assessment phase. OJJDP proposes to extend the NYGC project an additional year and provide FY 1999 funds to NYGC to conduct more indepth analyses of the National Youth Gang Survey results that track changes in gang membership and gang-related crime, produce timely information on the nature and scope of the youth gang problem, and continue its efforts to foster integration of gang-related items into other relevant surveys and national data collection efforts.

This program would be implemented by the current grantee, the Institute for Intergovernmental Research. No additional applications would be solicited in FY 1999.

Partnerships To Reduce Juvenile Gun Violence

OJJDP will award continuation grants to each of three competitively selected communities that initially received funds in FY 1997 to increase the effectiveness of existing youth gun violence reduction strategies by enhancing and coordinating prevention, intervention, and suppression strategies and strengthening linkages between community residents, law enforcement, and the juvenile justice system. Baton Rouge, Louisiana; Oakland, California; and Syracuse, New York, were selected to receive 3-year awards. The goals of this initiative are to reduce juveniles' illegal access to guns and address the reasons they carry and use guns in violent exchanges. A national evaluation currently underway will document the process of community mobilization, planning, and collaboration needed to develop a comprehensive, collaborative approach to reducing juvenile gun violence.

The Partnerships To Reduce Juvenile Gun Violence program will be carried out by the three current grantees. No additional applications will be solicited in FY 1999.

Safe Start—Child Development-Community-Oriented Policing (CD-CP)

The Child Development-Community-Oriented Policing (CD-CP) program is an innovative partnership between the New Haven Department of Police Services and the Child Study Center at the Yale University School of Medicine that addresses the psychological burdens on children, families, and the broader community of children witnessing increasing levels of community violence. In FY 1993, OJJDP provided support to document Yale—New Haven's child-centered, community-oriented policing model. The model consists of interrelated training of police officers, consultation, and teaming mental health clinicians with law enforcement in intervening onsite with children and families who witness violence. OJJDP, with first-year support from the Bureau of Justice Assistance, funded a 3-year replication of the model in Buffalo, New York; Charlotte, North Carolina; Nashville, Tennessee; and Portland, Oregon. Other OJP components joined OJJDP in funding an expansion of CD-CP in FY 1998 under the Safe Start Initiative. This expansion moved the project into

school-based activities and the area of addressing exposure to violence in domestic violence settings and will continue to do so in FY 1999.

This project would be continued by the current grantee, the Yale University School of Medicine, in collaboration with the New Haven Department of Police Services. No additional applications would be solicited in FY 1999.

Survey of School-Based Gang Prevention and Intervention Programs

Under a competitively awarded FY 1997 grant, this project is classifying and describing approaches used by schools to prevent or reduce gang involvement among students in a large sample of urban, suburban, and rural schools. In addition, a search and review of activities undertaken by States to identify and evaluate school-based gang prevention and intervention programs will be completed. Based on a review of programs identified in a national survey currently under way, a small number of promising programs will be examined more closely and described. Technical reports will describe the full range of gang prevention and intervention currently being implemented in the United States, and they will compare program types and quality of implementation across different school levels and locations. A report will highlight promising programs and practices and include guidelines on program development.

This project will be implemented by the current grantee, Gottfredson Associates, Inc. No additional applications will be solicited in FY 1999.

Training and Technical Assistance for the Rural Gang Initiative

In FY 1998, OJJDP provided supplemental funding support to the National Youth Gang Center to provide training and technical assistance to demonstration sites under OJJDP's Rural Gang Initiative. In FY 1999, training and technical assistance will continue to be provided to those sites chosen to implement the OJJDP Comprehensive Gang model. Training and technical assistance will focus on adapting the OJJDP model to rural jurisdictions and on implementing the model in a theoretically sound manner. Assistance will be delivered through onsite visits, conferences, meetings, and other means such as telephone and electronic media.

This initiative will be implemented by the current grantee, the National Youth Gang Center. No additional applications will be solicited in FY 1999.

Delinquency Prevention and Intervention

Advertising Campaign—Investing in Youth for a Safer Future

OJJDP proposes to continue its support, which began in FY 1997, of the National Crime Prevention Council's (NCPC's) ad campaign, "Investing in Youth for a Safer Future," through the transfer of funds to the Bureau of Justice Assistance (BJA) under an Intra-agency Agreement. OJJDP and BJA are working with the NCPC Media Unit to produce, disseminate, and support effective public service advertising and related media to inform the public of effective solutions to juvenile crime and to motivate young people and adults to get involved and support these solutions. The featured solutions include effective prevention programs and intervention strategies.

The program would be administered by BJA through its existing grant to NCPC. No additional applications would be solicited in FY 1999.

Assessing Alcohol, Drug, and Mental Health Disorders

This project supplements an ongoing National Institute of Mental Health study assessing alcohol, drug, and mental health disorders among juveniles in detention in Cook County, Illinois. The project has three primary goals: (1) To determine how alcohol, drug, and mental disorders develop over time among juvenile detainees; (2) to investigate whether juvenile detainees receive needed psychiatric services after their cases reach disposition (and they are back in the community or serving sentences); and (3) to study the development of dangerous and risky behaviors. The study will investigate how violence, drug use, and HIV/AIDS risk behaviors develop over time, what the antecedents of these behaviors are, and how these behaviors are interrelated. This project is unique because the sample is so large: it includes 1,833 youth from Chicago who were arrested and interviewed between 1996 and 1998. The sample is stratified by gender, race (African American, non-Hispanic white, Hispanic), age (10–13, 14–17), and severity of charge. The investigators will reinterview subjects whether they are back in the community or incarcerated. Because the sample is so large, there will be sufficient statistical power to study rarer disorders (especially comorbidity), patterns of drug use, and risky, life-threatening behaviors. OJJDP funding for this project began in FY 1998.

The project would be implemented by the current grantee, Northwestern

University. No additional applications would be solicited in FY 1999.

The CETARY Project

The goals of this project are to provide 20 second-time juvenile offenders, up to age 18, an opportunity to enroll in an intense and structured culinary arts training program; develop and maintain linkage and employment opportunities for the youth; and place a minimum of 18 youth in an accredited continuing education program and/or in the workplace with full-time employment. Funded in FY 1998, the project also provides a counseling specialist who helps the youth establish job readiness and who coordinates placement between career development and employment. General educational development (GED) classes are also offered. Continuous progress evaluations and needs assessments are implemented and enforced for each youth.

This project will be implemented by the current grantee, Johnson & Wales University. No additional applications will be solicited in FY 1999.

Communities In Schools—Federal Interagency Partnership

This program would continue an ongoing national school dropout prevention model developed and implemented by Communities In Schools, Inc. (CIS). CIS, Inc., provides training and technical assistance in adapting and implementing the CIS model in States and local communities. The model brings social, employment, mental health, drug prevention, entrepreneurship, and other resources to high-risk youth and their families in the school setting. Where they exist, CIS State organizations assume primary responsibility for local program replication during the Federal Interagency Partnership. The Partnership is based on enhancing (1) CIS, Inc., training and technical assistance capabilities; (2) its capability to introduce selected initiatives to youth at the local level; (3) its information dissemination capability; and (4) its capability to network with Federal agencies on behalf of State and local CIS programs.

The program would be implemented by the current grantee, Communities In Schools, Inc. No additional applications would be solicited in FY 1999.

Community Anti-Drug Abuse Technical Assistance Voucher Project

Through the Community Anti-Drug Abuse Technical Assistance Voucher Project, the National Center for Neighborhood Enterprise (NCNE) has

been awarding vouchers for several years to grassroots organizations to purchase technical assistance and training to effectively address the problem of juvenile drug abuse. NCNE has established a clearinghouse featuring more than 1,200 promising and proven anti-drug programs. The impact of technical assistance vouchers includes enhanced organizational visibility, larger grant awards for indigenous groups, and expanded and increased services resulting from technical assistance in program development and staff training. In addition to awarding vouchers for technical assistance, NCNE provides technical assistance to applicants regarding the development of their mission, goals, and objectives.

The Community Anti-Drug Abuse Technical Assistance Voucher Project would be implemented by the current grantee, the National Center for Neighborhood Enterprise. No additional applications would be solicited in FY 1999.

The Congress of National Black Churches: National Anti-Drug Abuse/Violence Campaign (NADVC)

The Congress of National Black Churches (CNBC) addresses the problems of juvenile drug abuse, violence, and hate crime through its national public awareness and mobilization strategy. The strategy coordinates the black religious leadership, in cooperation with the U.S. Department of Justice and other Federal agencies and organizations, to mobilize community residents to combat juvenile drug abuse and drug-related violence. The CNBC National Anti-Drug Abuse/Violence Campaign (NADVC) is a partner in the Education Development Center's (EDC) Juvenile Hate Crime Initiative. NADVC's training and technical assistance have helped sites leverage funds from public and private sources. The NADVC model for the development of prevention programs is easily tailored to the local community's assessment of its drug, delinquency, violence, and hate crime problems.

The program would be implemented by the current grantee, the Congress of National Black Churches. No additional applications would be solicited in FY 1999.

A Demonstration Afterschool Program

This project, known as Estrella, is using FY 1998 funds to design and evaluate a pilot afterschool program to reduce juvenile delinquency and increase educational retention at Gadsden Independent School District in Dona Ana County, New Mexico.

Through a curriculum of hands-on science and reading projects and supervised recreation, Estrella is providing a constructive alternative to afternoons of unsupervised free time. New Mexico Mathematics, Engineering, Science Achievement (NM MESA) will provide the academic component of the program. Middle school students will mentor elementary students in a highly interactive learning environment developed through the use of the nationally recognized MESA curriculums. The New Mexico Police Athletic League (PAL) will provide a sports component to round out the program. The University of New Mexico's Institute for Social Research will evaluate the program using both qualitative and quantitative methods.

This project will be implemented by the current grantee, the University of New Mexico—Regents. No additional applications will be solicited in FY 1999.

Diffusion of State Risk- and Protective-Factor Focused Prevention

Since FY 1997, OJJDP has provided funds to the National Institute on Drug Abuse, through an interagency agreement, to support this 5-year study of the public health approach to prevention, focusing on risk and protective factors for substance abuse at the State and community levels. The study will identify factors that influence the adoption of the public health approach and assess the association between this approach and the levels of risk and protective factors and substance abuse among adolescents. The study will also examine State substance abuse data gathered from 1988 through 2001 and use interviews to describe the process of implementing the epidemiological risk- and protective-factor approach in Colorado, Kansas, Illinois, Maine, Oregon, Utah, and Washington.

This project will be implemented by the current grantee, the Social Development Research Group at the University of Washington School of Social Work. No additional applications will be solicited in FY 1999.

Hate Crime

Under an OJJDP grant competitively awarded in FY 1993, the Education Development Center (EDC) developed *Healing the Hate*, a multipurpose curriculum for hate crime prevention in middle schools and other classroom settings. OJJDP expanded this grant to allow EDC to provide training and technical assistance to youth, educators, juvenile justice and law enforcement professionals, and representatives of

local public/private community agencies and organizations and the faith community. In FY 1999, EDC would expand its training and technical assistance to new sites and further disseminate the products through the education and juvenile justice networks. In addition, EDC would provide onsite, short-term technical assistance to practitioners interested in hate crime issues. EDC would also assist State juvenile justice agencies to formulate hate crime prevention components for their juvenile delinquency prevention plans.

The project would be implemented, in partnership with the U.S. Department of Education, by the current grantee, Education Development Center. No additional applications would be solicited in FY 1999.

Home Visitation

This program integrates prenatal and early childhood nurse home visitation into five sites of Operation Weed and Seed (Clearwater, Florida; Fresno, Los Angeles, and Oakland, CA; and Oklahoma City, OK) and one SafeFutures site (St. Louis, MO). Operation Weed and Seed is a national initiative to make communities safe through law enforcement activities and to rebuild the community through social services and economic redevelopment in crime-ridden communities across the country. SafeFutures is an initiative to assist in implementing comprehensive community programs designed to reduce youth violence, delinquency, and victimization through the creation of a continuum of care in communities. The nurse home visitation program addresses three major goals: (1) preparation of clear, comprehensive home visitation materials to facilitate dissemination and accurate replication of the program; (2) dissemination of the program to the six sites and provision of technical support and training to local staff; and (3) an evaluation of the program with a significant research focus on the dissemination process.

The project would be implemented by the current grantee, the University of Colorado Health Services Center. No additional applications would be solicited in FY 1999.

Multisite, Multimodal Treatment Study of Children With Attention Deficit/Hyperactivity Disorder

OJJDP will transfer funds under an interagency agreement with the National Institute of Mental Health (NIMH) to support this research, funded principally by NIMH. In 1992, NIMH began a study of the long-term efficacy of stimulant medication and intensive

behavioral and educational treatment for children with attention deficit/hyperactivity disorder (ADHD). Although ADHD is classified as a childhood disorder, up to 70 percent of afflicted children continue to experience symptoms in adolescence and adulthood. The study will continue through 2000 and will follow the original families and a comparison group. OJJDP's participation, which began in FY 1998, will allow for investigation into the subjects' delinquent behavior and contact with the legal system, including arrests and court referrals.

OJJDP will support this study through an interagency agreement with NIMH. No additional applications will be solicited in FY 1999.

National Center for Conflict Resolution Education

Funded under a competitively awarded cooperative agreement in FY 1995, the National Center for Conflict Resolution Education works to integrate conflict resolution education (CRE) programming into all levels of education in schools, juvenile facilities, and youth-serving organizations. In FY 1998, OJJDP entered into a partnership with the U.S. Department of Education to expand and enhance this project. The grantee provides training and technical assistance through onsite training and consultation for teams from schools, communities, and juvenile facilities; by providing resource materials including the guide to implementing conflict resolution programs; and by partnering with State-level agencies to establish State training institutes and otherwise build local capacity to implement successful CRE programs for youth. The Center also facilitates peer-to-peer mentoring.

The project would be implemented by the current grantee, Illinois Institute for Dispute Resolution. No additional applications would be solicited in FY 1999.

No Hope in Dope Project

The goal of the No Hope in Dope (NHID) program, funded under an FY 1998 OJJDP grant, is to prevent, reduce, or delay the onset of substance abuse in elementary, intermediate, and high school students in Hawaii's Windward Oahu area. This goal will be accomplished by using a community-based approach that makes antidrug norms clear, salient, and useful as guides for behavior. The program uses opinion-leading student athletes, the No Hope in Dope seminar, and the Officer Honolulu Safety Program. NHID is a program of Project Hope in coordination

with the Kahuku and Castle School complexes of the Windward Oahu School District and the Honolulu Police Department. The program will be evaluated with a pre/post intervention design that will allow conclusions about the effectiveness of this community- and school-level intervention.

This project will be implemented by the current grantee, Operation Hope. No additional applications will be solicited in FY 1999.

Partnerships for Preventing Violence

This program would continue for a second year in a multiple funding agreement among OJJDP, the U.S. Department of Education, and the U.S. Department of Health and Human Services to provide support for distance training using satellite video conferencing as the medium. The project, funded under a 3-year grant, consists of a series of six live, interactive satellite training broadcasts that focus on violence prevention programs and strategies that have proven promising or effective. The training is targeted to school and community violence prevention personnel, health care providers, law enforcement officials, and other service providers representing a variety of community-based and youth-serving organizations. To date, two events have been held; the third telecast is scheduled for April 16, 1999.

The project would be implemented by the current grantee, Harvard University School of Public Health. No additional applications would be solicited in FY 1999.

Proactive Youth Program

The New Mexico Police Activities League (PAL) is implementing a statewide prevention project consisting of recreational, educational, and cultural activities for families and youth between the ages of 5 and 18, but focused on at-risk youth and their families. The Albuquerque PAL will provide the initial model for the organization and implementation of the New Mexico PAL project. Local PAL programs will be initiated in at least 12 other New Mexico communities. Schedules for core programs will be coordinated, and a system of regional and statewide activities will be established. The overall goal of the project, which received an FY 1998 OJJDP grant, is to reduce negative behavior and promote healthy behavioral patterns among New Mexico's youth by providing activities that unite youth with law enforcement officers, educators, and other positive adult role models.

This project will be implemented by the current grantee, the University of New Mexico—Regents. No additional applications will be solicited in FY 1999.

Risk Reduction Via Promotion of Youth Development

This program, also known as Early Alliance, is a large-scale prevention study involving hundreds of African-American and Caucasian children in several elementary schools in lower socioeconomic neighborhoods of Columbia, SC. This project is designed to promote coping-competence and reduce risk for conduct problems, aggression, substance use, delinquency and violence, and school failure beginning in early elementary school. Children are being followed longitudinally throughout the 5 years of the project. The program is funded through an interagency agreement with the National Institute of Mental Health (NIMH). NIMH's grantee is the University of South Carolina. Funding has also been provided by the Centers for Disease Control and Prevention and the National Institute on Drug Abuse.

Funded initially in FY 1997 through a fund transfer to NIMH under an interagency agreement, support will be continued for an additional 3 years. No additional applications will be solicited in FY 1999.

The SAGE Project and PRIDE Center Afterschool Program

The SAGE project is continuing development of a project to prevent and reduce juvenile delinquency and school violence. The long-term goal of the PRIDE Center is to provide a comprehensive, year-round juvenile delinquency prevention and intervention program that supports the youth objectives of the SAGE Secondary School and the youth and community objectives of the SAGE project as a whole. Under an FY 1998 grant, the project is providing the collaborating organizations with the means to (1) expand and enhance adult-mentored and supervised, structured educational opportunities to court-involved and high-risk youth; (2) involve additional city agencies and community-based organizations through the PRIDE Center; and (3) continue to evaluate and disseminate findings on the project's success for replication in other urban areas.

This project will be implemented by the current grantee, Springfield College. No additional applications will be solicited in FY 1999.

Strengthening Services for Chemically Involved Children, Youth, and Families

The U.S. Departments of Justice and Health and Human Services and the Office of National Drug Control Policy (ONDCP) provide services to children affected by parental substance use or abuse. OJJDP administers this training and technical assistance program, which began in FY 1998, with funds transferred to OJJDP by the U.S. Department of Health and Human Services' Substance Abuse and Mental Health Services Administration, through a cooperative agreement to the Child Welfare League of America (CWLA), a nonprofit organization. CWLA is assisting child welfare personnel to provide appropriate intervention services for children impacted by the abuse of alcohol and other drugs (AOD) and for their caregivers. CWLA is producing a comprehensive assessment tool and decisionmaking guidelines for child welfare workers and supervisors. CWLA training and technical assistance will help to develop innovative and effective approaches to meeting the needs of children in the child welfare system whose parents are AOD abusers. ONDCP is considering transferring funds for this project in FY 1999.

This jointly funded project would be implemented by CWLA. No additional applications would be solicited in FY 1999.

Technical Assistance to Title V

The purpose of this continuation contract is to provide OJJDP with training support for the Title V program. This training, which the grantee has developed and refined over several years, will continue to introduce key community leaders to data-based risk- and resiliency-focused delinquency prevention strategies and provide localities with the knowledge and skills to assess risk factors and resources in their communities. This contract will also increase the capacity of States to conduct data-based risk and resiliency focused training without Federal support.

This project will be implemented by the current grantee, Developmental Research and Programs, Inc. No additional applications will be solicited in FY 1999.

Training and Technical Assistance for Family Strengthening Programs

OJJDP proposes to continue funding a cooperative agreement competitively awarded in FY 1995 to the University of Utah's Department of Health Education (DHE) to provide training and technical assistance to communities interested in

establishing or enhancing a continuum of family strengthening efforts. After a literature review, the grantee convened regional training conferences to showcase selected exemplary and promising family strengthening programs; developed a process for sites to receive followup training on specific program models; conducted program-specific workshops; produced and then updated user and training-of-trainers guides; and distributed videos of several family strengthening workshops. The grantee's technical assistance delivery system and the overall impact of the project are being assessed. In FY 1999, this program would expand its surveys and research on effective practices and assist in replication of identified programs.

This program would be implemented by the current grantee, the University of Utah's DHE. No additional applications would be solicited in FY 1999.

Strengthening the Juvenile Justice System

Balanced and Restorative Justice Project (BARJ)

OJJDP has supported development and improvement of juvenile restitution programs since 1977. The purpose of the BARJ project is to enhance the development of restitution programs as part of systemwide juvenile justice improvement using balanced approach concepts and restorative justice principles. The BARJ program model was first described in a 1994 OJJDP Program Summary, *Balanced and Restorative Justice*, which became a reference source for BARJ training. The BARJ project has provided intensive training, technical assistance, and guideline materials to three selected sites (Allegheny County, Pennsylvania; Dakota County, Minnesota; and West Palm Beach County, Florida), which have been implementing major systemic change in accordance with the BARJ model. The BARJ Project also offers technical assistance and training to other jurisdictions nationwide.

This project would be implemented by the current grantee, Florida Atlantic University. No additional applications would be solicited in FY 1999.

Blueprints for Violence Prevention: Training and Technical Assistance

OJJDP will continue to fund an FY 1998 cooperative agreement with the Center for the Study and Prevention of Violence (CSPV) at the University of Colorado. Under this grant, CSPV provides intensive training and technical assistance to community organizations and units of local

government to replicate 10 "Blueprint" model programs. These are programs that CSPV identified as meeting a rigorous scientific standard of proven program effectiveness and replicability for reducing adolescent violence, crime, and substance abuse. CSPV will help communities determine the feasibility of program development and also monitor and assist in the replication of these Blueprint programs for 2 years.

This project will be implemented by the current grantee, CSPV. No additional applications will be solicited in FY 1999.

Building Blocks for Youth

The goals of this initiative are to protect minority youth in the justice system and promote rational and effective juvenile justice policies. These goals are accomplished by the following components: (1) Conducting research on issues such as the impact on minority youth of new State laws and the implications of privatization of juvenile facilities by profit-making corporations; (2) undertaking an analysis of decisionmaking in the justice system and development of model decisionmaking criteria that reduce or eliminate disproportionate impact of the system on minority youth; (3) building a constituency for change at the national, State, and local levels; and (4) developing communication strategies for dissemination of information. A fifth component, direct advocacy for minority youth is funded by other sources, not by OJJDP. Funding by OJJDP began in FY 1998.

This initiative will be implemented by the current grantee, the Youth Law Center. No additional applications will be solicited in FY 1999.

Census of Juveniles in Residential Placement

In FY 1998, the Census of Juveniles in Residential Placement (CJRP) replaced the biennial Census of Public and Private Juvenile Detention, Correctional, and Shelter Facilities, known as the Children in Custody census. CJRP collects detailed information on the population of juveniles who are in juvenile residential placement facilities as a result of contact with the juvenile justice system. New methods developed for CJRP are expected to produce more accurate, timely, and useful data on the juvenile population, with less reporting burden for facility respondents.

This program would be implemented through an existing interagency agreement with the Bureau of the Census. No additional applications would be solicited in FY 1999.

Circles of Care Program

In FY 1998, OJJDP and the Center for Mental Health Services (CMHS) entered into an interagency agreement to have OJJDP provide support to the Circles of Care Program, which CMHS had developed. OJJDP transferred funds to CMHS to support the funding of an additional site. The Circles of Care Program is designed to facilitate the planning and implementation of a continuum of care for Native American youth at risk of mental health, substance abuse, and delinquency problems. CMHS funded nine sites in FY 1998 and will continue these sites in FY 1999, based on availability of funds and project performance. OJJDP will transfer additional funds in FY 1999 to continue support for this program.

The currently funded projects will continue in FY 1999. No new applications will be solicited in FY 1999.

Development of the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders

OJJDP has been providing support for development of its Comprehensive Strategy for several years. This project will complete ongoing strategic planning efforts in six States and expand to two additional States, Oregon and Wisconsin. In each State, up to six jurisdictions have been identified to receive Comprehensive Strategy planning training and technical assistance. OJJDP internal technical assistance capacity will be developed during this time to further assist States through training and technical assistance, including States planning on developing a Comprehensive Strategy planning framework. Implementation support will be developed and provided to the six States and one pilot site scheduled to complete Comprehensive Strategy plans in 1999. Further development and updates of the *Guide for Implementing the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders* will also occur in FY 1999.

This project will be implemented by the current grantees, the National Council on Crime and Delinquency and Developmental Research and Programs, Inc. No additional applications will be solicited in FY 1999.

Evaluation of the Intensive Community-Based Aftercare Program

In FY 1995, OJJDP competitively awarded a grant to the National Council on Crime and Delinquency (NCCD) to perform a process evaluation and design an outcome evaluation of the Intensive

Community-Based Aftercare Demonstration and Technical Assistance program. In FY 1998, the project was supplemented and extended for an additional 2 years to continue the outcome evaluation. The outcome evaluation seeks to determine the extent of the differences between the Intensive Community-Based Aftercare Program (IAP) participants and the "regular" parolees, the supervision and services provided to both groups, and the cost-effectiveness of IAP. Data collection is being accomplished using several methods including searches of State police records to measure recidivism and analyzing State agency and juvenile court data to estimate costs.

This project will be implemented by the current grantee, NCCD. No additional applications will be solicited in FY 1999.

Evaluation of Teen Courts

This project, which OJJDP began in FY 1997, is measuring the effect of handling young, relatively nonserious law violators in teen courts rather than in traditional juvenile or family courts. Researchers are collecting data on several dimensions of program outcomes, including postprogram recidivism, changes in teens' perceptions of justice, and their ability to make more mature judgments. Analyses of these dimensions will be used to compare youth handled in at least three separate teen court programs with those processed by the traditional juvenile justice system. In addition, the study will conduct a process evaluation of the teen court programs, exploring legal, administrative, and case processing factors that affect the ability of the programs to achieve their goals.

This evaluation will be implemented by the current grantee, the Urban Institute. No additional applications will be solicited in FY 1999.

Gender-Specific Programming for Female Juvenile Offenders

Using a FY 1995 competitive OJJDP grant, Cook County has built a network of support for juvenile female offenders. The county has developed gender-specific needs, strengths, and risk assessments for juvenile female offenders; provided training in implementing gender-appropriate programming; and designed a pilot program with a community-based continuum of care and a unique case management system. In FY 1998, OJJDP provided continuation funding to the Cook County gender-specific program and began providing funding to the State of Connecticut to develop specialized programs for girls from

prevention to detention. Connecticut's objectives and activities also include planning, implementing, and demonstrating a program that will develop a hierarchy of sanctions with specific emphasis on females up to age 18 and incorporating systemic changes. The primary emphasis of the Connecticut program is on the needs of pregnant girls and those who are mothers. Technical assistance is being provided to both Cook County and the State of Connecticut by Greene, Peters, and Associates, OJJDP's gender-specific training and technical assistance grantee.

The project will be implemented, in partnership with the Bureau of Justice Assistance, by the current grantee, the Cook County Bureau of Public Safety and Judicial Coordination, and by the State of Connecticut's Office of Alternative Sanctions. No additional applications will be solicited in FY 1999.

Intensive Community-Based Aftercare Demonstration and Technical Assistance Program

This initiative supports implementation, training and technical assistance, and an independent evaluation of an intensive community-based aftercare model in three competitively selected demonstration sites. The overall goal of the intensive aftercare model is to identify and assist high-risk juvenile offenders to make a gradual transition from secure confinement back into the community. The Intensive Aftercare Program (IAP) model has three distinct, yet overlapping segments: (1) Prerelease and preparatory planning activities during incarceration; (2) structured transitioning involving the participation of institutional and aftercare staffs both prior to and following community reentry; and (3) long-term reintegrative activities to ensure adequate service delivery and the required level of social control. The grantee provides continuing training and technical assistance to administrators, managers, and line staff at the intensive community-based aftercare sites. The grant was competitively awarded in FY 1995.

The IAP project would be implemented by the current grantee, the Johns Hopkins University. No additional applications would be solicited in FY 1999.

Intensive Treatment Family Programs (ITF)

The purpose of KidsPeace is to provide individualized foster care (IFC) to seriously disturbed children and

adolescents in a therapeutic family setting. KidsPeace proposes to expand their program to additional sites, with the assistance of OJJDP's funding, first provided in FY 1997. KidsPeace has established four sites (Union, New Jersey; Orchard Park and Albany, New York; and Muncie, Indiana). A fifth site is currently under development.

This project will be implemented by the current grantee, KidsPeace National Centers for Kids in Crisis of North America. No additional applications will be solicited in FY 1999.

The Juvenile Justice Prosecution Unit

Under an FY 1996 OJJDP grant, the American Prosecutors Research Institute, the research and technical assistance affiliate of the National District Attorneys Association, established the Juvenile Justice Prosecution Unit (JJPU) to promote prosecutor training. JJPU holds workshops on juvenile-related policy, leadership, and management for chief prosecutors and juvenile unit chiefs and also provides prosecutors with background information on juvenile justice issues, programs, training, and technical assistance. The project solicits planning and other advisory input from prosecutors familiar with juvenile justice system and prosecutor needs. It draws on the expertise of working groups of elected or appointed prosecutors and juvenile unit chiefs to support project staff in providing technical assistance, juvenile justice-related research, program information, and training to practitioners nationwide.

This project would be implemented by the current grantee, the American Prosecutors Research Institute. No additional applications would be solicited in FY 1999.

Juvenile Residential Facility Census

As part of a long-term relationship with the Bureau of the Census, OJJDP proposes to continue to fund the development and testing of a new census of juvenile residential facilities. This census would focus on those facilities that are authorized to hold juveniles based on contact with the juvenile justice system. From interviews with facility administrators and staff at 20 locations, project staff have produced a detailed report discussing how best to capture information on education, mental health and substance abuse treatment, health services, conditions of custody, staffing, and facility capacity. Project staff have also drafted and tested a questionnaire based on the interview results. The questionnaire will be finalized in 1999. The first full

implementation will take place in October 2000.

This project would be conducted through an interagency agreement with the Bureau of the Census, Governments Division and Statistical Research Division. No new applications would be solicited in FY 1999.

Juvenile Sex Offender Typology

In FY 1998, OJJDP competitively funded two feasibility studies in an effort to develop a juvenile sex offender typology. One study is being conducted by the University of Illinois-Springfield, the other by Health Related Research. Efforts to effectively address issues related to juvenile sex offenders' dangerousness, the most appropriate level of placement restrictiveness, the potential for rehabilitation, assessment requirements, and intervention needs have been hampered by the lack of an empirically based system for classifying this heterogeneous population into meaningful subgroups. These initial studies will determine specific methodologies best suited to generate an empirically validated typology of the juvenile sex offender. Based on the results of these initial studies, OJJDP will determine the feasibility of developing a juvenile sex offender typology or the desirability of continuing in the specific directions suggested by Phase I of this work.

An expansion of this work would be implemented by one or both of the current grantees, University of Illinois-Springfield and Health Related Research. No additional applications would be solicited in FY 1999.

Juvenile Transfers to Criminal Court Studies

This study explores the impact of the 1994 changes in Florida law by contrasting transfer policies and practices and sentences received for 1993 with those for 1995. Postsentencing recidivism of the 400 transferred youth in 1993 will be examined. Detailed data on the role of the offender in the commission of the offense; the involvement of gangs, guns, and drugs; and prior offense histories will be used in analyzing sentencing outcomes and postrelease offending. Predictions will be made on rearrest and time to failure in multivariate models with variables reflecting characteristics of offenses, offenders, and offense histories. Cross-group recidivism analyses are planned to compare the recidivism of youth transferred to adult court with that of those retained in the juvenile justice system.

The project would be implemented by the current grantee, the Florida Juvenile

Justice Accountability Board. No additional applications would be solicited in FY 1999.

Linking Balanced and Restorative Justice and Adolescents (LIBRA)

The goal of this program is to continue development of a comprehensive, integrated, balanced and restorative system of justice for youthful offenders that holds them accountable to victims, protects the community, builds offender skills and competencies, and offers opportunities for positive connections to community members. OJJDP funding for the program began in FY 1998. To hold youth accountable, the project will establish a network of accountability boards. The project will also pilot Community Justice Centers, which will demonstrate that the community is the core of the justice process and recognizes youth as a vital part of the community.

This program will be implemented by the current grantee, the Vermont Department of Social and Rehabilitation Services. No additional applications will be solicited in FY 1999.

National Academy of Sciences Study of Juvenile Justice

In FY 1997, OJJDP initiated support for a 2-year study by the National Academy of Sciences to draw upon expertise from relevant disciplines in the scientific and practitioner communities to develop a synthesis of the relevant scientific research and expert opinion regarding the prevention, treatment, and control of juvenile crime. Following an examination of empirical and clinical research relevant to the origin of and pathways to youth violence and justice system treatment of juveniles, the review will be supplemented by two workshops and site visits to selected programs. These activities will help to identify (1) the elements of settings, with a particular emphasis on family and school, that inhibit or contribute to the ways in which serious delinquency develops; (2) juvenile and criminal justice system concerns regarding the shifts in youth crime prevention and control policies; and (3) juvenile violence and policing practices in public and federally assisted housing. The study will identify key elements of current efforts and policies that appear to either contribute to or inhibit the development of effective interventions and control mechanisms for youth violence and delinquency. The project is also being supported by the U.S. Department of Education.

This program will be implemented by the current grantee, the National Academy of Sciences. No additional applications will be solicited in FY 1999.

National Juvenile Justice Program Directory

In FY 1995, OJJDP initiated development of this program directory. To conduct its statistical functions, OJJDP must maintain a current and accurate list of all entities surveyed either in the various censuses or in surveys. This list currently entails a complete list of juvenile residential facilities and a list of juvenile probation offices. As OJJDP expands its statistical work, it will need to expand this listing as well. The list needs to contain contact information for the various facilities or agencies and appropriate information for sampling.

This project would be conducted through an interagency agreement with the Bureau of the Census, Governments Division. No additional applications would be solicited in FY 1999.

The National Longitudinal Survey of Youth 97

OJJDP proposes to continue supporting the second round of data collection under the National Longitudinal Survey of Youth 97 (NLSY97) through an interagency agreement with the Bureau of Labor Statistics (BLS). OJJDP funding began in FY 1997. NLSY97 is studying school-to-work transition in a nationally representative sample of 8,700 youth ages 12 to 16 years old. BLS is also collecting data on the involvement of these youth in antisocial and other behavior that may affect their transition to productive work careers. This survey provides information about risk and protective factors related to the initiation, persistence, and desistance of delinquent and criminal behavior and provides an opportunity to determine the generalizability of findings from OJJDP's Program of Research on the Causes and Correlates of Delinquency and other longitudinal studies across a nationally representative population of youth.

The program would be implemented by the BLS under an interagency agreement. No additional applications would be solicited in FY 1999.

Performance-Based Standards for Juvenile Correction and Detention Facilities

This program, which began with a competitive OJJDP cooperative agreement awarded in FY 1995, is in its third phase. Goals for this phase are to

(1) introduce concepts, tools, and principles of performance-based standards and accountability in 25 to 30 facilities nationwide; (2) complete the collection of baseline measures of performance on 22 standards covering six critical areas of facility operations in all participating facilities using uniform data collection instruments and protocols; (3) assist the management team in developing appropriate strategies to respond to problem areas based on the performance data; (4) facilitate access to OJJDP/OJP resources for training and technical assistance and related support services needed to carry out the facility improvement plan; (5) monitor results of interventions through reassessment and analysis of progress; and (6) refine the measurement processes and build database performance benchmarks.

This program will be implemented by the current grantee, Council of Juvenile Correctional Administrators. No additional applications will be solicited in FY 1999.

Quantum Opportunities Program (QOP) Evaluation

OJJDP proposes to continue funding an impact evaluation of the Quantum Opportunities Program (QOP) through an interagency fund transfer to the U.S. Department of Labor (DOL). OJJDP began funding this evaluation in FY 1997. QOP, designed by the Ford Foundation and Opportunities Industrialization Centers of America, is a career enrichment program using a model providing basic education, personal and cultural development, community service, and mentoring. The evaluation will determine whether QOP reduces the likelihood that inner-city youth at educational risk will enter the criminal or juvenile justice system. Outcomes to be examined include academic achievement in high school; misbehavior in school; self-esteem and sense of control over one's life; educational and career goals; and personal decisions such as teenage parenthood, substance abuse, and criminal activity. Data on criminal activity are being collected from individual student interviews.

This program would be implemented through an interagency agreement with the U.S. Department of Labor. No additional applications would be solicited in FY 1999.

Survey of Juvenile Probation

OJJDP proposes to continue to support development of a survey of juvenile probation offices in an effort to determine the number of juveniles under some form of community

supervision. The exact nature and extent of this survey depends greatly on the results of various development efforts OJJDP is pursuing currently. This project would fund the Bureau of the Census to establish standard procedures for the implementation of this survey. Funding for this project began in FY 1996.

This project would be conducted through an interagency agreement with the Bureau of the Census, Governments Division. No new applications would be solicited in FY 1999.

Technical Assistance to Juvenile Corrections and Detention (The James E. Gould Memorial Program)

The primary purpose of this program is to provide specialized technical assistance to juvenile corrections, detention, and community residential service providers. The grantee also plans and convenes an annual Juvenile Corrections and Detention Forum, which provides an opportunity for juvenile corrections and detention leaders to meet and discuss issues, problems, and solutions to emerging corrections and detention problems. The grantee also provides workshops and conferences on current and emerging national issues in the field of juvenile corrections and detention, conducts surveys, and offers technical assistance through document dissemination. OJJDP proposes to continue this program, which began in FY 1995 under competitive grant for a 3-year period.

The project would be implemented by the current grantee, the American Correctional Association. No additional applications would be solicited in FY 1999.

Technical Assistance to Native Americans

The goal of this program is to build the capacity of the Gila River Indian community, the Pueblo of Jemez, the Navajo Nation, the Red Band of Chippewa Indians, other Native American and Alaskan Native communities, and urban jurisdictions where tribal people reside to address Indian youth crime, delinquency, violence and victimization. Project funds support the development of comprehensive, systemwide responses to these problems in tribal communities. In FY 1999, OJJDP will continue to provide technical assistance to Native Americans to enable tribes to further develop alternatives to detention, specifically targeting juveniles who are first or nonviolent offenders; design guidebooks for the tribal peacemaking process to be used in addressing juvenile delinquency issues that are

reported to Family District Court systems; design and implement juvenile justice needs assessments to assist tribes in responding to juvenile detention and alternatives to detention needs; develop protocols to implement State Children's Code provisions that affect Native American Children; and establish sustainable, comprehensive community-based planning processes that focus on the needs of tribal youth. In FY 1997, American Indian Development Associates (AIDA) was selected to implement OJJDP's national technical assistance program for tribes and urban tribal programs across the country for a 3-year period.

This program will be implemented by the current grantee, the American Indian Development Associates. No additional applications will be solicited in FY 1999.

TeenSupreme Career Preparation Initiative

In FY 1998, OJJDP, in partnership with the U.S. Department of Labor's (DOL's) Employment and Training Administration, provided funding support to the Boys & Girls Clubs of America for demonstration and evaluation of the TeenSupreme Career Preparation Initiative. This initiative provides employment training and other related services to at-risk youth through local Boys & Girls Clubs with TeenSupreme Centers. In FY 1998, DOL funds supported program staffing in the existing 41 TeenSupreme Centers, provided intensive training and technical assistance to each site, and provided administrative and staffing support to this program from the national office. OJJDP funds supported the evaluation component of the program, which is to be implemented by an independent evaluator.

This jointly funded Department of Labor and OJJDP initiative will be implemented by the Boys & Girls Clubs of America. No additional applications will be solicited in FY 1999.

Training and Technical Assistance for National Innovations To Reduce Disproportionate Minority Confinement (The Deborah Ann Wysinger Memorial Program)

In FY 1997, recognizing the continued need to improve the ability of States and local jurisdictions to address disproportionate confinement of minority juveniles, OJJDP awarded a competitive grant to Cygnus Corporation

to implement a 3-year national training, technical assistance, and information dissemination initiative. Since the 1988 reauthorization of the JJD Act, State Formula Grants program plans have addressed disproportionate minority confinement (DMC). OJJDP's DMC funding efforts have included a competitive award to demonstrate model approaches in five State pilot sites (Arizona, Florida, Iowa, North Carolina, and Oregon) and an award to a national contractor to provide technical assistance to the pilot sites and other States. In addition, OJJDP made funds available to nonpilot States that had completed data gathering and assessment to use for innovative DMC projects.

This project will be implemented by the current grantee, Cygnus Corporation, Inc. No additional applications will be solicited in FY 1999.

Training and Technical Support for State and Local Jurisdictional Teams To Focus on Juvenile Corrections and Detention Overcrowding

Through systemic change within local juvenile detention systems or statewide juvenile corrections systems, this project seeks to reduce overcrowding in facilities where juveniles are held. Competitively awarded in FY 1994 to the National Juvenile Detention Association (NJDA), in partnership with the San Francisco Youth Law Center, the project provides training and technical assistance materials for use by State and local jurisdictional teams. NJDA selected three jurisdictions (Camden, New Jersey; Oklahoma City, Oklahoma; and the Rhode Island Juvenile Corrections System) for onsite development, implementation, and testing of procedures to reduce crowding. Of the original sites selected, Oklahoma City has completed its work. The grantee is exploring additional sites for comprehensive training and technical assistance in FY 1999.

This project will be implemented by the current grantee, the National Juvenile Detention Association. No additional applications will be solicited in FY 1999.

Child Abuse and Neglect and Dependency Courts

National Evaluation of the Safe Kids/Safe Streets Program

OJJDP will continue funding the grant competitively awarded in FY 1997 to

Westat, Inc., Rockville, MD, for a national evaluation to document and explicate the process of community mobilization, planning, and collaboration that has taken place before and during the Safe Kids/Safe Streets awards; to inform program staff of performance levels on an ongoing basis; and to determine the effectiveness of the implemented programs in achieving the goals of the Safe Kids/Safe Streets program. The initial 18-month grant began a process evaluation and determined the feasibility of an impact evaluation.

This evaluation will be implemented by the current grantee, Westat, Inc. No additional applications will be solicited in FY 1999.

Safe Kids/Safe Streets: Community Approaches to Reducing Abuse and Neglect and Preventing Delinquency

This 5½ year demonstration program is designed to foster coordinated community responses to child abuse and neglect. Several components of the Office of Justice Programs joined in FY 1996 to develop this coordinated program response to break the cycle of early childhood victimization and later criminality and to reduce child abuse and neglect and resulting child fatalities. OJJDP awarded competitive cooperative agreements in FY 1997 to five sites (National Children's Advocacy Center, Huntsville, Alabama; the Sault Ste. Marie Tribe of Chippewa Indians, Sault Ste. Marie, Michigan; Heart of America United Way, Kansas City, Missouri; Toledo Hospital Children's Medical Center, Toledo, Ohio; and the Community Network for Children, Youth and Family Services, Chittenden County, Vermont). Funds were provided by OJJDP, the Executive Office for Weed and Seed, and the Violence Against Women Grants Office.

In FY 1999, continuation awards will be made to each of the current demonstration sites. No additional applications will be solicited in FY 1999.

Dated: January 27, 1999.

Shay Bilchik,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 99-2326 Filed 1-29-99; 8:45 am]

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3 (1997 Compilation and Parts 100 and 101)	(869-034-00002-9)	19.00	¹ Jan. 1, 1998
4	(869-034-00003-7)	7.00	⁵ Jan. 1, 1998
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1200-End, 6 (6 Reserved)	(869-034-00006-1)	39.00	Jan. 1, 1998
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1910.999)	(869-034-00104-1)	44.00	July 1, 1998	7		6.00	³ July 1, 1984
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end)	(869-034-00105-0)	27.00	July 1, 1998	9		13.00	³ July 1, 1984
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200-299	(869-034-00128-9)	21.00	July 1, 1998	500-End	(869-034-00179-3)	16.00	Oct. 1, 1998
300-End	(869-034-00129-7)	35.00	July 1, 1998	47 Parts:			
37	(869-034-00130-1)	27.00	July 1, 1998	0-19	(869-034-00180-7)	36.00	Oct. 1, 1998
38 Parts:				*20-39	(869-034-00181-5)	27.00	Oct. 1, 1998
0-17	(869-034-00131-9)	34.00	July 1, 1998	40-69	(869-032-00181-2)	23.00	Oct. 1, 1997
18-End	(869-034-00132-7)	39.00	July 1, 1998	70-79	(869-032-00182-1)	33.00	Oct. 1, 1997
39	(869-034-00133-5)	23.00	July 1, 1998	80-End	(869-032-00183-9)	43.00	Oct. 1, 1997
40 Parts:				48 Chapters:			
1-49	(869-034-00134-3)	31.00	July 1, 1998	1 (Parts 1-51)	(869-034-00185-8)	51.00	Oct. 1, 1998
50-51	(869-034-00135-1)	24.00	July 1, 1998	1 (Parts 52-99)	(869-034-00186-6)	29.00	Oct. 1, 1998
52 (52.01-52.1018)	(869-034-00136-0)	28.00	July 1, 1998	2 (Parts 201-299)	(869-032-00186-3)	35.00	Oct. 1, 1997
52 (52.1019-End)	(869-034-00137-8)	33.00	July 1, 1998	*3-6	(869-034-00188-2)	29.00	Oct. 1, 1998
53-59	(869-034-00138-6)	17.00	July 1, 1998	*7-14	(869-034-00189-1)	32.00	Oct. 1, 1998
60	(869-034-00139-4)	53.00	July 1, 1998	15-28	(869-032-00189-8)	33.00	Oct. 1, 1997
61-62	(869-034-00140-8)	18.00	July 1, 1998	29-End	(869-032-00190-1)	25.00	Oct. 1, 1997
63	(869-034-00141-6)	57.00	July 1, 1998	49 Parts:			
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72-80	(869-034-00143-2)	36.00	July 1, 1998	100-185	(869-032-00192-8)	50.00	Oct. 1, 1997
81-85	(869-034-00144-1)	31.00	July 1, 1998	186-199	(869-032-00193-6)	11.00	Oct. 1, 1997
86	(869-034-00144-9)	53.00	July 1, 1998	200-399	(869-032-00194-4)	43.00	Oct. 1, 1997
87-135	(869-034-00146-7)	47.00	July 1, 1998	400-999	(869-032-00195-2)	49.00	Oct. 1, 1997
136-149	(869-034-00147-5)	37.00	July 1, 1998	1000-1199	(869-034-00197-1)	17.00	Oct. 1, 1998
150-189	(869-034-00148-3)	34.00	July 1, 1998	1200-End	(869-032-00197-9)	14.00	Oct. 1, 1997
190-259	(869-034-00149-1)	23.00	July 1, 1998	50 Parts:			
260-265	(869-034-00150-9)	29.00	July 1, 1998	1-199	(869-032-00198-7)	41.00	Oct. 1, 1997
				*200-599	(869-034-00200-5)	22.00	Oct. 1, 1998
				600-End	(869-032-00200-2)	29.00	Oct. 1, 1997

Title	Stock Number	Price	Revision Date
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¹ Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

² The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

³ The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

⁴ No amendments to this volume were promulgated during the period July 1, 1997 to June 30, 1998. The volume issued July 1, 1997, should be retained.

⁵ No amendments to this volume were promulgated during the period January 1, 1997 through December 31, 1997. The CFR volume issued as of January 1, 1997 should be retained.

⁶ No amendments to this volume were promulgated during the period April 1, 1997, through April 1, 1998. The CFR volume issued as of April 1, 1997, should be retained.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—FEBRUARY 1999

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these

dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
February 1	February 16	March 3	March 18	April 2	May 3
February 2	February 17	March 4	March 19	April 5	May 3
February 3	February 18	March 5	March 22	April 5	May 4
February 4	February 19	March 8	March 22	April 5	May 5
February 5	February 22	March 8	March 22	April 6	May 6
February 8	February 23	March 10	March 25	April 9	May 10
February 9	February 24	March 11	March 26	April 12	May 10
February 10	February 25	March 12	March 29	April 12	May 11
February 11	February 26	March 15	March 29	April 12	May 12
February 12	March 1	March 15	March 29	April 13	May 13
February 16	March 3	March 18	April 2	April 19	May 17
February 17	March 4	March 19	April 5	April 19	May 18
February 18	March 5	March 22	April 5	April 19	May 19
February 19	March 8	March 22	April 5	April 20	May 20
February 22	March 9	March 24	April 8	April 23	May 24
February 23	March 10	March 25	April 9	April 26	May 24
February 24	March 11	March 26	April 12	April 26	May 26
February 25	March 12	March 29	April 12	April 26	May 26
February 26	March 15	March 29	April 12	April 27	May 27