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Federal Register

Thursday
February 25, 1999

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WASHINGTON, DC

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

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Washington, DC
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RESERVATIONS: 202–523–4538

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Presidential Documents

Title 3—

The President

Presidential Determination No. 99–14 of February 16, 1999

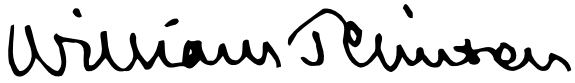
Presidential Certification To Waive Prohibition on Assistance to the Republic of Montenegro

Memorandum for the Secretary of Defense

Pursuant to the authority vested in me by the laws of the United States, including section 1511 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160), I hereby certify to the Congress that I have determined that the waiver of the application of the prohibition in section 1511(b) of Public Law 103–160 is necessary to achieve a negotiated settlement of the conflict in Bosnia-Herzegovina that is acceptable to the parties, to the extent that such provision applies to the furnishing of assistance to the Republic of Montenegro.

Therefore, I hereby waive the application of this provision with respect to such assistance.

You are authorized and directed to transmit a copy of this determination to the Congress and arrange for its publication in the **Federal Register.**



THE WHITE HOUSE,
Washington, February 16, 1999.

[FR Doc. 99–4842
Filed 2–24–99; 8:45 am]
Billing code 5000–04–M

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

Agricultural Marketing Service

7 CFR Part 930

[Docket No. FV99–930–1 IFR]

Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin; Additional Option for Handler Diversion and Receipt of Diversion Credits

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule adds a method of handler diversion to the regulations under the Federal tart cherry marketing order (order). Handlers handling cherries harvested in a regulated district may fulfill any restricted percentage requirement when volume regulation is in effect by diverting cherries or cherry products rather than by placing them in an inventory reserve. Under this additional method, handlers will be allowed to obtain diversion certificates when marketable finished tart cherry products are accidentally destroyed at a handler's facility. In addition, this rule removes a paragraph in the regulations which limits diversion credit for exempted products to one million pounds each crop year. The order regulates the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin and is administered locally by the Cherry Industry Administrative Board (Board).

DATES: Effective February 26, 1999; comments received by April 26, 1999, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456, Fax # (202) 720–5698 or E-mail: moabdocket__clerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella or Kenneth G. Johnson, Marketing Order Administration Branch, F&V, AMS, USDA, room 2530–S, P.O. Box 96456, Washington, DC 20090–6456, telephone: (202) 720–2491. 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) 720–5698, or E-mail: Jay__N__Guerber@usda.gov. You may also view the marketing agreements and orders small business compliance guide at the following website: http://www.ams.usda.gov/fv/moab.html.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 930 (7 CFR part 930) regulating the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin, hereinafter referred to as the ''order.'' This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule adds a method of handler diversion to the regulations for the 1998–99 crop year beginning July 1, 1998 through June 30, 1999, and subsequent crop years. It also removes a provision from the regulation which limits diversion credit for exempted products to one million pounds for each crop year. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

This rule provides for an additional method of handler diversion. Handler diversion is authorized under section 930.59 of the order and, when volume regulation is in effect, handlers may fulfill restricted percentage requirements by diverting cherries or cherry products. Volume regulation is intended to help the tart cherry industry stabilize supplies and prices in years of excess production. The volume regulation provisions of the order provide for a combination of processor owned inventory reserves and grower or handler diversion of excess tart cherries. Reserve cherries may be released for sale into commercial outlets when the current crop is not expected to fill demand. Under certain circumstances, such cherries may also be used for charity, experimental purposes, nonhuman use, and other approved purposes.

Section 930.59(b) of the order provides for the designation of allowable forms of handler diversion. These include: uses exempt under section 930.62; contribution to a Board approved food bank or other approved charitable organization; acquisition of grower diversion certificates that have been issued in accordance with section 930.58; or other uses, including diversion by destruction of the cherries

at the handler's facilities as provided for in section 930.59(c).

Section 930.159 of the rules and regulations under the order allows handlers to divert cherries by destruction of the cherries at the handler's facility. At-plant diversion of cherries takes place at the handler's facility prior to placing cherries into the processing line. This is to ensure that the cherries diverted were not simply an undesirable or unmarketable product of processing. The additional method for handler diversion for finished tart cherry products accidentally destroyed should not be confused with at-plant diversion as previously mentioned.

The Board has unanimously recommended that handlers should receive diversion credit when marketable, finished cherry products are accidentally destroyed at a handler's facility. For the purposes of this rule, products will be considered destroyed if they sustain damage which renders them unacceptable in normal market channels. For example, finished, marketable cherry products could be accidentally destroyed in a fire, explosion, or freezer malfunction. In order to receive diversion credit under this added option, the Board recommended that the cherry products must: (1) Be owned by the handler at the time of accidental destruction; (2) be a marketable product at the time of processing; (3) be included in the handler's end of the year handler plan; and (4) have been assigned a Raw Product Equivalent (RPE) by the handler to determine the volume of cherries. In addition, the accidental destruction, as well as the disposition of the cherries must be verified by either a USDA inspector or Board agent or employee. Verification would be accomplished by having a USDA inspector or Board employee witness the disposition of the destroyed product. For the purpose of proper control and oversight, the measures recommended by the Board are considered to be appropriate.

At the Board meeting, there was a discussion that accidents may occur at a handler's facility after the processing of cherries has taken place. Freezers have collapsed and malfunctioned rendering the finished product unmarketable. The Board noted that one of the goals of the volume regulation program is to control the flow of marketable fruit in the marketplace. Therefore, it was the Board's recommendation that finished marketable products accidentally destroyed should be allowed diversion credit.

The Board also specifically mentioned an incident that had occurred in the industry where a handler's finished goods were accidentally destroyed. In this incident, the handler's finished cherry products were stacked in containers on pallets in a freezer. A pallet broke and the stacked containers of cherry products toppled over and damaged the interior walls of the freezer rendering it inoperable. The cherries were unmarketable due to the contamination of the product as a result of the damaged freezer. This created a financial hardship for the handler. If diversion credit is allowed in cases of accidental destruction of products, such hardship could be avoided. For example, additional tonnage to meet any restricted percentage obligation amounts would not need to be obtained.

Handlers wishing to obtain diversion certificates for finished tart cherry products which are accidentally destroyed must apply for such diversion certificates and sign an agreement that disposition of the destroyed product will take place under the supervision of USDA's Processed Products Branch inspectors or Board inspectors. This will allow the Board to verify that finished product was unmarketable and that it was disposed of.

Once diversion is satisfactorily accomplished, handlers will receive diversion certificates stating the weight of cherries diverted. Such diversion certificates can be used to satisfy handlers' restricted percentage obligations.

In addition, this rule removes a paragraph in the regulations which limits diversion credit for exempted products to one million pounds each crop year. Currently, section 930.159 provides for diversion credit of up to one million pounds of exempted products each crop year. Exempted products can include products used in new product development and new market development. Exempted products can also include those that are used to expand the use of new or different products or the sales of existing products, or those that are exported to countries other than Canada, Mexico, and Japan, provided that, such cherry products can not include juice or juice concentrate.

The supplementary information in the rulemaking which implemented section 930.159 on January 6, 1998, (63 FR 399; interim final rule) and April 22, 1998, (63 FR 20012; final rule), states that during its deliberations, the Board discussed its view that allowing diversion credit for exempt uses would provide adequate flexibility for individual handlers to ship cherries. The Board, however, recommended providing some restriction on the absolute volume of such allowable diversions until more experience with the program had been obtained, and that restriction was set at one million pounds. The one million pound limit on exempted product did not apply to those products receiving export diversions. The Board also indicated that it would be continuing to review the issue of what limits to impose on exempted products.

During the 1997 season, 2.7 million pounds of exempted products for new market and product development received diversion credit. In recent seasons, sales to export markets have risen dramatically. In 1997, export sales of 61.1 million pounds represented 379 percent of 1994 sales (16.1 million pounds). There was also an increase in export sales to those destinations exempt from volume regulation (countries other than Canada, Japan, and Mexico), rising from 12.2 million pounds to 48.7 million pounds. In view of the dynamics taking place in the cherry industry, and particularly the expanding markets and opportunities, the Board does not believe that the one million pound exemption should be continued. The removal of the one million pound limitation on exempted products should continue to encourage the further development of new markets and new tart cherry products and should have no detrimental affect. Therefore, section 930.159(f) of the regulations is removed.

The Regulatory Flexibility Act and Effects on Small Businesses

The Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities and has prepared this initial regulatory flexibility analysis. The Regulatory Flexibility Act (RFA) would allow AMS to certify that regulations do not have a significant economic impact on a substantial number of small entities. However, as a matter of general policy, AMS' Fruit and Vegetable Programs (Programs) no longer opt for such certification, but rather perform regulatory flexibility analyses for any rulemaking that would generate the interest of a significant number of small entities. Performing such analyses shifts the Programs' efforts from determining whether regulatory flexibility analyses are required to the consideration of regulatory options and economic or regulatory impacts.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

Marketing orders issued pursuant to the Act, and rules thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 40 handlers of tart cherries who are subject to regulation under the order and approximately 1,220 producers of tart cherries in the regulated area. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. The majority of handlers and producers of tart cherries may be classified as small entities.

The principal demand for tart cherries is in the form of processed products. Tart cherries are dried, frozen, canned, juiced and pureed. During the period 1993/94 through 1997/98, approximately 89 percent of the U.S. tart cherry crop, or 281.1 million pounds, was processed annually. Of the 281.1 million pounds of tart cherries processed, 63 percent was frozen, 25 percent canned and 4 percent utilized for juice. The remaining 8 percent was dried or assembled into juice packs.

The Board reported that for the 1997–98 crop year 48.7 million pounds of cherries received export diversion and 7.1 million pounds were diverted at handlers' facilities.

Section 930.59 of the tart cherry marketing order provides authority for handler diversion. Handlers handling cherries harvested in a regulated district may fulfill any restricted percentage requirement in full or in part through diversion of cherries or cherry products in a program approved by the Board, rather than placing cherries in an inventory reserve. Handlers can divert by destruction of the cherries at the handler's facility, making charitable donations and selling cherry products in exempt outlets or by redeeming grower diversion certificates obtained from growers who have diverted cherries by non-harvest, and who have been issued diversion certificates by the Board. This rule will provide for handler diversion certificates in cases where marketable, finished tart cherry products are accidentally destroyed and thus rendered unacceptable in the marketplace. Such diversion certificates can be used to satisfy the handler's restricted percentage obligation. This enables handlers to either place cherries into an inventory reserve or select the diversion option most advantageous to their particular business operation. Providing such diversion allows handlers to minimize processing and storage costs associated with meeting restricted percentage obligations. Such cost savings may also be passed on to growers and consumers. Thus, this amendment accomplishes the purposes of the order and the Act, one of which is to increase grower returns and stabilize supplies with demand.

The impact of this rule will be beneficial to growers and handlers. Allowing this additional diversion option, will prevent financial hardships if marketable finished tart cherry products are destroyed by accident. An alternative to this rule would be to not grant diversion credit for such products. However, this is not in the best interest of the industry. The marketing order's volume regulation feature was designed to increase grower returns by stabilizing supplies with demand. Providing for handler diversion is one of the mechanisms employed to accomplish this goal. Handlers may divert cherries by destroying them at their facility. Therefore, allowing diversion credit for products which are accidentally destroyed, will not be inconsistent with the overall regulatory scheme.

In addition, this rule removes a paragraph in the regulations which limits diversion credit for exempted products to one million pounds each crop year. Currently, section 930.159 provides for diversion credit of up to one million pounds of exempted products each crop year, with the exception of exported products for the 1997 season. The Board had recommended providing some restriction on the absolute volume of such allowable diversions until more experience with the program has been obtained. The one million pound limitation for exempted products did not apply to diversion credit for exports for the 1997 season. The Board continued reviewing the issue of what limits, if any, to impose on exempted products.

During the 1997 season, 2.7 million pounds of exempted products for new market and product development received diversion credit. In recent seasons, sales to export markets have risen dramatically. In 1997, export sales of 61.1 million pounds represented 379 percent of 1994 sales (16.1 million pounds). There was also an increase in export sales to those destinations exempt from volume regulation (countries other than Canada, Japan, and Mexico), rising from 12.2 million pounds to 48.7 million pounds. In view of the dynamics taking place in the cherry industry, and particularly the expanding markets and opportunities, the Board does not believe that the one million pound exemption should be continued. The removal of the one million pound limitation on exempted products should continue to encourage the further development of new markets and new tart cherry products and should have no detrimental affect. Therefore, section 930.159(f) of the regulations is removed. This action will provide more flexibility to handlers by allowing them to expand markets and new product opportunities.

In compliance with Office of Management and Budget (OMB) regulations (5 CFR Part 1320) which implement the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements imposed by this order have been previously approved by OMB and assigned OMB Number 0581–0177. Included in the OMB approval is the Handler Reserve Plan and Final Pack Report which handlers must submit to utilize at-plant and exempt use diversion and the requirements for other reports related to handler diversion and handlers meeting their restricted percentage obligations. Handlers applying for diversion credit for marketable finished tart cherry products accidentally destroyed do not have to submit an additional Handler Plan and Pack Report to the Board. Handlers can make changes in their previously submitted Handler Plan and Final Pack Report to account for product accidentally destroyed.

Accordingly, this rule will not impose any additional recordkeeping requirements on either small or large tart cherry handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors. In addition, the Department has not identified any relevant Federal rules which duplicate, overlap or conflict with this rule.

The Board's meetings were widely publicized throughout the tart cherry industry and all interested persons were invited to attend them and participate in Board deliberations. Like all Board meetings, the September 1998 meeting was a public meeting and all entities, both large and small, were able to express their views on these issues. The Board itself is composed of 18 members, of which 17 members are growers and handlers and one represents the public. Also, the Board has a number of appointed committees to review certain issues and make recommendations.

The Board considered alternatives to its recommendations. These included

not granting diversion credit and continuing to impose limitations on the volume of exempted product receiving diversion credit. However, this was determined as not being in the best interest of the industry.

This rule invites comments on granting handlers diversion credit for accidentally destroyed marketable finished tart cherry products, and removing the one million pound limitation on exempted products. Also, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

After consideration of all relevant material presented, including the Board's recommendation, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 60 days after publication in the **Federal Register** because: (1) This rule relaxes requirements by providing an additional opportunity for handlers to receive diversion credit and fulfill such handler's restricted obligation; (2) the Board needs this rule to be in place for the 1998–99 crop year beginning July 1, 1998, through June 30, 1999, so handlers can take advantage of this option; (3) the Board unanimously recommended this change at a public meeting and interested parties had an opportunity to provide input; and (4) this rule provides a 60-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

For the reasons set forth in the preamble, 7 CFR part 930 is amended as follows:

PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

1. The authority citation for 7 CFR part 930 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In section 930.159 paragraph (a) is revised, paragraph (f) is removed, paragraph (d) is redesignated as paragraph (e), paragraph (e) is redesignated as paragraph (f), and a new paragraph (d) is added to read as follows:

§ 930.159 Handler diversion.

(a) *Methods of diversion.* Handlers may divert cherries by redeeming grower diversion certificates, by destroying cherries at handlers' facilities (at-plant), by diverting cherry products accidentally destroyed at a handlers' facility, by donating cherries or cherry products to charitable organizations or by using cherries or cherry products for exempt purposes under § 930.162, including export to countries other than Canada, Mexico and Japan. Once diversion has taken place, handlers will receive diversion certificates stating the weight of cherries diverted. Diversion credit may be used to fulfill any restricted percentage requirement in full or in part. Any information of a confidential and/or proprietary nature included in this application would be held in confidence pursuant to § 930.73 of the order.

* * * * *

(d) *Diversion of finished products.* Handlers may be granted diversion credit for diverting finished tart cherry products accidentally destroyed at a handler's facility. In order to receive diversion credit under this added option the cherry products must be owned by the handler at the time of accidental destruction, be a marketable product at the time of processing, be included in the handler's end of the year handler plan, and have been assigned a Raw Product Equivalent (RPE) by the handler to determine the volume of cherries. In addition, the accidental destruction and disposition of the product must be verified by either a USDA inspector or Board agent or employee who witnesses the disposition of the accidentally destroyed product. Products will be considered destroyed if they sustain damage which renders them unacceptable in normal market channels.

* * * * *

Dated: February 19, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–4727 Filed 2–24–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASW–52]

Revision of Class E Airspace; San Angelo, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This notice confirms the effective date of a direct final rule which revises Class E airspace at San Angelo, TX.

EFFECTIVE DATE: The direct final rule published at 63 FR 70330 is effective 0901 UTC, March 25, 1999.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone: 817–222–5593.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on December 21, 1998 (63 FR 70330). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulations would become effective on March 25, 1999. No adverse comments were received, and thus this action confirms that this direct final rule will be effective on that date.

Issued in Fort Worth, TX, on February 18, 1999.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 99–4695 Filed 2–24–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASW–51]

Establishment of Class E Airspace; Austin, Horseshoe Bay, TX and Revocation of Class E Airspace, Marble Falls, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This notice confirms the effective date of a direct final rule which establishes Class E airspace at Austin, Horseshoe Bay, TX and revokes Class E Airspace at Marble Falls, TX.

EFFECTIVE DATE: The direct final rule published at 63 FR 70328 is effective 0901 UTC, March 25, 1999.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone: 817–222–5593.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on December 21, 1998 (63 FR 70328). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on March 25, 1999. No adverse comments were received, and thus this action confirms that this direct final rule will be effective on that date.

Issued in Fort Worth, TX, on February 18, 1999.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 99–4694 Filed 2–24–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASW–50]

Revision of Class E Airspace; Taylor, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This notice confirms the effective date of a direct final rule which revises Class E airspace at Taylor, TX.

EFFECTIVE DATE: The direct final rule published at 63 FR 70327 is effective 0901 UTC, March 25, 1999.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone: 817–222–5593.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on December 21, 1998 (63 FR 70327). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on March 25, 1999. No adverse comment were received, and thus this action confirms that this direct final rule will be effective on that date.

Issued in Fort Worth, TX, on February 18, 1999.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 99–4693 Filed 2–24–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASW–49]

Revision of Class E Airspace; Austin, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This notice confirms the effective date of a direct final rule which revises Class E airspace at Austin, TX.

EFFECTIVE DATE: The direct final rule published at 63 FR 70326 is effective 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone: 817–222–5593.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on December 21, 1998 (63 FR 70326). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on May 20, 1999. No adverse comments were received, and thus this action confirms that this direct final rule will be effective on that date.

Issued in Fort Worth, TX, on February 18, 1999.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 99–4692 Filed 2–24–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASW–48]

Revision of Class E Airspace; Burnet, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This notice confirms the effective date of a direct final rule which revises Class E airspace at Burnet, TX.

EFFECTIVE DATE: The direct final rule published at 63 FR 70325 is effective 0901 UTC, March 25, 1999.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region,

Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone: 817–222–5593.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on December 21, 1998 (63 FR 70325). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on March 25, 1999. No adverse comments were received, and thus this action confirms that this direct final rule will be effective on that date.

Issued in Fort Worth, TX, on February 18, 1999.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 99–4691 Filed 2–24–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASW–53]

Revision of Class E Airspace; Roswell, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This notice confirms the effective date of a direct final rule which revises Class E airspace at Roswell, NM.

EFFECTIVE DATE: The direct final rule published at 63 FR 70331 is effective 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone: 817–222–5593.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on December 21, 1998 (63 FR 70331). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on May 20, 1999. No adverse comments were received, and thus this action confirms that this direct final rule will be effective on that date.

Issued in Forth Worth, TX, on February 18, 1999.

Albert L. Viselli,

Acting Manager, Air Traffice Division, Southwest Region.

[FR Doc. 99–4696 Filed 2–24–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR PART 117

[CGD08–99–008]

RIN 2115–AE47

Drawbridge Operation Regulation; Lower Grand River, LA

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is temporarily changing the regulation for the operation of the draw of the S997 pontoon bridge across the Lower Grand River, mile 41.5 (Landside Route), at Pigeon, Iberville Parish, Louisiana. From March 8, 1999 through August 31, 1999, the draw will open on signal from 8 a.m. until 5 p.m. Monday through Thursday. At all other times the bridge will open on signal if at least four hours notice is given. This temporary rule is issued to allow for the replacement of the bridge tender's house.

DATES: This temporary rule is effective from 8 a.m. on March 8, 1999 through 5 p.m. on August 31, 1999,

ADDRESSES: All documents referred to in this notice will be available for inspection and copying at room 1313 in the Hale Boggs Federal Building at Commander (ob), Eighth Coast Guard District, Hale Boggs Federal Building, room 1313, 501 Magazine Street, New Orleans, Louisiana 70130–3396 between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Bridge Administration Branch of the Eighth Coast Guard District maintains the public docket for this temporary rule.

FOR FURTHER INFORMATION CONTACT: David Frank, Bridge Administration Branch, Commander (ob), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana, 70130–3396, telephone number 504–589–2965.

SUPPLEMENTARY INFORMATION: The Louisiana Department of Transportation and Development (LDOTD) requested a change to the operating schedule of the S 997 pontoon bridge across the Lower Grand River, mile 41.5 (Landside Route), in Pigeon, Iberville Parish, Louisiana. LDOTD requested that from March 8, 1999 until August 31, 1999, the bridge open on signal from 8 a.m. until 5 p.m., Monday through Thursday. At all other times, the bridge will open on signal if at least four hours notice is given. The reason for the closure is to allow for the replacement of the bridge tender's house.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking for this rule has not been published, and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would be impractical and would result in unnecessary delays to required maintenance work. Further, alternate routes are available and few mariners will be affected by the proposed changes due to the fact that most transits through the bridge occur during the hours of 8 a.m. through 5 p.m. when the bridge will be open on signal.

Background and Purpose

The bridge will open on signal during the hours of 8 a.m. until 5 p.m. Monday through Friday. At all other times, the Louisiana Department of Transportation and Development has requested that the bridge open on signal with at least four hours notice. The nature of the work is to replace the bridge tenders' house. Outside of the normal work hours when the contractor will be on site, there will be no building available for the operator to use. A review of the summary of navigational openings for the bridge indicates that an average of 26 openings per month occur at the bridge. The bridge owner stated that no more than three openings occur in a day and the majority of the openings occur during the normal work hours of 8 a.m. until 5 p.m. Navigation on the waterway consists primarily of fishing vessels, some tugs with tows and occasional recreational craft. Presently, the draw opens on signal for the passage of vessels except that from 10 p.m. until 6 a.m., the draw shall open on signal if at least four hours notice is given. During the advanced notice period, the draw shall open on less than four hours notice for an emergency and shall open on demand should a temporary surge in

waterway traffic occur. Alternate routes are available to vessel operators wishing to enter the area. This work is essential for the continued safe operation of the bridge.

Regulatory Evaluation

This temporary rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not significant under the Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This is because the majority of vessels using the waterway will not be affected by the closure. The majority of the fishing vessels are able to transit under the bridge, which has a vertical clearance of 40 feet above mean high water in the closed-to-navigation position. Additionally, larger vessels will be able to off load their cargoes downstream of the bridge site.

Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Coast Guard must consider whether this temporary rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. The majority of commercial vessel transit through the bridge during the hours of 8 a.m. through 5 p.m. when the bridge will open on signal. Thus, the Coast Guard expects there to be no significant economic impact on these vessels. The Coast Guard is not aware of any other waterway users who would suffer economic hardship from being unable to transit the waterway during these closure periods. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this temporary rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

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

Environment

The Coast Guard considered the environmental impact of this temporary rule and concluded that this action is categorically excluded from further environmental documentation under current Coast Guard CE # 32(e), in accordance with Section 2.B.2 and Figure 2–1 of the National Environmental Protection Act Implementing Procedures, COMDTINST M16475.1C. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 117

Bridges.

Temporary Regulations

For the reasons set out in the preamble, the Coast Guard is temporarily amending Part 117 Title 33 Code of Federal Regulations 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; and 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Effective 8 a.m. on March 8, 1999 through 5 p.m. on August 31, 1999, is § 117.478 paragraph (c) is suspended and a new paragraph (d) is added to read as follows:

§ 117.478 Lower Grand River.

* * * * *

(d) The draw of the S997 bridge, mile 41.5 (Landside Route) at Pigeon, shall open on signal from 8 a.m. until 5 p.m. Monday through Friday. At all other times, the bridge shall open on signal if at least four hours notice is given.

Dated: February 12, 1999.

Paul J. Pluta

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

[FR Doc. 99–4721 Filed 2–24–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD09–98–055]

RIN–2115–AE47

Drawbridge Operation Regulations; River Rouge (Short Cut Canal), Michigan

AGENCY: Coast Guard, DOT.

ACTION: Direct final rule.

SUMMARY: By this direct final rule, the Coast Guard is removing the operating regulations governing the Fort Street and Jefferson Avenue bridges, miles 1.1 and 2.2, respectively, over River Rouge in Detroit, Michigan. The regulations were found to be obsolete after construction of the Interstate 75 overpass over River Rouge. The removal of restrictive opening times during rush-hour periods will improve service to commercial vessel traffic on River Rouge.

DATES: This rule is effective on May 26, 1999, unless the Coast Guard receives written adverse comments or written notice of intent to submit adverse comments on or before April 26, 1999. If adverse comment is received, the Coast Guard will publish a timely withdrawal of this rule in the **Federal Register**.

ADDRESSES: Comments may be mailed or delivered to: Commander (obr) Ninth Coast Guard District, 1240 East Ninth Street, Room 2019, Cleveland, OH 44199–2060 between 6:30 a.m. and 3:00 p.m., Monday through Friday, except federal holidays. The telephone number is (216) 902–6084.

The District Commander maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Scot M. Striffler, Project Manager, at (216) 902–6084.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting data, views or arguments for or against this rule. Persons submitting comments should include their name, address, identify this rulemaking (CGD09–98–055), the specific section of this rule to which each comment applies, and the reason(s) for each comment. The Coast Guard requests that all comments and

attachments be submitted in an 8½″x11″ unbound format suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

Regulatory Information

The Coast Guard is publishing a direct final rule, the procedures of which are outlined in 33 CFR 1.05–55, because no adverse comments are anticipated. If no adverse comments or any written notice of intent to submit adverse comment are received within the specified comment period, this rule will become effective as stated in the **DATES** section. In that case, approximately 30 days prior to the effective date, the Coast Guard will publish a notice in the **Federal Register** stating that no adverse comment was received and announcing confirmation that this rule will become effective as scheduled. However, if the Coast Guard receives written adverse comment or written notice of intent to submit adverse comment, the Coast Guard will publish in the final rule section of the **Federal Register** a timely withdrawal of this rule. If the Coast Guard decides to proceed with a rulemaking, a separate Notice of Proposed Rulemaking (NPRM) will be published and a new opportunity for comment provided.

A comment is considered ''adverse'' if the comment explains why this rule would be inappropriate, including a challenge to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change.

Background and Purpose

This action was initiated by the International Ship Masters' Association (ISMA), an organization representing American and Canadian mariners operating on the Great Lakes, particularly those who regularly transit River Rouge. ISMA members claimed that vehicular traffic had sharply declined on Fort Street and Jefferson Avenue bridges following construction of the I–75 overpass, and that restricted bridge openings during morning and afternoon rush-hour periods were no longer necessary.

The District Commander queried local Coast Guard commands, and the owners of the bridges, for comments and observations concerning traffic patterns and impact on navigation in River Rouge. Local Coast Guard units supported ISMA's observations of conditions at the two bridges. The owners of Fort Street bridge (Michigan Department of Transportation), and Jefferson Avenue bridge (Wayne County, MI), were contacted and asked to provide comments concerning the status of vehicular traffic on the bridge and the need for restricted bridge openings. Both owners validated the reduction in vehicular traffic over these highways and stated no objections to the Coast Guard rescinding the current operating regulations.

This action would remove the regulation in 33 CFR 117.645 in its entirety.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

This determination is made based on the fact that bridge openings were originally reduced to accommodate vehicular traffic crossing River Rouge. The Interstate overpass has effectively eliminated rush-hour congestion at this location, and subsequently restores the need for the bridge to open on signal for marine traffic.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

This rule will not affect the volume of vehicular traffic in the area, nor is it expected to adversely impact any industries located on River Rouge. The companies queried by the Coast Guard expressed no objections to this action.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. Any comments submitted in response to this finding will be evaluated under the criteria described earlier in the preamble for comments.

Collection of Information

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

Federalism

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2.1, paragraph 32(e) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For reasons set out in the preamble, 33 CFR part 117 is amended 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.

§ 117.645 [Removed]

2. Remove § 117.645.

Dated: February 8, 1999.

J.F. McGowan,

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

[FR Doc. 99–4722 Filed 2–24–99; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DC017–2013a; FRL–6234–6]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Reasonably Available Control Technology for Oxides of Nitrogen

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is conditionally approving a State Implementation Plan (SIP) revision submitted by the District of Columbia. This revision requires major sources of nitrogen oxides (NO_X) in the District to implement reasonably available control technology (RACT). The effect of this action is to approve the SIP revision on the condition that deficiencies in the regulation are corrected and that the revised regulation is resubmitted within one year of this approval.

DATES: This direct final rule is effective on April 26, 1999 without further notice, unless EPA receives adverse comment by March 29, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the District of Columbia Department of Public Health, Air Quality Division, 2100 Martin Luther King Ave, S.E., Washington, DC 20020.

FOR FURTHER INFORMATION CONTACT: Kristeen Gaffney at (215) 814–2092, or by e-mail at gaffney.kristeen@epamail.epa.gov. While information may be requested via e-mail, any comments must be submitted in writing to the EPA Region III address above.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to section 182 of the Clean Air Act (CAA), ozone nonattainment areas classified as serious or above are required to implement RACT for all major sources of NO_X by no later than May 31, 1995. The major source size is determined by the classification of the nonattainment area and whether it is located in the Ozone Transport Region which was established by the CAA. Since the District of Columbia is classified as a serious ozone nonattainment area, major stationary sources are defined as those that emit or have the potential to emit 50 tons or more of NO_X per year.

On January 13, 1994, the District of Columbia Department of Consumer and Regulatory Affairs (DCRA) submitted revisions to its State Implementation Plan (SIP) that included a new regulation, Section 805, of the District of Columbia Municipal Regulation (DCMR) No. 20, Subtitle I entitled ''Reasonably Available Control Technology for Major Stationary Sources of Oxides of Nitrogen.'' Section 805 requires sources which emit or have the potential to emit 50 tons or more of NO_X per year to comply with RACT requirements by May 31, 1995. This action is being taken under section 110 of the Clean Air Act.

II. Summary of the SIP Revision and EPA Evaluation

General Provisions

Subtitle I of 20 DCMR was amended to add a new section 805 that applies to all sources in the District having the potential to emit (PTE) 50 tons or more of NO_X per year. Exemptions from the requirements of section 805 are provided for sources that have a permit from the District limiting the potential to emit to less than 50 tons per year (TPY) and for emergency stand-by engines operated less than 500 hours per 12 month period. Section 805 contains presumptive emission limits for certain source categories of NO_X including: stationary combustion turbines, fossil-fuel-fired steam-generating units and asphalt concrete plants. Individual sources in these categories with presumptive RACT emission limits may also apply for alternative emission limits which reflect the application of source-specific RACT. Approval of alternative determinations are subject to approval by the District and EPA. All other major source categories of NO_X must have a RACT emission limit approved by the District and EPA in an emissions control plan. All major sources of NO_X must submit an emissions control plan to the District that describes the source and demonstrates how RACT will be implemented. The District will conduct a public hearing for those sources that apply for alternative emission limits and those not subject to specific source category emission limits before final approval is issued.

EPA Evaluation

EPA defines potential to emit in 40 CFR 51.165(a)(1)(iii) as the maximum capacity of a source to emit unless federally enforceable restrictions are imposed that would limit emissions. Subsection 805.1(c) in the District's rule exempts sources with a District permit limiting PTE to less than 50 TPY, but does not also require sources to have federally enforceable restrictions on PTE. In order to correct this deficiency, the District must revise section 805.1(c) to allow exemptions only where there are federally-enforceable restrictions that limit NO_X emissions to less than 50 TPY.

Source Category RACT

RACT for specific categories of NO_X sources is established in subsections 805.4, 805.5, 805.6 and 805.8. of DCMR No. 20, Subtitle 1 as listed in the table below, entitled ''RACT for NO_X Sources'':

RACT for NO_X Sources

Source category	Fuel type	Rated heat capacity	NO_X emission limit	Averaging period
Simple Cycle Turbine	Oil	≥100 MMBTU/hr *	75 ppmvd @ 15% O_2 **	Not specified.
Combustion Turbine (not otherwise classified).	Not specified	≥100 MMBTU/hr	Exempt if operated less than 500 hours/year.	N/A.
Utility Boiler (not otherwise specified).	Fossil Fuel	≥20 MMBTU/hr <50 MMBTU/hr	No limit, RACT is defined as an annual combustion adjustment.	Not specified.
Utility Boiler—tangential or face-fired.	Oil	≥50 MMBTU/hr <100 MMBTU/hr	0.3 lbs./MMBTU	Calendar day.
Utility Boiler—dry bottom: —tangential—face-fired—stoker	Coal	≥100 MMBTU/hr	0.43 lbs./MMBTU	Calendar day.
Utility Boiler—tangential or face-fired.	Oil	≥100 MMBTU/hr	0.25 lbs./MMBTU	Calendar day.

RACT for NO_X Sources—Continued

Source category	Fuel type	Rated heat capacity	NO_X emission limit	Averaging period
Utility Boiler—tangential or face-fired.	Oil and Natural Gas combined.	≥100 MMBTU/hr	0.25 lbs./MMBTU	Calendar day.
Utility Boiler—tangential	Natural Gas only	≥100 MMBTU/hr	0.20 lbs./MMBTU	Calendar day.
Asphalt Concrete Plants	N/A	N/A	150 ppmvd NO_X and 500 ppmvd CO @ 7% O_2.	Not specified.

*Million British Thermal Units (MMBTU) per hour (hr).
**Parts per million dry volume (ppmvd).

Subsection 805.4 establishes emission limits for stationary combustion turbines. Subsection 805.4(b)(1) exempts combustion turbines operated less than 500 hours per calendar year from meeting the NO_X RACT limits in subsection 805.4. Subsection 805.5 establishes presumptive RACT for fossil-fueled steam-generating units. Utility boilers with a rated heat capacity of 100 MMBTU or greater must demonstrate compliance with the applicable emission limit using approved continuous emissions monitoring (CEM) technology pursuant to 40 CFR part 60, appendix B. All other utility boilers and turbines subject to these source category requirements may choose between CEM technology or alternative test methods approved by the District and EPA.

Subsection 805.5(a) requires any fossil fuel fired steam-generating units with an energy input capacity greater than or equal to 20 MMBTU per hour must adjust the combustion process on a yearly basis to minimize the total emissions representing the sum of the NO_X emission rate and one-half the carbon moxide (CO) emission rate (subsection 805.8). Although sources subject to this requirement must record the results of the combustion process adjustments, this requirement will not result in an additional emission limitation. The combustion process adjustment is the only RACT requirement for sources with a rated heat capacity equal to or greater than 20 MMBTU but less than 50 MMBTU.

Subsection 805.6 specifies an emission limit of 150 ppmvd NO_X and 500 ppmvd CO corrected to 7% oxygen for asphalt concrete plants that emit 50 TPY or greater of NO_X. Sources may choose between CEM or test methods approved by the District and EPA to demonstrate compliance. However, if a source chooses to use testing, subsection 805.6(d)(2) requires that testing be conducted at least annually and demonstrate that the NO_X emission rate does not exceed the rate specified in subsection 805.5.

EPA Evaluation

The emission limits for large utility boilers are supported by data gathered by the State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO). EPA has published RACT-level NO_X emission rates for selected types of utility boilers that are to be applied to groups of boilers on an areawide, BTU-weighted basis (November 25, 1992, 57 FR 55620, 55625). The District's emission limits for individual source units are very similar to EPA's areawide averages and should provide the same level of control recommended by EPA. The emission limit for oil-fired combustion turbines is supported by data gathered for existing turbines by the Northeast States for Coordinated Air Use Management (NESCAUM) and is acceptable. EPA has not issued guidance on reducing NO_X emissions from asphalt concrete plants. EPA finds that the emission limit established for asphalt concrete plants in section 805.6 of the District's rule constitutes an acceptable level of RACT.

The District has defined RACT for combustion sources equal to or greater than 20 MMBTU/hour but less than 50 MMBTU/hour as combustion adjustments to minimize the result of the following equation: NO_X emission rate + (0.5 * CO emission rate).

The technical basis for this equation is unsupported, particularly with respect to the partial addition of the CO emission rate. In some cases, a NO_X emission limit for a combustion source is accompanied by a CO limit due to the potential for increased CO emissions from NO_X controls. However, EPA cannot determine a logical basis for considering the sum of the two emissions rates in the manner required by the District. The District's definition of RACT also fails to require any measurable degree of control that would demonstrate that the technology used is technically or economically appropriate. With respect to the method used to regulate combustion adjustments, the District must replace the equation with a technically justifiable method to regulate combustion adjustments. In order to correct the deficiency in RACT requirements for sources with a heat input of 20 MMBTU or greater but less than 50 MMBTU the District must either (1) revise the regulation to provide specific numeric emission limitations or appropriate and enforceable operating and maintenance requirements for these sources or (2) revise the regulation to require specific emission limitation(s) for each source or provide an adequate justification that it is unreasonable for the source to comply with RACT considering technological and economic feasibility.

Source-specific (Generic) RACT Provisions

All other NO_X sources having the potential to emit 50 tons of NO_X per year not listed on the table above must submit an emission control plan to the District specifying a RACT emission limit that will be met by May 31, 1995 (subsection 805.7). The emission control plan must be approved by the District and approved as a SIP revision by EPA. Sources must demonstrate compliance using either CEM technology or testing approved by the District and EPA. Testing, if chosen, must be conducted annually and must demonstrate that the NO_X emission rate does not exceed the emission rate specified in subsection 805.5 for the applicable fossil fuel steam-generating unit. Daily records must be maintained and kept for three years to demonstrate compliance with the applicable emission rate. Emissions that are subject to any other regulation in subtitle I of 20 DCMR or those that have emission limits approved in a federally enforceable regulation as meeting Best Available Control Technology (BACT) or Lowest Achievable Emission Rate (LAER) since January 1, 1990, are exempt from these requirements.

EPA Evaluation

Under subsection 805.7, major NO_X sources that are not otherwise covered by presumptive emission limits under section 805 are subject to a process to develop and submit individual source

RACT determinations for the District's approval and submission to EPA as SIP revisions. For all other major NO_X sources or those NO_X sources electing not to comply with presumptive emission requirements, the District provides the option of a source-specific RACT determination through subsections 805.2(b) and 805.7. Subsections 805.2(b) and 805.7 specifically allow sources to have RACT approved via the SIP revision process. EPA refers to this type of provision as a ''generic RACT'' provision in a state regulation. Specifically, ''generic RACT rules'' are defined as rules that merely require sources to identify RACT-level controls which the state will later submit through the SIP process.

EPA has long interpreted the RACT requirements of the Clean Air Act to mean that states must adopt and submit regulations that include emission limits as applicable to the subject sources. In other words, a state would not fully meet the RACT requirement until it establishes emission limits on all major sources. In a November 7, 1996 EPA policy memorandum from Sally Shaver, Director, Air Quality Strategies and Standards Division, to all Regional Air Division Directors, EPA outlined the necessary prerequisites for approving a state's (or in this case the District's) generic RACT regulation. In this memo, EPA recognized that in most instances a generic RACT rule strengthens the SIP to the extent that it sets dates by which sources must submit RACT and comply with requirements.

The November 7, 1996 memo recommends that approval should be granted to a state's generic rule as long as EPA believes that the state has submitted all the source-specific RACT determinations and has submitted a declaration that to the best of its knowledge, there are no remaining unregulated sources. Full approval, however, should not be granted until EPA has also determined through rulemaking that the source-specific determinations also meet the RACT requirements.

In a letter dated December 16, 1998, the District of Columbia Department of Health notified EPA that all major stationary sources of NO_X emissions in the District are subject to the presumptive source category RACT limits of subsections 805.4, 805.5 or 805.6. In other words, no major sources in the District have elected to apply for alternative RACT determinations through the source-specific process. Furthermore, the December 16, 1998 letter included a ''negative declaration'' pertaining to the entire universe of all other categories of major sources of NO_X. In other words, the District has no other major sources of NO_X, such as incinerators, reciprocating internal combustion engines, glass manufacturing, nitric/adipic acid production, cement manufacturing and iron/steel manufacturing plants, etc. The District has not and will not be submitting any source-specific RACT determinations because the entire of universe of major sources of NO_X in the District are subject to RACT emission limits under section 805. Because all major sources of NO_X in the District are subject to RACT, as established in section 805, EPA finds that the requirements of sections 182 and 184 of the Clean Air Act have been met regardless of the generic provisions of section 805.

Exemptions

Subsections 805.7(a)(1) and (2) allow major sources of NO_X that are subject to any other regulation in subtitle I of 20 DCMR or those that have emission limits approved in a federally enforceable regulation as meeting Best Available Control Technology (BACT) or Lowest Achievable Emission Rate (LAER) since January 1, 1990, to be excluded when calculating potential to emit to determine major source applicability. Subtitle I embodies all of the District's air pollution control regulations. Subsections 805.7(a)(1) and (2) allow all NO_X sources subject to any other regulation in subtitle I of 20 DCMR or sources receiving LAER determinations since January 1, 1990 to be declared RACT without EPA approval via the SIP process.

EPA Evaluation

These provisions are unacceptable because EPA cannot delegate the responsibility of approving RACT determinations to a state or other regulatory authority such as the District. The CAA requires that EPA make a determination as to whether a major source or source category's requirement constitutes RACT. EPA cannot agree to LAER or any other determination under subtitle I of 20 DCMR as RACT since those determinations have not been before the EPA for review. Therefore, subsections 805.7(a)(1) and (2) are inconsistent with the CAA and the District must correct this deficiency.

Monitoring, Recordkeeping and Reporting

For sources subject to the presumptive limits found in section 805, subsection 805.2(a) requires such sources to demonstrate compliance with the applicable emission limits using continuous emission monitors according to 40 CFR part 60, appendix B, or through other test methods approved by the District and EPA. For combustion turbines and utility boilers, compliance will be determined using an emission monitoring system to continuously monitor and record the NO_X emission rate and demonstrate that the NO_X emission rate does not exceed the applicable allowable NO_X emission rate (subsections 805.4(d) and 805.5(e)). For sources electing alternative emission limits as RACT, subsections 805.2(c) and 805.7(d) require all sources to maintain continuous compliance through installation of a continuous emissions monitoring system or other methods consistent with the operational parameters and limits set forth in any permit or certificate approved by the District and EPA.

EPA Evaluation

Specific recordkeeping requirements necessary to determine compliance are not contained in the regulation. Subsection 805.3(c)(4) requires all emission control plans to include recordkeeping procedures for air pollution control equipment used to reduce NO_X emissions. However, since the emission control plans for sources subject to source category limits in subsections 805.4 through 805.6 are not required to be submitted as SIP revisions they are not made federally enforceable through this regulation. EPA believes that this deficiency is resolved through Chapter 5 of subtitle I of the District's regulations. This SIP-approved Chapter requires stationary sources with emissions greater than 25 TPY to conduct testing and maintain adequate records for compliance with applicable requirements.

Sources subject to the emission limits for asphalt concrete plants that choose to perform testing, as opposed to CEM, are required to meet additional emission limits that are unidentifiable and technically infeasible. Subsection 805.6(c)(2)(C) requires testing to demonstrate that the emission rate does not exceed the applicable emission rate in subsection 805.5. The latter section establishes presumptive RACT technology and specific emission limits for fossil-fuel steam-generating units. The District's rule should require that asphalt concrete sources subject to the emission limits in subsection 805.6 to conduct testing to demonstrate compliance with emission limits for asphalt concrete sources established in 805.6.

Similarly, in subsection 805.7(d)(2)(C), sources subject to case-by-case RACT determinations that conduct testing (as opposed to

continuous emission monitoring) are required to demonstrate compliance with the NO_X emission rate specified in subsection 805.5. The reference to subsection 805.5 is incorrect in that this section establishes emission limits specifically for fossil-fuel steam-generating units. Subsection 805.7(d)(2)(C) should require affected sources to conduct testing to demonstrate compliance with the limits contained in an approved emission control plan that has been submitted and approved by EPA as a SIP revision.

EPA has evaluated section 805 of the District's regulation for consistency with the CAA and EPA regulations, and has found, as noted above, certain deficiencies which result in enforceability problems and in the regulation of a smaller population of sources than required by the CAA. A more detailed description of the District's submittal and EPA's evaluation are included in the Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

III. Final Action

EPA is conditionally approving section 805, subtitle I of 20 DCMR, the requirements to implement RACT on major sources of NO_X, submitted by the District of Columbia into the District's SIP. In a letter dated December 16, 1998, the District of Columbia Department of Health requested EPA to propose conditional approval of the District's NO_X RACT SIP and committed to correct deficiencies identified in today's rulemaking and resubmit such revisions to EPA as a SIP submittal.

EPA is conditionally approving section 805 of the District of Columbia's NO_X RACT regulation, pursuant to section 110(k)(4) of the CAA on the basis that section 805 strengthens the SIP by establishing compliance dates and RACT limits on major categories of NO_X sources. The District must correct the deficiencies enumerated below within twelve months of the effective date of today's rulemaking. If the District fails to revise and resubmit the regulation within one year of this conditional approval the conditional approval will convert to a disapproval.

1. The District must revise subsection 805.1(c) to allow exemptions only where there are federally-enforceable restrictions that limit NO_X emissions to less than 50 tons per year.

2. With respect to the method used to regulate combustion adjustments in subsection 805.8, the District must replace the equation with a technically justifiable method to regulate combustion adjustments. In order to correct the deficiency in RACT requirements for sources with a heat input of 20 MMBTU or greater but less than 50 MMBTU, the District must either (1) revise the regulation to provide specific numeric emission limits or appropriate and enforceable operating and maintenance requirements for these sources or (2) revise the regulation to require specific emission limit(s) for each source or provide an adequate justification that it is unreasonable for the source to comply with RACT considering technological and economic feasibility.

3. The District must remove the exclusions found in subsections 805.7(a)(1) and (2) for the purposes of determining potential emissions.

4. The District must correct subsection 805.7(d)(2)(C) to require affected sources to conduct testing to demonstrate compliance with the limitations contained in an approved emission control plan that has been submitted and approved by EPA as a SIP revision.

5. The District must correct subsection 805.6(c)(2)(C) to require that asphalt concrete sources subject to the emission limits in subsection 805.6 conduct testing to demonstrate compliance with emission limits for asphalt concrete sources.

If the District fails to meet the conditions of this approval action, the EPA Regional Administrator will make a finding, by letter, that the conditional approval is converted to a disapproval and the clock for imposition of sanctions under section 170(a) of the CAA will start as of the date of the letter. Subsequently, a document will be published in the **Federal Register** announcing that the SIP revision has been disapproved.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to conditionally approve the District's NO_X RACT SIP revision if adverse comments are filed. This rule will be effective on April 26, 1999 without further notice unless EPA receives adverse comment by March 29, 1999. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under E.O. 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 12875

Under E.O. 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. If EPA complies by consulting, E.O. 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, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 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.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is ''economically significant,'' as defined under E.O. 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to E.O. 13045 because it is not an economically significant regulatory action as defined

by E.O. 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If 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 and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because conditional approvals of SIP submittals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, the EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new federal requirement.

F. Unfunded Mandates

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

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

G. Submission to Congress and the Comptroller General

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

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action to conditionally approve the District of Columbia's NO_X RACT regulations in section 805, subtitle I of 20 DCMR, must be filed in the United States Court of Appeals for the appropriate circuit by April 26, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: February 12, 1999.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart J—District of Columbia

2. Section 52.473 is amended by adding paragraph (c) to read as follows:

§ 52.473 Conditional approval.

* * * * *

(c) The District of Columbia's January 13, 1994 SIP submittal of section 805 of the District of Columbia Municipal Regulation (DCMR) No. 20, Subtitle I, ''Reasonably Available Control Technology (RACT) for Major Stationary Sources of Oxides of Nitrogen (NO_X),'' is conditionally approved based on certain contingencies. The condition for approval is to revise section 805 and resubmit the section as a SIP revision

within one year of April 26, 1999, according to the following:

(1) The District must revise subsection 805.1(c) to allow exemptions only where there are federally-enforceable restrictions that limit NO_X emissions to less than 50 tons per year.

(2) With respect to the method used to regulate combustion adjustments in subsection 805.8, the District must replace the equation with a technically justifiable method to regulate combustion adjustments. In order to correct the deficiency in RACT requirements for sources with a heat input of 20 MMBTU or greater but less than 50 MMBTU the District must either revise the regulation to provide specific numeric emission limits or appropriate and enforceable operating and maintenance requirements for these sources, or revise the regulation to require specific emission limit(s) for each source or provide an adequate justification that it is unreasonable for the source to comply with RACT considering technological and economic feasibility.

(3) The District must remove the exclusions found in subsections 805.7(a)(1) and (2) for the purposes of determining potential emissions.

(4) The District must correct subsection 805.7(d)(2)(C) to require affected sources to conduct testing to demonstrate compliance with the limits contained in an approved emission control plan that has been submitted and approved by EPA as a SIP revision.

(5) The District must correct subsection 805.6(c)(2)(C) to require that asphalt concrete sources subject to the emission limits in subsection 805.6 conduct testing to demonstrate compliance with emission limits for asphalt concrete sources.

[FR Doc. 99–4434 Filed 2–24–99; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6302–1]

Wyoming: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Wyoming has applied for Final authorization of the first revision (Amendment A) to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed the Wyoming Department of Environmental Quality's application and determined that its hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. EPA is authorizing the State program revision through this immediate final action. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial action and does not anticipate adverse comments. However, in the proposed rules section of this **Federal Register**, EPA is publishing a separate document that will serve as a proposal to authorize the revision should the Agency receive adverse comment. Unless EPA receives adverse written comments during the review and comment period, the decision to authorize Wyoming's hazardous waste program revision will take effect as provided below.

DATES: This Final authorization for Wyoming will become effective without further notice on April 26, 1999, unless EPA receives adverse comment by March 29, 1999. Should EPA receive such comments, EPA will publish a timely withdrawal informing the public that the rule will not take effect.

ADDRESSES: Send written comments to Kris Shurr, 8P–HW, U.S. EPA, Region VIII, 999 18th St, Ste 500, Denver, Colorado 80202–2466, phone number: (303) 312–6139. Copies of the Wyoming program revision application and the materials which EPA used in evaluating the revision are available for inspection and copying at the following locations: EPA Region VIII, from 8:00 AM to 4:00 PM, 999 18th Street, Suite 500, Denver, Colorado 80202–2466, contact: Kris Shurr, phone number: (303) 312–6139; or Wyoming Department of Environmental Quality (WDEQ), from 8:00 AM to 5:00 PM, 122 W. 25th Street, Cheyenne, Wyoming 82002, contact: Marisa Latady, phone number: (307) 777–7541.

FOR FURTHER INFORMATION CONTACT: Kris Shurr, 8P–HW, U.S. EPA, Region VIII, 999 18th St, Ste 500, Denver, Colorado 80202–2466, phone number: (303) 312–6139.

SUPPLEMENTARY INFORMATION:

A. Background

States with Final authorization under Section 3006(b) of the RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. As the Federal hazardous waste program changes, the States must revise their programs and apply for authorization of the revisions. Revisions to State hazardous waste programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must revise their programs because of changes to EPA's regulations in Title 40 of the Code of Federal Regulations (CFR) Parts 124, 260 through 266, 268, 270, 273 and 279.

B. Wyoming

Wyoming initially received Final Authorization on October 4, 1995, effective October 18, 1995, to implement its base hazardous waste management program (60 FR 51925).

On December 4, 1997, Wyoming submitted a final complete program revision application, seeking authorization of its first program modification (Amendment A) in accordance with 40 CFR 271.21. EPA reviewed Wyoming's application and now makes an immediate final decision, subject to receipt of adverse written comment, that Wyoming's hazardous waste program modification, adopted June 17, 1996, satisfies all of the requirements necessary to qualify for Final Authorization. Consequently, EPA intends to grant Wyoming Final Authorization for the program modification contained in the revision application designated as Amendment A.

Today Wyoming is seeking authority to administer the following Federal requirements promulgated between July 1, 1994 and June 30, 1995:

Federal citation	State analog[1]
Testing & Monitoring Activities Amend I [60 FR 3089–3095, 01/13/95] (Checklist 139).	Ch 1, Sec 1(g)(i)(L).
Testing & Monitoring Activities Amend II [60 FR 17001–17004, 04/04/95] (Checklist 141).	Ch 1, Sec 1(g)(i)(L).

Federal citation	State analog[1]
Universal Waste: General Provisions [60 FR 25492–25551, 05/11/95] (Checklist 142A).	Ch 1, Sec 1(f)(i); Ch 2, Sec 1(e)(iii) & (iii)(A–F); Ch 2, Sec 1(e) (vi)(C) & (C)(I–VI); Ch 2, Sec 1(e)(vii)(C) & (C)(I–VI); Ch 2, Sec 1(i); Ch 8, Sec 1(a)(ii–vii); Ch 8, Sec 1(b)(D); Ch 10, Sec 1 (a)(vii)(K), Ch 11, Sec 1(a)(iii)(N); Ch 13, Sec 1(a)(vi); Ch 1, Sec 1(h)(iii)(B)(VIII); Ch 14, Sec 1(a)(i–ii); Ch 14, Sec 1 (f)(i) & (i)(A–B); Ch 14, Sec 1(f)(ii); Ch 14, Sec 2(a–c) & (e–k(iii)); Ch 14, Sec 3(a–c) & (e–k (iii)); Ch 14, Sec 4(a–g(ii)); Ch 14, Sec 5(a–c(ii)); Ch 14, Sec 6(a) & (a)(i–iii).
Universal Waste Rule: Specific Provisions for Batteries [60 FR 25492–25551, 05/11/95] (Checklist 142B).	Ch 1, Sec 1(f)(i); Ch 2, Sec 1(f)(i)(C)(II–V); Ch 2, Sec 1(i)(A); Ch 10, Sec 1(a)(vii)(K) (l); Ch 11, Sec 1(a)(iii)(N)(I); Ch 12, Sec 7(a)(i–ii); Ch 13, Sec 1(a)(vi)(A); Ch 1(h)(iii)(B)(VIII)(1.); Ch 14, Sec 1(a)(i)(A); Ch 14, Sec 1(b)(i)(A–B); Ch 14, Sec 1(b) (ii) & (ii)(A–C); Ch 14, Sec 1(b)(iii)(A–B); Ch 14, Sec 2(d)(i) & (i)(A–C(II)); Ch 14, Sec 2(e)(i); Ch 14, Sec 3(d)(i) & (i)(A–C(II)); Ch 14, Sec 3 (e)(i).
Universal Waste Rule: Specific Provisions for Pesticides [60 FR 25492–25551, 05/11/95] (Checklist 142C).	Ch 1, Sec 1(f)(i); Ch 2, Sec 1(i)(B); Ch 10, Sec 1(a)(vii)(K)(II); Ch 11, Sec 1(a)(iii)(N)(II); Ch 13, Sec 1(a)(vi)(II); Ch 1, Sec 1 (h)(iii)(B)(VIII)(2.); Ch 14, Sec 1 (a)(i)(B); Ch 14, Sec 1(c)(i) & (i)(A–B); Ch 14, Sec 1(c)(ii) & (ii)(A–D); Ch 14, Sec 1(c)(iii)(A–B); Ch 14, Sec 1(c)(iv) & (iv)(A–B); Ch 14, Sec 2(d)(ii) & (ii)(A–D); Ch 14, Sec 2(e)(ii) & (ii)(A–B); Ch 14, Sec 2(e)(iii) & (iii) (A–B); Ch 14, Sec 3(c)(i)(A & C); Ch 14, Sec 3(d)(ii) & (ii)(A–D); Ch 14, Sec 3(e)(ii) & (ii)(A–B); Ch 14, Sec 3(e)(iii) & (iii)(A–B).
Universal Waste Rule: Specific Provisions for Thermostats [60 FR 25492–25551, 05/11/95] (Checklist 142D).	Ch 1, Sec 1(f)(i); Ch 2, Sec 1(i)(C); Ch 10, Sec 1(a)(vii)(K)(III); Ch 11, Sec 1(a)(iii)(N)(III); Ch 13, Sec 1(a)(vi)(III); Ch 1, Sec 1(h)(iii)(B)(VIII)(3.); Ch 14, Sec 1(a)(i)(C); Ch 14, Sec 1(d)(i); Ch 14, Sec 1(d)(ii) & (ii)(A–B); Ch 14, Sec 1(d)(iii)(A–B); Ch 14, Sec 1(c)(iv) & (iv)(A–B); Ch 14, Sec 2(d)(iii) & (iii)(A–C (III)); Ch 14, Sec 2(e)(iv); Ch 14, Sec 3(d)(iii) & (iii) (A–C(III)); Ch 14, Sec 3(e)(iv).
Universal Waste Rule: Petition Provisions [60 FR 25492–25551, 05/11/95] (Checklist 142E).	Ch 1, Sec 3 (d)(i–iv); Ch 14, Sec 7(a)(i–iii); Ch 14, Sec 7(b)(i–viii).
Removal of Legally Obsolete Rules [60 FR 33912–33915, 06/29/95] (Checklist 144).	Ch 2, Sec 4(b)(i); Ch 12, Sec 8(d); Ch 12, Sec 8(e)(vi–viii); Ch 1, Sec 1(f)(i); Ch 3, Sec 2(a)(v)(D); Ch 3, Sec 2(a)(vi)(B); Ch 3, Sec 2(a)(vii)(A) & (A)(I–III).
Liquids in Landfills III [60 FR 35703–35706, 07/11/95] (Checklist 145).	Ch 10, Sec 13(o)(v)(B)(II–III); Ch 11, Sec 15(o)(vi)(B)(II–III).
RCRA Expanded Public Participation [60 FR 63417–63434, 12/11/95] (Checklist 148).	Ch 3, Sec 1(s)(i–iv) & (s)(iv)(A)–(B)(V); Ch 3, Sec 1(t)(i–ii) & (ii)(A–C); Ch 3, Sec 1(u)(i–iv); Ch 1, Sec 1(f)(i); Ch 3, Sec 2 (e)(ii)(V); Ch 4, Sec 1(a)(xiii); Ch 7, Sec 1(b)(ii)(E–K); Ch 7, Sec 1(c)(iv); Ch 7, Sec 1(g)(iv)(C–F); Ch 7, Sec 1(g)(vii).

[1] Wyoming Hazardous Waste Management Rules and Regulations adopted 06/17/96.

Wyoming's rules, promulgated pursuant to this application, contain several errors which may create confusion within the regulated community. EPA has determined that the errors associated with the issues do not pose implementation or enforcement problems because any facial ambiguity created by the errors are ultimately resolved within other portions of the regulations. Therefore, EPA will proceed to approve this application with the understanding that the State will correct these items during its next rulemaking. These errors are at the following citations within the Wyoming Hazardous Waste Management Rules and Regulations adopted June 17, 1996 : Chapter 3, Section 1(s)(i); Chapter 3, Section 1(s)(iv)(B); Chapter 3, Section 1(t)(ii)(A); Chapter 8, Section 1(b)(i)(D); Chapter 14, Section 1(f)(i)(A); Chapter 14, Section 2(d)(ii)(B); and Chapter 14, Section 7(b)(i). In addition, the requirements at Chapter 3, Section 2(a)(vii)(A)(I) are considered more stringent as the State requires additional filings by owners and operators of Treatment, Storage, and Disposal Facilities (TSDFs). Facilities that have filed Part A of a permit application and who have not yet filed Part B, must file an amended Part A application with the State Director, in addition to the Regional Administrator (the Federal requirement), within six months of the promulgation of a Federal rule issued under the authority of the Hazardous and Solid Waste Amendments of 1984 (Public Law 98–616, November 8, 1984, hereinafter ''HSWA'').

EPA shall administer any RCRA hazardous waste permits, or portions of permits, that contain conditions based on the Federal program provisions for which the State is applying for authorization and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization. EPA has previously suspended issuance of permits for other provisions on October 18, 1995, the effective date of Wyoming's Final Authorization for the RCRA base program.

Indian Reservations

This program revision does not extend to ''Indian Country'' as defined in 18 U.S.C. Section 1151, including lands within the exterior boundaries of the following Indian reservation located within the State of Wyoming: Wind River Indian Reservation.

In excluding Indian Country from the scope of this program revision, EPA is not making a determination that the State either has adequate jurisdiction or lacks jurisdiction over sources in Indian Country. Should the State of Wyoming choose to seek program authorization within Indian Country, it may do so without prejudice. Before EPA would approve the State's program for any portion of Indian Country, EPA would have to be satisfied that the State has authority, either pursuant to explicit Congressional authorization or applicable principles of Federal Indian law, to enforce its laws against existing and potential pollution sources within any geographical area for which it seeks program approval and that such approval would constitute sound administrative practice.

EPA is publishing this rule without prior proposal because we view this as a noncontroversial program revision and do not anticipate adverse comment. However in the ''Proposed Rules'' section of today's FR, we are publishing a separate document that will serve as the proposal to authorize the revision if we receive adverse comments. This authorization will become effective without further notice on April 26, 1999, unless EPA receives adverse comment by March 29, 1999. Should EPA receive such comments it will publish a timely withdrawal informing the public that the rule will not take

effect. We will address all public comments in a subsequent final action based on the proposed rule. EPA may not provide additional opportunity for comment. Any parties interested in commenting must do so at this time.

The public may submit written comments on EPA's immediate final decision until March 29, 1999. Copies of Wyoming's application for program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this document. The **ADDRESSES** section also indicates where to send written comments on this action.

C. Decision

I conclude that Wyoming's application for program revision authorization meets all of the statutory and regulatory requirements established by RCRA. Accordingly, EPA grants Wyoming Final Authorization to operate its Hazardous Waste Program as revised. Wyoming now has responsibility for permitting TSDFs within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of HSWA. Wyoming also has primary enforcement responsibilities, although EPA retains the authority to conduct inspections under section 3007 of RCRA, and to take enforcement actions, including, but not limited to, actions that may be in addition to State actions, under sections 3008, 3013 and 7003 of RCRA.

D. Codification in Part 272

EPA uses 40 CFR part 272 for codification of the decision to authorize Wyoming's program and for incorporation by reference of those provisions of its statutes and regulations that EPA will enforce under sections 3008, 3013 and 7003 of RCRA. EPA reserves amendment of 40 CFR part 272, Subpart ZZ, until a later date.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments and the private sector. Under sections 202 of UMRA, EPA generally must prepare a written statement, including cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of 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 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 section 202 and 205 requirements do not apply to today's action because this rule does not contain a Federal mandate that may result in annual expenditures of $100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local, and/or tribal governments already exist under Wyoming's program and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of State programs generally may reduce, not increase, compliance costs for the private sector. Further, as it applies to the State, this action does not impose a Federal intergovernmental mandate because UMRA does not include duties arising from participation in a voluntary Federal program.

The requirements of section 203 of UMRA also do not apply to today's action because this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may be hazardous waste generators, transporters, or own and/or operate TSDFs, they are already subject to the regulatory requirements under the existing State laws that are being authorized by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

Certification Under the Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act 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). This analysis is unnecessary, however, if the agency's administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities.

EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. Small entities such as hazardous waste generators, transporters, or entities which own and/or operate TSDFs are already subject to the regulatory requirements under the existing State laws that are now being authorized by EPA. EPA's authorization does not impose any significant additional burdens on these small entities. This is because EPA's authorization would simply result in an administrative change, rather than a change in the substantive requirements imposed on these small entities.

Pursuant to the provision at 5 U.S.C. 605(b), the Agency hereby certifies that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization approves regulatory requirements under existing State law to which small entities are already subject. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Submission to Congress and the Comptroller General

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in

today's FR. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Compliance with Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Executive Order 12866.

Compliance with Executive Order 12875

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 with 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, copies of 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.''

This rule does not create a mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. The State administers its hazardous waste program voluntarily and any duties on other State, local, or tribal governmental entities arise from that program, not from this action. Accordingly, the requirements of Executive Order 12875 do not apply to this rule.

Compliance with Executive Order 13045

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

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866 and because it does not involve decisions based on environmental health or safety risks.

Compliance with Executive Order 13084

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 with 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 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.

This rule is not subject to Executive Order 13084 because it does not significantly or uniquely affect the communities of Indian tribal governments. Wyoming is not authorized to implement the RCRA hazardous waste program in Indian Country. This action has no effect on the hazardous waste program that EPA implements in Indian Country within the State.

Paperwork Reduction Act

Under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 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 action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting, and Record keeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: February 5, 1999.

William P. Yellowtail,

Regional Administrator, Region 8.

[FR Doc. 99–3388 Filed 2–24–99; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL MARITIME COMMISSION

46 CFR Part 525

[Docket No. 98–27]

Marine Terminal Operator Schedules

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission adds new regulations for marine terminal operator schedules in accordance with the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 and the Coast Guard Authorization Act of 1998.

DATES: This rule is effective May 1, 1999.

FOR FURTHER INFORMATION CONTACT:

Austin Schmitt, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, 800 North Capitol St., NW, Room 940, Washington, DC 20573–0001, (202) 523–5796

Thomas Panebianco, General Counsel, Federal Maritime Commission, 800 North Capitol St., NW, Room 1018, Washington, DC 20573–0001, (202) 523–5740

SUPPLEMENTARY INFORMATION: On December 17, 1998, the Federal Maritime Commission (''Commission'') published a proposed rule to add new regulations, 46 CFR part 525, to implement changes made by the Ocean Shipping Reform Act of 1998 (''OSRA''), Pub. L. 105–258, 112 Stat. 1902, and the Coast Guard Authorization Act of 1998, section 424 of Pub. L. 105–383, 112 Stat. 3411, to sections 3(15), 8(f), 8(g) and 10(d) of the Shipping Act of 1984 (''1984 Act''), 46 U.S.C. app. section 1701 *et seq.*, relating to marine terminal operators (''MTO(s)''). 63 FR 69603–69606, December 17, 1998. The proposed rule sets forth regulations for the publication of terminal schedules by MTOs. Interested parties were given the opportunity to submit comments on the proposed rule. The Commission received four comments, from (1) the Port of Philadelphia Marine Terminal Association, Inc. (''PMTA''), (2) the National Association of Waterfront Employers (''NAWE''), (3) the Port of Palm Beach District and Tampa Port Authority (''Ports of Palm Beach and Tampa'') jointly, and (4) American President Lines, Ltd. and APL Co. Pte Ltd. (''APL'') jointly.

Section 525.1 Purpose and Scope

Section 515.1(c) sets forth an extensive list of definitions traditionally used by the Commission and the shipping industry in their day to day business. In particular § 525.1(c)(19) defines the term ''terminal services,'' which includes a list of terms that are themselves defined within the definition section. APL contends that the definition of ''terminal services'' itself should be revised, as well as several of the terms included within that definition because they do not ''seem to be used in the proposed rule in an operative way.'' APL at 1–2.

APL argues that the definition of ''terminal services'' should not include the terms ''wharf demurrage'' and ''wharfage,'' because they are not services but rather are charges for services. *Id.* APL further contends that the term ''dockage'' in that definition should be changed to ''berthing'' to more correctly describe the service provided for that charge. *Id.* Finally, the terms ''terminal storage'' and ''wharf demurrage'' should be revised, APL avers, because the service referred to in each is the same. *Id.*

The Commission has developed these definitions in conjunction with the shipping industry over time, and has consistently used them in other rulemakings. The definitions set forth in the rule are the traditional usage of such terms, not the operative usage as APL desires. Moreover, the rule allows MTOs to develop independent definitions of the terms included in the rule and any other term they wish to use, as long as those definitions are set forth in their terminal schedules and correlated to the definitions in the rule (see § 525.1(c)(19)). As such, the Commission declines to delete or revise any of the definitions requested by APL.

The definition of ''bulk cargo,'' § 525.1(c)(3), is revised to reflect the definition currently in use in 46 CFR part 514 and to correlate with the definition in new 46 CFR part 520, Carrier Automated Tariff Systems.

While the rule is straightforward in setting forth the regulations for the publication of terminal schedules of all marine terminal operators, in light of the comment discussed below regarding § 525.2, the Commission is adding the following sentence to the end of subsection (c)(13): ''For the purposes of this part, marine terminal operator includes conferences of marine terminal operators.''

Section 525.2 Terminal Schedules

PMTA expresses concern regarding the interpretation of part 525 and proposed 46 CFR part 535, Ocean Common Carrier and Marine Terminal Operator Agreements. It is seeking assurance that (1) part 535 applies only to agreements of ocean common carriers and MTOs, and to ocean common carrier tariffs, but not to ''[MTO] tariffs which are redesigned as 'schedules;' '' and (2) part 525 applies to all MTO schedules ''whether the [MTO] is operating under an 'agreement' . . . or not.'' PTMA at 2. PMTA correctly interprets the scope of part 525 to cover both individual MTO schedules and MTO conference schedules. Regulations relating to the agreements of marine terminal operators (other than the publication of MTO schedules) are located at part 535 (see § 525.2(c)).

Section 525.3 Availability of Marine Terminal Operator Schedules

Proposed § 525.3(a)(2) requires MTOs who elect to make their schedules available to the public to make them available in electronic form. In the proposed rule the Commission specifically sought comments on whether there was a compelling reason for or against allowing MTOs to publish their terminal schedules in paper form. The Ports of Palm Beach and Tampa agree that MTOs should be required to publish their terminal schedules electronically; however, they argue that they should be allowed to publish their terminal schedules in a parallel paper form. Ports of Palm Beach and Tampa at 2–3. The Ports of Palm Beach and Tampa contend that electronic format is not universally accepted and, in fact, ''many of the companies and individuals who use [the Ports of Palm Beach and Tampa's] tariffs are not, at present, equipped to obtain access to an electronic form of tariff.'' *Id.* at 3. Furthermore, the Ports of Palm Beach and Tampa argue that continued use of paper schedules is vital because internal staff, who do not have access to computers, need to have hard copies of the terminal schedules in order to inspect them. *Id.*

The Ports of Palm Beach and Tampa suggest that an MTO be able to make its terminal schedules available in electronic and paper form, with the electronic form being the binding form in the event that there is any discrepancy between the forms. *Id.* at 4. The Ports of Palm Beach and Tampa would add language to the rule to that effect, as well as language providing that paper copies of those schedules be available to the public upon request at a reasonable nondiscriminatory fee. *Id.*

The Commission recognizes that there may be entities in the shipping industry who are unable to access electronic terminal schedules. The rule, as written, does not prohibit an MTO from maintaining parallel terminal schedules in paper form for its own purposes or the purposes of those entities. However, it is unnecessary to incorporate the Ports of Palm Beach and Tampa's suggested language into the final rule, since electronic schedules will be the required method of publication and as such will govern in the event of a conflict with any parallel paper form of terminal schedules which an MTO may choose to maintain and disseminate.

Proposed § 525.3(f) requires all MTOs subject to Commission jurisdiction to file Form FMC–1, a form by which MTOs identify themselves and the location of their terminal schedules, whether or not they make their terminal schedules available to the public. The Commission specifically requested comments on whether Form FMC–1 should be filed in electronic format on the Commission's website or in paper format. Furthermore, the rule proposed the Commission's publication, on its website, of the location of any terminal schedule made available to the public, and comments were requested.

NAWE, the only commenter on this subsection, believes that Form FMC–1 should be filed electronically since ''virtually every terminal operator has the means to file electronically.'' NAWE at 1. NAWE suggests, however, that the Commission acknowledge receipt of an FMC–1 form by electronic notification

to the MTO. *Id.* In light of this comment and the lack of any other comments on this issue, the Commission adds language to the final rule requiring all MTOs to file Form FMC–1 electronically via the Commission's website at www.fmc.gov.[1] To the extent any MTO is unable to file pursuant to this process, it can seek a waiver from the Director, Bureau of Tariffs, Certification and Licensing (''BTCL''), to file by alternate means. The Commission, however, will not provide for electronic acknowledgment of the receipt of Form FMC–1. This Commission does not currently acknowledge receipt of other types of registration forms, and, in any event, MTOs and other filers of Form FMC–1 will be free to call BTCL, if they are concerned about the Commission's receipt of their form.

NAWE also supports the Commission's proposal to publish a list, on its website, of the location of terminal schedules that are made available to the public. *Id.* at 2. This list would not, however, be so inclusive as to consist of all MTOs who file a Form FMC–1 with the Commission, contrary to NAWE's interpretation. *See Id.* While every MTO that is subject to Commission jurisdiction must file a Form FMC–1 with the Commission, not all of those MTOs will necessarily be making their terminal schedules available to the public. Therefore, the Commission's website will contain a list of MTOs who make their terminal schedules available to the public and the location where those schedules can be found. The Commission will not maintain on its website a list of those terminal schedules that are not made available to the public nor a list of the names of those MTOs.

In this connection, NAWE argues that MTOs operating separate terminals in different states should be free to file FMC–1 forms on a terminal by terminal basis and should be free to withdraw their FMC–1 forms on the same basis. *Id.* at 2. NAWE incorrectly interprets this section of the rule as being more intrusive and less flexible than it is. Again, the rule requires only that all MTOs subject to Commission jurisdiction file a Form FMC–1 so that the Commission can meet its regulatory mandate, regardless of the number of separate terminals operated. An MTO may amend the information published at its electronic location, at its discretion, without notifying the Commission. The only time an MTO needs to notify the Commission is if it changes any information filed in its FMC–1 form, such as its home office address, its telephone number, or its decision to cease or begin making terminal schedules available to the public through an electronic location.

Finally, NAWE is concerned with the language in § 525.3(f) that requires MTOs to file a Form FMC–1 with the Commission prior to the commencement of terminal operations because ''it would appear to deny an MTO that does not choose to file an FMC–1 for a particular terminal prior to the May 1, 1999 effective date of the Rule, the ability to file an FMC–1 form after this date while conducting ongoing operations.'' *Id.* at 2. Again, all MTOs subject to Commission jurisdiction must file a Form FMC–1 with the Commission. Thus, all MTOs which will be engaged in operations subject to the Commission's jurisdiction upon the effective date of this rule must file a Form FMC–1 prior to May 1, 1999. Only those MTOs who begin operations that would be subject to Commission jurisdiction after the May 1, 1999 deadline would file a From FMC–1 after that date. The rule therefore requires that in order to properly regulate these entities the Commission must be notified of their existence before they begin operations subject to the Commission's jurisdiction, whether or not they plan to make their terminal schedules available to the public. The rule correctly reflects this requirement.

Except for the changes reflected here, proposed 46 CFR part 525 will be carried forward as a final rule.

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Chairman of the Federal Maritime Commission has certified to the Chief Counsel for Advocacy, Small Business Administration, that the rule will not have a significant impact on a substantial number of small entities. In its Notice of Proposed Rulemaking, the Commission stated its intention to certify this rulemaking because the proposed changes affect only marine terminal operators, entities the Commission has determined do not come under the programs and policies mandated by the Small Business Regulatory Enforcement Fairness Act. No comments were received in this rulemaking process touching upon the issue. Therefore, the certification is continued.

This regulatory action is not a ''major rule'' under 5 U.S.C. 804(2).

The Commission has received Office of Management and Budget approval for this collection of information pursuant to the Paperwork Reduction Act of 1995, as amended. In accordance with that act, agencies are required to display a currently valid control number. In this regard, the valid control number for this collection of information is 3072–0061.

List of Subjects in 46 CFR Part 525

Freight, Harbors, Reporting and recordkeeping requirements, Warehouses.

For the reasons discussed in the preamble, the Federal Maritime Commission adds part 525 to subchapter B, chapter IV of 46 CFR as follows:

PART 525—MARINE TERMINAL OPERATOR SCHEDULES

Sec.

525.1 Purpose and scope.
525.2 Terminal schedules.
525.3 Availability of marine terminal operator schedules.
525.4 OMB Control number assigned pursuant to the Paperwork Reduction Act.

Authority: 46 U.S.C. app. 1702, 1707, 1709, as amended by Pub. L. 105–258, 112 Stat. 1902, and Pub. L. 105–383, 112 Stat. 3411.

§ 525.1 Purpose and scope.

(a) *Purpose.* This part implements the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 and the Coast Guard Authorization Act of 1998. The form and manner requirements of this part are necessary to enable the Commission to meet its responsibilities with regard to identifying and preventing unreasonable preference or prejudice and unjust discrimination pursuant to section 10 of the Act.

(b) *Scope.* This part sets forth the regulations for the publication of terminal schedules by marine terminal operators. Information made available under this part may be used to determine marine terminal operators' compliance with shipping statutes and regulations.

(c) *Definitions.* The following definitions apply to the regulations of this part:

(1) *Act* means the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 and the Coast Guard Authorization Act of 1998.

(2) *Bulk cargo* means cargo that is loaded and carried in bulk without mark or count, in a loose unpackaged form, having homogenous characteristics. Bulk cargo loaded into intermodal equipment, except LASH or Seabee barges, is subject to mark and count and is, therefore, subject to the requirements of this part.

(3) *Checking* means the service of counting and checking cargo against appropriate documents for the account

[1] Form FMC–1 will be operational by April 1, 1999. This provides sufficient time for MTOs to comply by May 1, 1999.

of the cargo or the vessel, or other person requesting same.

(4) *Commission* means the Federal Maritime Commission.

(5) *Dockage* means the charge assessed against a vessel for berthing at a wharf, pier, bulkhead structure, or bank or for mooring to a vessel so berthed.

(6) *Effective date* means the date a schedule or an element of a schedule becomes effective. Where there are multiple publications on the same day, the last schedule or element of a schedule published with the same effective date is the one effective for that day.

(7) *Expiration date* means the last day, after which the entire schedule or a single element of the schedule, is no longer in effect.

(8) *Forest products* means forest products including, but not limited to, lumber in bundles, rough timber, ties, poles, piling, laminated beams, bundled siding, bundled plywood, bundled core stock or veneers, bundled particle or fiber boards, bundled hardwood, wood pulp in rolls, wood pulp in unitized bales, paper and paper board in rolls or in pallet or skid-sized sheets, liquid or granular by-products derived from pulping and papermaking, and engineering wood products.

(9) *Free time* means the period specified in the terminal schedule during which cargo may occupy space assigned to it on terminal property, including off-dock facilities, free of wharf demurrage or terminal storage charges immediately prior to the loading or subsequent to the discharge of such cargo on or off the vessel.

(10) *Handling* means the service of physically moving cargo between point of rest and any place on the terminal facility, other than the end of ship's tackle.

(11) *Heavy lift* means the service of providing heavy lift cranes and equipment for lifting cargo.

(12) *Loading and unloading* means the service of loading or unloading cargo between any place on the terminal and railroad cars, trucks, lighters or barges or any other means of conveyance to or from the terminal facility.

(13) *Marine terminal operator* means a person engaged in the United States or a commonwealth, territory, or possession thereof, in the business of furnishing wharfage, dock, warehouse or other terminal facilities in connection with a common carrier, or in connection with a common carrier and a water carrier subject to Subchapter II of Chapter 135 of Title 49, United States Code. A marine terminal operator includes, but is not limited to, terminals owned or operated by states and their political subdivisions; railroads who perform port terminal services not covered by their line haul rates; common carriers who perform port terminal services; and warehousemen who operate port terminal facilities. For the purposes of this part, marine terminal operator includes conferences of marine terminal operators.

(14) *Organization name* means an entity's name on file with the Commission and for which the Commission assigns an organizational number.

(15) *Person* includes individuals, firms, partnerships, associations, companies, corporations, joint stock associations, trustees, receivers, agents, assignees and personal representatives.

(16) *Rate* means a price quoted in a schedule for providing a specified level of marine terminal service or facility for a stated cargo quantity, on and after a stated effective date or within a defined time frame.

(17) *Schedule* means a publication containing the actual rates, charges, classifications, regulations and practices of a marine terminal operator. The term ''practices'' refers to those usages, customs or modes of operation which in any way affect, determine or change the rates, charges or services provided by a marine terminal operator.

(18) *Terminal facilities* means one or more structures comprising a terminal unit, which include, but are not limited to, wharves, warehouses, covered and/or open storage spaces, cold storage plants, cranes, grain elevators and/or bulk cargo loading and/or unloading structures, landings, and receiving stations, used for the transmission, care and convenience of cargo and/or passengers in the interchange of same between land and water carriers or between two water carriers.

(19) *Terminal services* includes checking, dockage, free time, handling, heavy lift, loading and unloading, terminal storage, usage, wharfage, and wharf demurrage, as defined in this section. The definitions of terminal services set forth in this section shall be set forth in terminal schedules, except that other definitions of terminal services may be used if they are correlated by footnote, or other appropriate method, to the definitions set forth herein. Any additional services which are offered shall be listed and charges therefor shall be shown in the terminal schedule.

(20) *Terminal storage* means the service of providing warehouse or other terminal facilities for the storage of inbound or outbound cargo after the expiration of free time, including wharf storage, shipside storage, closed or covered storage, open or ground storage, bonded storage and refrigerated storage.

(21) *Usage* means the use of a terminal facility by any rail carrier, lighter operator, trucker, shipper or consignee, its agents, servants, and/or employees, when it performs its own car, lighter or truck loading or unloading, or the use of said facilities for any other gainful purpose for which a charge is not otherwise specified.

(22) *Wharf demurrage* means a charge assessed against cargo remaining in or on terminal facilities after the expiration of free time, unless arrangements have been made for storage.

(23) *Wharfage* means a charge assessed against the cargo or vessel on all cargo passing or conveyed over, onto, or under wharves or between vessels (to or from barge, lighter, or water), when berthed at wharf or when moored in slip adjacent to a wharf. Wharfage is solely the charge for use of a wharf and does not include charges for any other service.

§ 525.2 Terminal schedules.

(a) *Marine terminal operator schedules.* A marine terminal operator, at its discretion, may make available to the public, subject to section 10(d) of the Act, a schedule of its rates, regulations, and practices.

(1) *Limitations of liability.* Any limitations of liability for cargo loss or damage pertaining to receiving, delivering, handling, or storing property at the marine terminal contained in a terminal schedule must be consistent with domestic law and international conventions and agreements adopted by the United States; such terminal schedules cannot contain provisions that exculpate or relieve marine terminal operators from liability for their own negligence, or that impose upon others the obligation to indemnify or hold-harmless the terminals from liability for their own negligence.

(2) *Enforcement of terminal schedules.* Any schedule that is made available to the public by the marine terminal operator shall be enforceable by an appropriate court as an implied contract between the marine terminal operator and the party receiving the services rendered by the marine terminal operator, without proof that such party has actual knowledge of the provisions of the applicable terminal schedule.

(3) *Contracts for terminal services.* If the marine terminal operator has an actual contract with a party covering the services rendered by the marine terminal operator to that party, an

existing terminal schedule covering those same services shall not be enforceable as an implied contract.

(b) *Cargo types not subject to this part.* (1) Except as set forth in paragraph (b)(2) of this section, this part does not apply to bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper and paper waste in terminal schedules.

(2) Marine terminal operators which voluntarily make available terminal schedules covering any of the commodities identified in paragraph (b)(1) of this section thereby subject their services with respect to those commodities to the requirements of this part.

(c) *Marine terminal operator agreements.* The regulations relating to agreements to which a marine terminal operator is a party are located at part 535 of this chapter.

§ 525.3 Availability of marine terminal operator schedules.

(a) *Availability of terminal schedules*—(1) *Availability to the Commission.* A complete and current set of terminal schedules used by a marine terminal operator, or to which it is a party, shall be maintained in its office(s) for a period of five (5) years, whether or not made available to the public, and shall promptly be made available to the Commission upon request.

(2) *Availability to the public.* Any terminal schedule that is made available to the public shall be available during normal business hours and in electronic form. The public may be assessed a reasonable nondiscriminatory charge for access to the terminal schedules; no charge will be assessed against the Commission.

(b) *Access to electronically published schedules.* Marine terminal operators shall provide access to their terminal schedules via a personal computer (PC) by:

(1) Dial-up connection via public switched telephone networks (PSTN); or

(2) The Internet (Web) by:

(i) Web browser; or

(ii) Telnet session.

(c) *Dial-up connection via PSTN.* (1) This connection option requires that terminal schedules provide:

(i) A minimum of a 14.4Kbps modem capable of receiving incoming calls,

(ii) Smart terminal capability for VT–100 terminal or terminal emulation access, and

(iii) Telephone line(s) quality for data transmission.

(2) The modem may be included in a collection (bank) of modems as long as all modems in the bank meet the minimum speed. Smart terminal emulation provides for features such as bold, blinking, underlining and positioning to specific locations on the display screen.

(d) *Internet connection.* (1) This connection option requires that systems provide:

(i) A universal resource locator (URL) Internet address (*e.g.*, http://www.tariffsrus.com or http://1.2.3.4), and/or

(ii) A universal resource locator (URL) Internet address (*e.g.*, telnet://tariffsrus or telnet://1.2.3.4), for Telnet session access over the Internet.

(2) Marine terminal operators shall ensure that their Internet service providers shall provide static Internet addresses.

(e) *Commission access.* Commission telecommunications access to systems must include connectivity via a dial-up connection over public switched telephone networks (PSTN) or a connection over the Internet. Connectivity will be provided at the expense of the publishers. Any recurring connection fees, hardware rental fees, usage fees or any other charges associated with the availability of the system are the responsibility of the publisher. The Commission shall only be responsible for the long-haul charges for PSTN calls to a terminal schedule initiated by the Commission.

(f) *Notification.* Each marine terminal operator shall notify the Commission's Bureau of Tariffs, Certification and Licensing (''BTCL''), prior to the commencement of marine terminal operations, of its organization name, organization number, home office address, name and telephone number of firm's representative, the location of its terminal schedule(s), and the publisher, if any, used to maintain its terminal schedule, by electronically submitting Form FMC–1 via the Commission's website at www.fmc.gov. Any changes to the above information shall be immediately transmitted to BTCL. The Commission will publish a list on its website of the location of any terminal schedule made available to the public.

(g) *Form and manner.* Each terminal schedule made available by a marine terminal operator shall contain an individual identification number, effective date, expiration date, if any, and the complete terminal schedule in full text and/or data format showing all its rates, charges, and regulations relating to or connected with the receiving, handling, storing, and/or delivering of property at its terminal facilities.

§ 525.4 OMB control number assigned pursuant to the Paperwork Reduction Act.

The Commission has received Office of Management and Budget approval for this collection of information pursuant to the Paperwork Reduction Act of 1995, as amended. In accordance with that Act, agencies are required to display a currently valid control number. In this regard, the valid control number for this collection of information is 3072–0061.

By the Commission

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–4585 Filed 2–24–99; 8:45 am]

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Proposed Rules

Federal Register
Vol. 64, No. 37
Thursday, February 25, 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 DEFENSE

Department of the Navy

32 CFR Part 775

RIN 0703–AA51

Policies and Responsibilities for Implementation of the National Environmental Policy Act Within the Department of the Navy

AGENCY: Department of the Navy, DOD.

ACTION: Proposed rule.

SUMMARY: The Department of the Navy is revising its regulations which establish the responsibilities and procedures for complying with the National Environmental Policy Act (NEPA). This revision clarifies when certain Department of the Navy actions must be studied to determine their effect on the human environment and what types of activities are excluded from the NEPA documentation requirements.

DATES: Comments must be received by April 26, 1999.

ADDRESSES: Interested parties should submit written comments to: Mr. Lew Shotten, Office of the Assistant Secretary of the Navy (Installations and Environment), 2000 Navy Pentagon, Washington, DC 20350.

FOR FURTHER INFORMATION CONTACT: Mr. Lew Shotten, Office of the Assistant Secretary of the Navy (Installations and Environment), (703) 588–6671.

SUPPLEMENTARY INFORMATION: The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) establishes national policy and goals for protection of the environment. Section 102(2) of NEPA contains certain procedural requirements directed toward the attainment of such goals. In particular, all federal agencies are required to give appropriate consideration to the environmental effects of their proposed actions in their decisionmaking and to prepare detailed environmental statements on recommendations or reports significantly affecting the quality of the human environment.

Executive Order 11991 of May 24, 1977, directed the Council on Environmental Quality (CEQ) to issue regulations to implement procedural provisions of NEPA. Accordingly, CEQ issued final NEPA regulations (40 CFR parts 1500–1508) on November 29, 1978, which are binding on all federal agencies as of July 30, 1979. These regulations require each federal agency, as necessary, to adopt implementing procedures to supplement the CEQ regulations. Section 1507.3(b) of the CEQ regulations identifies those sections of the regulations which must be addressed in agency procedures. These regulations revise the Department's implementing regulations that were originally issued on August 20, 1990.

Significant changes that this new rule brings about include: revision of and additions to the DON list of approved categories of actions excluded (CATEXed) from further documentation under NEPA; revised criteria for disallowing the application of listed CATEXs; and, assignment of responsibilities to the Assistant Secretary of the Navy (Research, Development and Acquisition), the General Counsel of the Navy, and the Judge Advocate General of the Navy.

The Department of the Navy has determined that this regulation is not a significant rule as defined by Executive Order 12866 and is not subject to the relevant provisions of the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)).

List of Subjects in 32 CFR Part 775

Environmental impact statements.

Accordingly, part 775 of chapter VI of title 32 of the Code of Federal Regulations is proposed to be revised to read as follows:

PART 775—POLICIES AND RESPONSIBILITIES FOR IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT WITHIN THE DEPARTMENT OF THE NAVY

Sec.

775.1 Purpose.
775.2 Scope.
775.3 Definitions.
775.4 Policy.
775.5 NEPA documentation.
775.6 Categorical exclusions.
775.7 Responsibilities.
775.8 Delegations of authority.
775.9 Completed documents.

Authority: 49 U.S.C. 44502(d).

§ 775.1 Purpose.

To implement the provisions of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et. seq., 40 CFR 1500–1508, and other regulations, laws, Executive Orders and treaties and agreements that direct environmental planning procedures, and to assign responsibilities within the Department of the Navy (DON) for preparation, review, and approval of environmental documents prepared under NEPA.

§ 775.2 Scope.

The policies and responsibilities set out in this part apply to the DON, including the Office of the Secretary of the Navy, and Navy and Marine Corps commands, operating forces, shore establishments, and reserve components.

§ 775.3 Definitions.

(a) *Action.* A new or continuing activity, program, project , or exercise which is under the control and direction of the DON and that may change the physical environment or impact natural resources. An action is considered a proposed action and the requirements of this instruction become applicable when the action proponent has identified a program, project, exercise, or other activity and is actively preparing to make a decision among one or more alternative means of executing the program, project, exercise or other activity.

(b) *Action Proponent.* The commander, commanding officer, or civilian director of a unit, activity, or organization who initiates a proposal for action, as defined in 40 CFR 1508.23, and who has command and control authority over the action once it is authorized. For some actions, the action proponent will also serve as the decisionmaking authority for that action. In specific circumstances, the action proponent and decisionmaker may be identified in Navy Regulations, other SECNAV Instructions, operational instructions and orders, acquisition instructions, and other sources which set out authority and responsibility within the DON.

(c) *Environmental Impact Statement (EIS).* An environmental document prepared according to the requirements

of Council on Environmental Quality (CEQ) regulations (40 CFR parts 1500–1508) for a major action which will have a significant effect on the quality of the human environment.

(d) *Environmental Assessment (EA).* A concise document prepared according to the requirements of 40 CFR parts 1500–1508 which briefly provides sufficient evidence and analysis for determining whether to prepare an EIS. An EA aids compliance with NEPA when no EIS is necessary and facilitates preparation of an EIS when one is necessary.

(e) *Categorical Exclusion (CATEX).* A published category of actions which, under normal conditions, are excluded from further documentation requirements under NEPA.

(f) *Record of Decision (ROD).* An environmental document signed by an appropriate official of the DON. A ROD sets out a concise summary of the final decision and selected measures for mitigation (if any) of adverse environmental impacts of the alternative chosen from those considered in an EIS.

(g) *Finding of No Significant Impact (FONSI).* A document which sets out the reasons why an action not otherwise categorically excluded will not have a significant impact on the human environment.

§ 775.4 Policy.

(a) It is the DON policy regarding NEPA, consistent with its mission and the environmental laws and regulations of the United States and applicable international treaties and agreements, to:

(1) Initiate the NEPA processes as soon as possible in the course of identifying a proposed action.

(2) Develop and carefully consider a reasonable range of alternatives for achieving the purpose(s) of proposed actions.

(3) Assign responsibility for preparation of action specific environmental analysis under NEPA or Executive Order 12114 to the action proponent. The action proponent should understand the plans, analyses, and environmental documents related to that action.

(b) NEPA is intended to ensure that environmental issues are fully considered and incorporated into the federal decision making process. Consequently, actions for which the DON has no decision making authority, such as those carried out under a non discretionary mandate from Congress (e.g., congressional direction to transfer federal property to a particular entity for a particular purpose) or as an operation of law (e.g., reversionary interests in land recorded at the time the property was obtained), are not major federal actions in the context of NEPA and require no analysis or documentation under NEPA or CEQ regulations.

§ 775.5 NEPA documentation.

(a) An EIS must be prepared for proposed major federal actions that clearly will have significant impacts on the human environment. The agency decision in the case of an EIS is reflected in a ROD.

(b) Where a proposed major federal action has the potential for significantly affecting the human environment, but it is not clear whether the impacts of that particular action will in fact be significant, or where the nature of an action precludes use of a categorical exclusion, an EA may be used to assist the agency in determining whether to prepare an EIS. If the agency determination in the case of an EA is that there is no significant impact on the environment, the findings will be reflected in a FONSI. If the EA determines that the proposed action to is likely to significantly affect the environment (even after mitigation), than an EIS will be prepared.

(c) Where a federal agency has determined through experience, studies, or prior NEPA analysis that impacts normally resulting from a particular category of actions are not significant, a categorical exclusion (CATEX) may be used to exclude the proposed action from further analysis.

(d) Even though a proposed action generally is covered by a listed categorical exclusion, a categorical exclusion will not be used if the proposed action:

(1) Would adversely affect public health or safety;

(2) Involves effects on the human environment that are highly uncertain, involve unique or unknown risks, or which are scientifically controversial;

(3) Establishes precedents or makes decisions in principle for future actions, which have the potential for significant impacts;

(4) Threatens a violation of federal, state, or local environmental laws applicable to the Department of the Navy; or

(5) Involves an action that, as determined in coordination with the appropriate resource agency, may:

(i) Have an adverse effect on federally-listed endangered/threatened species or marine mammals;

(ii) Have an adverse effect on coral reefs or on federally designated wilderness areas, wildlife refuges, marine sanctuaries, or park lands;

(iii) Adversely affect the size, function or biological value of wetlands and is not covered by a nation-wide or regional permit;

(iv) Have an adverse effect on archaeological resources or resources (including but not limited to ships, aircraft, vessels and equipment) listed or determined eligible for listing on the National Register of Historic Places; and

(v) Result in an uncontrolled or unpermitted releases of hazardous substances or require a conformity determination under standards of the Clean Air Act General Conformity Rule.

§ 775.6 Categorical exclusions.

The following are actions which, under normal conditions, are categorically excluded from further documentation requirements under NEPA. These exclusions are separated into two groupings. Group I consists of actions which clearly do not have the potential for causing significant impacts on the human environment and consequently do not meet the basic definition of major federal action in the context of NEPA. Group II consists of actions which have the potential for causing significant impacts on the human environment but which, through experience, studies, or prior NEPA analysis, have been shown not to have significant environmental impacts. A decision to forego preparation of an EA or EIS on the basis of one or more categorical exclusions in Group II shall be documented by identifying the applicable CATEX and describing the proposed action to the extent required to support selection and use of a CATEX. Application of a categorical exclusion does not affect the applicability of other laws/regulations (e.g., Endangered Species Act, Clean Water Act, and National Historic Preservation Act) to the proposed action.

(a) Group I Categorical Exclusions.

(1) Routine fiscal, administrative, and recreation/welfare activities, including administration of contracts;

(2) Routine law and order activities performed by military personnel, military police, or other security personnel, including physical plant protection and security;

(3) Routine use and operation of existing facilities, laboratories, and equipment;

(4) Administrative studies, surveys, and data collection;

(5) Issuance or modification of administrative procedures, regulations, directives, manuals, or policy;

(6) Military ceremonies;

(7) Routine procurement of goods and services;

(8) Routine repair and maintenance of buildings, facilities, vessels, aircraft and

equipment associated with existing operations and activities (e.g., localized pest management activities, minor erosion control measures, painting, refitting);

(9) Training of an administrative or classroom nature; and

(10) Routine personnel actions;

(11) Routine movement of mobile assets (such as ships and aircraft) for homeport reassignments, for repair/overhaul, or to train/perform as operational groups where no new support facilities are required;

(12) Routine procurement, management, storage, handling, installation, and disposal of commercial items, where the items are used and handled in accordance with applicable regulations (e.g., consumables, electronic components, computer equipment, pumps).

(b) Group II Categorical Exclusions.

(1) Actions to conform or provide conforming use specifically required by new or existing applicable legislation or regulations, (e.g., hush houses for aircraft engines, scrubbers for air emissions, improvements to stormwater, and sanitary and industrial wastewater collection and treatment systems, and installation of fire fighting equipment);

(2) The modification of existing systems or equipment when the environmental effects will remain substantially the same, and the use is consistent with applicable regulations;

(3) Movement, handling and distribution of materials, including hazardous materials/wastes that when moved, handled, or distributed are in accordance with applicable regulations;

(4) New activities conducted at established laboratories and plants, (including contractor-operated laboratories and plants) where all airborne emissions, waterborne effluent, external ionizing and non-ionizing radiation levels, outdoor noise, and solid and bulk waste disposal practices are in compliance with existing applicable federal, state, and local laws and regulations;

(5) Studies, data, and information gathering that involve no permanent physical change to the environment, (e.g., topographic surveys, wetlands mapping, surveys for evaluating environmental damage, and engineering efforts to support environmental analyses);

(6) Temporary placement and use of simulated target fields (e.g., inert mines, simulated mines, or passive hydrophones) in fresh, estuarine, and marine waters for the purpose of military training exercises or research, development, test and evaluation;

(7) Installation and operation of passive scientific measurement devices (e.g., antenna, tide gauges, weighted hydrophones, salinity measurement devices, and water quality measurement devices) where use will not result in changes in operations tempo and is consistent with applicable regulations;

(8) Short term increases in air operations up to 50 percent of the typical operation rate, or increases of 50 operations per day, whichever is less;

(9) Decommissioning, disposal, or transfer of Navy vessels, aircraft, vehicles, and equipment when conducted in accordance with applicable regulations, including those regulations applying to removal of hazardous materials;

(10) Non-routine repair, renovation, and donation or other transfer of structures, vessels, aircraft, vehicles, landscapes or other contributing elements of facilities listed or eligible for listing on the National Register of Historic Places which will result in no adverse effect;

(11) Hosting or participating in public events (e.g., air shows, open houses, Earth Day events, and athletic events) where no permanent changes to existing infrastructure (e.g., road systems, parking and sanitation systems) are required to accommodate all aspects of the event;

(12) Military training conducted on or over nonmilitary land or water areas, where such training is consistent with the type and tempo of existing non-military airspace, land, and water use (e.g., night compass training, forced marches along trails, roads and highways, use of permanently established ranges, use of public waterways, or use of civilian airfields);

(13) Transfer of real property from DON to another military department or to another federal agency;

(14) Receipt of property from another federal agency when there is no substantial change in land use;

(15) Minor land acquisitions or disposals where anticipated or proposed land use is consistent with existing land use and zoning, both in type and intensity;

(16) Disposal of excess easement interests to the underlying fee owner;

(17) Renewals and minor amendments of existing real estate grants for use of government-owned real property where no significant change in land use is anticipated;

(18) Land withdrawal continuances or extensions which merely establish time periods and where there is no significant change in land use;

(19) Renewals and/or initial real estate ingrants and outgrants involving existing facilities and land wherein use does not change significantly (e.g., leasing of federally-owned or privately-owned housing or office space, and agricultural outleases);

(20) Grants of license, easement, or similar arrangements for the use of existing rights-of-way or incidental easements complementing the use of existing rights-of-way for use by vehicles (not to include significant increases in vehicle loading); electrical, telephone, and other transmission and communication lines; water, wastewater, stormwater, and irrigation pipelines, pumping stations, and facilities; and for similar utility and transportation uses;

(21) New construction that is consistent with existing land use and, when completed, the use or operation of which complies with existing regulatory requirements (e.g., a building within a cantonment area with associated discharges/runoff within existing handling capacities);

(22) Demolition, disposal, or improvements involving buildings or structures not on or eligible for listing on the National Register of Historic Places and when in accordance with applicable regulations including those regulations applying to removal of asbestos, PCBs, and other hazardous materials;

(23) Acquisition, installation, and operation of utility (e.g., water, sewer, electrical) and communication systems, (e.g., data processing cable and similar electronic equipment) which use existing rights of way, easements, distribution systems, and/or facilities;

(24) Decisions to close facilities, decommission equipment, and/or temporarily discontinue use of facilities or equipment, where the facility or equipment is not used to prevent/control environmental impacts);

(25) Maintenance dredging and debris disposal where no new depths are required, applicable permits are secured, and disposal will be at an approved disposal site;

(26) Relocation of personnel into existing federally owned or commercially-leased space that does not involve a substantial change affecting the supporting infrastructure (e.g., no increase in vehicular traffic beyond the capacity of the supporting road network to accommodate such an increase);

(27) Pre-lease exploration activities for oil, gas or geothermal reserves, (e.g., geophysical surveys);

(28) Natural resources management actions where underlying natural resources management decisions have been analyzed in an EA or EIS;

(29) Installation of devices to protect human or animal life, (e.g., raptor electrocution prevention devices, fencing to restrict wildlife movement onto airfields, and fencing and grating to prevent accidental entry to hazardous areas);

(30) Reintroduction of endemic or native species (other than endangered or threatened species) into their historic habitat when no substantial site preparation is involved;

(31) Temporary closure of public access to DON property in order to protect human or animal life;

(32) Actions similar in type, intensity and setting (including physical location and, where pertinent, time of year) to other actions for which it has been determined, in a DON EA or EIS, that there were no significant environmental impacts;

(33) Actions which require the concurrence or approval of another federal agency where the action is a categorical exclusion of the other federal agency.

§ 775.7 Responsibilities.

(a) The Assistant Secretary of the Navy (Installations and Environment) (ASN(I&E)) shall:

(1) Act as principal liaison with the Office of the Secretary of Defense, the Council on Environmental Quality, the Environmental Protection Agency, other federal agencies, Congress, state governments, and the public with respect to significant environmental planning matters.

(2) Direct the preparation of appropriate environmental documents and, with respect to those matters governed by SECNAV Instruction 5000.2B of December 16, 1996, advise the Assistant Secretary of the Navy (Research Development and Acquisition (ASN(RD&A)) concerning environmental issues and concerning the appropriate level of environmental planning document needed in any particular circumstance.

(3) Except for proposed acquisition-related actions addressed in paragraph (b)(2) of this section, review, sign, and approve for publication, as appropriate, documents prepared under NEPA.

(4) Establish and publish a list of categorical exclusions for the DON.

(b) The Assistant Secretary of the Navy (Research, Development and Acquisition (ASN(RD&A)) shall, in accordance with SECNAV Instruction 5000.2B of December 16, 1996:

(1) Ensure that DON acquisition programs and procurements comply with environmental laws, Executive Orders, regulations, and applicable Department of Defense (DOD) and DON environmental planning policies.

(2) Review, sign, and approve for publication, as appropriate, environmental documents prepared under NEPA for proposed acquisition-related actions.

(c) The General Counsel of the Navy and the Judge Advocate General of the Navy shall:

(1) Ensure that legal advice for compliance with environmental planning requirements is available to all decision-makers.

(2) Advise the Secretary of the Navy, the Chief of Naval Operations, and the Commandant of the Marine Corps as to the legal requirements that must be met, and the conduct and disposition of all legal matters arising in the context of environmental planning.

(d) The Chief of Naval Operations (CNO) and the Commandant of the Marine Corps (CMC) shall:

(1) Implement effective environmental planning throughout their respective Services.

(2) Prepare and issue instructions or orders to implement environmental planning policies of the DON. Forward proposed CNO/CMC environmental planning instructions or orders to ASN(I&E) and, when appropriate, ASN(RD&A), for review and comment prior to issuance.

(3) Ensure that subordinate commands establish procedures for implementing mitigation measures described in environmental planning documents.

(4) Provide coordination as required for the preparation of environmental documents for actions initiated by non-DON/DOD entities, state or local agencies and/or private individuals for which Service involvement may be reasonably foreseen.

(5) Bring environmental planning matters that involve controversial issues or which may affect environmental planning policies or their implementation to the attention of ASN(I&E), and where appropriate ASN(RD&A), for coordination and determination.

§ 775.8 Delegations of authority.

(a) The ASN(I&E) may delegate his/her responsibilities under this instruction for review, approval and/or signature of EISs and RODs to appropriate Executive Schedule/Senior Executive Service civilians or flag/general officers. ASN (I&E), CNO and CMC may delegate all other responsibilities assigned in this instruction as deemed appropriate.

(b) The ASN(RD&A) delegation of authority for approval and signature of documents under NEPA is contained in reference (g).

(c) Previously authorized delegations of authority are continued until revised or withdrawn.

§ 775.9 Completed documents.

This part does not invalidate, alter, or amend any NEPA documents already completed. Where only draft NEPA documents have been completed under previous guidance, final documents shall be completed in accordance with this part.

Dated: February 17, 1999.

Ralph W. Corey,

Commander, U.S. Navy, Judge Advocate General's Corps, Alternate Federal Register Liaison Officer.

[FR Doc. 99–4705 Filed 2–24–99; 8:45 am]

BILLING CODE 3810–FF–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DC017–2013b; FRL–6234–5]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Reasonably Available Control Technology for Oxides of Nitrogen

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to conditionally approve a State Implementation Plan (SIP) revision submitted by the District of Columbia. This revision requires major sources of nitrogen oxides (NOx) in the District to implement reasonably available control technology (RACT).

In the ''Rules and Regulations'' section of this **Federal Register**, EPA is conditionally approving the District's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

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

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and the District of Columbia Department of Public Health, Air Quality Division, 2100 Martin Luther King Ave, S.E., Washington, DC 20020.

FOR FURTHER INFORMATION CONTACT: Kristeen Gaffney, (215) 814–2092 at the EPA Region III address above, or by e-mail at gaffney.kristeen@epamail.epa.gov. While information may be requested via e-mail, any comments must be submitted in writing to the EPA Region III address above.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final action of the same name which is located in the Rules and Regulations section of this **Federal Register**.

Dated: February 12, 1999.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 99–4435 Filed 2–24–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[LA–50–1–7401; FRL–6235–2]

Approval and Promulgation of Air Quality Implementation Plans; Louisiana: Revision to the State Implementation Plan (SIP) for the Ozone Maintenance Plan for St. James Parish

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We are reopening our proposal to approve a revision to the Louisiana SIP for the St. James Parish ozone maintenance area, submitted by Louisiana on April 23, 1998. The revision includes an adjustment to the volatile organic compound emission inventory for the 1990 base year of the approved maintenance plan, and changes to the approved contingency plan's triggers and control measures. We have received a request to extend the comment period an additional two weeks. The requesters need the additional time to review the initial simulation results of the Urban Airshed Modeling demonstration submitted with this SIP revision. In order to ensure that all interested parties have sufficient opportunity to submit comments, we will re-open the comment period for the St. James Parish SIP revision. Please review our reasons for proposing approval of the St. James Parish SIP revision, as published in the **Federal Register** on January 14, 1999 (64 FR 2455).

DATES: Comments received on or before March 29, 1999, including those received between the close of the comment period on February 16, 1999, and the publication of this document, will be entered into the public record and considered by the EPA before taking final action.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, at the EPA Regional Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. Louisiana Department of Environmental Quality, Office of Air Quality and Radiation Protection, H. B. Garlock Building, 7290 Bluebonnet Blvd., Baton Rouge, Louisiana, 70810.

FOR FURTHER INFORMATION CONTACT: Lt. Mick Cote, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7219.

List of Subjects in 40 CFR Part 52

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

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

Dated: February 16, 1999.

Jerry Clifford,

Acting Regional Administrator, Region 6.

[FR Doc. 99–4579 Filed 2–24–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–6304–7]

Protection of Stratospheric Ozone: Incorporation of Montreal Protocol Adjustment for a 1999 Interim Reduction in Class I, Group VI Controlled Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: With this action, EPA is proposing a revision to the accelerated phaseout regulations that govern the production, import, export, transformation and destruction of substances that deplete the ozone layer under the authority of Title VI of the Clean Air Act Amendments of 1990 (CAA or the Act). Today's proposed amendment reflects changes in U.S. obligations under the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol) due to recent adjustments by signatory countries to this international agreement. Specifically, today's proposed amendment incorporates the Protocol's 25 percent interim reduction in the production and consumption of class I, Group VI controlled substances (methyl bromide) for the 1999 control period and subsequent control periods.

In taking today's action, EPA recognizes the expressed intent of Congress in recent changes to the Clean Air Act that direct EPA to conform the U.S. phasedown schedule to the Montreal Protocol's schedule for developed nations, including required interim reductions and specific exemptions. EPA intends to follow this proposed rule with other actions to complete the process of conforming the U.S. methyl bromide phaseout schedule and specific exemptions with obligations under the Montreal Protocol and with the recent changes to the Clean Air Act. Through subsequent actions to today's proposed amendment, EPA plans to reflect, through notice and comment rulemaking, the additional steps in the phaseout schedule for the production and consumption of methyl bromide, as follows: beginning January 1, 2001, a 50 percent reduction in baseline levels; beginning January 1, 2003, a 70 percent reduction in baseline levels; beginning January 1, 2005, a complete phaseout of the production and consumption with emergency and critical use exemptions permitted under the Montreal Protocol. Even sooner, EPA plans to publish a proposal that

will describe a process for exempting quarantine and preshipment quantities of methyl bromide used in the U.S. from the reduction steps in the phaseout schedule.

DATES: Written comments on this proposed rule must be received on or before March 29, 1999, unless a public hearing is requested. If a public hearing takes place, it will be scheduled for March 12, 1999, after which comments must be received on or before March 29, 1999. Any party requesting a public hearing must notify the contact person listed below by 5pm Eastern Standard Time on March 4, 1999. After that time, interested parties may call EPA's Stratospheric Ozone Protection Information Hotline at 1–800–296–1996 to inquire with regard to whether a hearing will be held, as well as the time and place of such a hearing.

ADDRESSES: Comments on this rulemaking should be submitted in duplicate (two copies) to: Air Docket No. A–92–13, U.S. Environmental Protection Agency, 401 M Street, S.W., Room M–1500, Washington, D.C., 20460. Inquiries regarding a public hearing should be directed to the Stratospheric Ozone Protection Hotline at 1–800–269–1996.

Materials relevant to this rulemaking are contained in Docket No. A–92–13. The Docket is located in room M–1500, First Floor, Waterside Mall at the address above. The materials may be inspected from 8 a.m. until 4 p.m. Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Tom Land, U.S. Environmental Protection Agency, Stratospheric Protection Division, Office of Atmospheric Programs, 6205J, 401 M Street, SW., Washington, DC, 20460, 202–564–9185.

SUPPLEMENTARY INFORMATION:

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I. Background

The current regulatory requirements of the Stratospheric Ozone Protection Program that limit production and consumption of ozone-depleting substances were promulgated by the Environmental Protection Agency (EPA or the Agency) in the **Federal Register** on May 10, 1995 (60 FR 24970) and on December 20, 1994 (59 FR 65478). The regulatory program was originally published in the **Federal Register** on August 12, 1988 (53 FR 30566), in response to the 1987 signing of the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol).[1] The U.S. was one of the original signatories to the 1987 Montreal Protocol and the U.S. ratified the Protocol on April 4, 1988. Congress then enacted, and President Bush signed into law, the Clean Air Act Amendments of 1990 (CAA or the Act) that included Title VI on Stratospheric Ozone Protection. Today's action proposes amendments to the existing EPA regulations published under Title VI of the CAA governing the production and consumption of ozone-depleting substances. Today's proposed amendments are designed to ensure the U.S. meets its obligations under the Protocol and the CAA, including the first interim reduction reflecting amendments to Title VI as created by Section 764 of the 1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act (Public Law No. 105-277). Section 764(a) of the Omnibus Act requires EPA to promulgate rules to bring the schedule for phaseout of methyl bromide into accordance with the Montreal Protocol as in effect at the time of enactment.

The requirements contained in the final rules published in the **Federal Register** on May 10, 1995 and December 20, 1994 establish an Allowance Program (the Program). The Program and its history are described in the notice of proposed rulemaking (NPRM) published in the **Federal Register** on November 10, 1994 (59 FR 56276). The control and the phaseout of production and consumption of Class I ozone-depleting substances as required under the Protocol and CAA are accomplished through the Allowance Program. In this action, EPA is also recognizing the expressed intent of Congress in recent changes to the Clean Air Act, which direct EPA to conform the U.S. phasedown schedule to the Montreal Protocol's schedule for developed nations, including required interim reductions.

[1] Several revisions to the original 1988 rule were issued on the following dates: February 9, 1989 (54 FR 6376), April 3, 1989 (54 FR 13502), July 5, 1989 (54 FR 28062), July 12, 1989 (54 FR 29337), February 13, 1990 (55 FR 5005), June 15, 1990 (55 FR 24490) and June 22, 1990 (55 FR 25812) July 30, 1992 (57 FR 33754), and December 10, 1993 (58 FR 65018).

In developing the Allowance Program, EPA collected information on the amounts of ozone-depleting substances produced, imported, exported, transformed and destroyed within the United States for specific baseline years. This information was used to establish the U.S. production and consumption ceilings for these substances. The data were also used to assign company-specific production and import rights to companies that were in most cases producing or importing during the specific year of data collection. These production or import rights are called ''allowances.'' Due to the complete phaseout of many of the ozone-depleting chemicals, the quantities of production allowances and consumption allowances granted to companies for those chemicals were gradually reduced and eventually eliminated. Production allowances and consumption allowances continue to exist for only one specific class I controlled ozone-depleting substance—methyl bromide. All other production or consumption of class I controlled substances is prohibited under the Protocol and the CAA, but for a few narrow exemptions.

In the context of the regulatory program, the use of the term consumption may be misleading. Consumption does not mean the ''use'' of a controlled substance, but rather is defined as production plus imports minus exports of controlled substances (Article 1 of the Protocol and Section 601 of the CAA). Unless they are subject to use restrictions, Class I controlled substances can generally continue to be ''used'' after their ''production and consumption'' phaseout dates.

The specific names and chemical formulas for the controlled ozone-depleting substances in the Groups of class I controlled substances are in Appendix A and Appendix F in Subpart A of 40 CFR Part 82. The specific names and chemical formulas for the class II controlled ozone-depleting substances are in Appendix B and Appendix F in Subpart A.

Although the regulations phased out the production and consumption of class I, Group II substances (halons) on January 1, 1994, and all other class I controlled substances (except methyl bromide) on January 1, 1996, a very limited number of exemptions exist, consistent with U.S. obligations under the Protocol. The regulations allow for the manufacture of phased-out class I controlled substances, provided the substances are either transformed, or destroyed. (40 CFR 82.4(b)) They also allow limited manufacture if the substances are (1) exported to countries

listed under Article 5 of the Protocol, (2) produced for essential uses as authorized by the Protocol and the regulations, or (3) produced with destruction or transformation credits. (40 CFR 82.4(b))

The regulations allow import of phased-out class I controlled substances provided the substances are either transformed or destroyed. (40 CFR 82.4(d)) Limited exceptions to the ban on the import of phased-out class I controlled substances also exist if the substances are: (1) previously used, (2) imported for essential uses as authorized by the Protocol and the regulations, (3) imported with destruction or transformation credits or (4) a transhipment or a heel. (40 CFR 82.4(d), 82.13(g)(2)).

EPA intends to follow this proposed rule with other actions to complete the process of conforming the U.S. phaseout schedule for methyl bromide with obligations under the Montreal Protocol and with the recent changes to the Clean Air Act. Through subsequent actions to today's proposed amendment, EPA plans to reflect, through notice and comment rulemaking, the additional steps in the phaseout schedule for the production and consumption of methyl bromide, as follows: beginning January 1, 2001, a 50 percent reduction in baseline levels; beginning January 1, 2003, a 70 percent reduction in baseline levels; beginning January 1, 2005, a complete phaseout of production and consumption with processes for special exemptions permitted under the Montreal Protocol. In the coming months, EPA plans to publish a proposal that will define the process for exempting quarantine and preshipment quantities of methyl bromide used in the U.S. from the phaseout schedule. These subsequent actions are described in more detail in Part III of today's proposed rulemaking.

II. Proposed Amendments to § 82.7—Grant and Phased Reduction of Baseline Production and Consumption Allowances for Class I Controlled Substances

EPA is proposing a 25 percent reduction in the 1991 baseline levels of production allowances and consumption allowances for methyl bromide for the 1999 and 2000 control periods. At the 1997 meeting of the Montreal Protocol, the Parties agreed to adjust the phaseout schedule of methyl bromide for industrialized countries.

Today's action is proposed to ensure that the U.S. meets its obligations under the Protocol as well as to ensure compliance with Title VI of the CAA, including the first interim reduction reflecting Section 764 of the recent 1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act. EPA plans to take final action on this proposal as early as possible in 1999. Producers and importers of methyl bromide should plan accordingly to ensure that the United States meets its obligations under the Montreal Protocol.

The Parties to the Protocol established a freeze in the level of methyl bromide production and consumption for developed countries at the 1992 Meeting in Copenhagen. Each developed country's 1991 production and consumption of methyl bromide was used as the baseline for establishing the freeze. EPA published a final rule in the **Federal Register** on December 10, 1993 listing methyl bromide as a class I controlled substance and freezing production and consumption at 1991 levels. (58 FR 65018, 65028–65044, 65074). In the rule published in the **Federal Register** on December 30, 1993, EPA established baseline production allowances and consumption allowances for methyl bromide for specific companies. The companies receiving baseline production and consumption allowances in accordance with their 1991 level of production, imports and exports for class I, Group VI controlled substances (methyl bromide) are listed at 40 CFR 82.5 and 82.6 (58 FR 69238). Section 82.7 of the rule published in the **Federal Register** on May 10, 1995 (60 FR 24970) sets forth the percentage of baseline allowances for methyl bromide (class I, Group VI controlled substances) granted to companies in each control period (each calendar year). Currently, the percentage of baseline methyl bromide allowances granted for each control period until 2001 is 100 percent. In accordance with the Protocol's adjustment to the methyl bromide phaseout schedule, EPA is proposing to grant 75 percent of baseline production allowances and 75 percent of baseline consumption allowances to the companies listed in Sections 82.5 and 82.6 for class I, Group VI substances beginning in 1999.

In preparing the December 30, 1993 final rule for the complete phaseout of methyl bromide in 2001, EPA conducted a Cost Effectiveness Analysis, dated September 30, 1993, under the title, ''Part 2, The Cost and Cost-Effectiveness of the Proposed Phaseout of Methyl Bromide.'' EPA conducted an additional analysis for today's proposed interim reduction in methyl bromide production and consumption. The results of the additional analysis indicate that, if the U.S. had to reduce methyl bromide production and consumption from 100 percent to 75 percent of the baseline in 1999, the estimated cost increase would be less than 2 percent of the original cost estimate for the 2001 phaseout. The original (1993) annualized cost estimate for the 2001 phaseout, adjusted to 1998 dollars, is $159 million. The incremental annualized costs for today's proposed reduction beginning in 1999 from 100 percent of the baseline to 75 percent would be approximately $3 million. However, from 1994 through 1997, the actual consumption of methyl bromide in the U.S. has been approximately 10 to 15 percent below the 1991 baseline as reported to EPA's Allowance Tracking System. The United States must therefore reduce methyl bromide consumption in 1999 by only 10 to 15 percent in relation to the 1991 baseline to achieve the Protocol's first interim reduction from 100 percent to 75 percent. According to the additional analysis, the estimated cost increase of implementing a 10 to 15 percent reduction in methyl bromide production and consumption in 1999 would be less than 1 percent of the original cost estimate conducted in 1993, or an annualized incremental cost of less than $2 million. Because this new analysis is an addendum to the 1993 analysis and uses the same algorithms it permits easy comparisons with the earlier cost estimates. In undertaking the steps discussed below, EPA, in consultation with the U.S. Department of Agriculture, intends to conduct further analysis.

III. Next Steps to Conform the U.S. Methyl Bromide Phaseout Schedule and Exemptions to those of the Montreal Protocol and the Recently Amended Clean Air Act

Immediately following today's action, EPA will hold stakeholder meetings to solicit feedback on subsequent rulemakings. EPA intends to publish two proposals to conform the United States' methyl bromide program to obligations under the Montreal Protocol and recent changes to the Clean Air Act. First, EPA intends to propose a process that would exempt quantities of methyl bromide used for quarantine and preshipment in the U.S. from the phaseout schedule and make adjustments to the existing baseline. Second, EPA intends to propose additional phaseout steps for methyl bromide, and establish additional exemptions in accordance with the Protocol, as follows:

—beginning January 1, 2001, a 50 percent reduction in baseline levels;
—beginning January 1, 2003, a 70 percent reduction in baseline levels;

—beginning January 1, 2005, a complete phaseout of the production and consumption;
—establish a process for emergency use exemptions; and
—establish a process for critical use exemptions as permitted under the Montreal Protocol.

The discussion below outlines EPA's plans for subsequent rulemaking and provides a vision of the Agency's future actions to conform the U.S. methyl bromide regulatory program with the Montreal Protocol and recent changes to Title VI of the Clean Air Act. The plans described below provide general information. EPA will request formal comments on more detailed proposals in the very near future.

EPA intends to quickly publish a proposal to exempt all quantities of methyl bromide used for quarantine and preshipment in the United States. EPA anticipates proposing a flexible process that is responsive to market demands for methyl bromide for quarantine and preshipment. In preparing the notice of proposed rulemaking on quarantine and preshipment, EPA will address the new Section 604(d)(5) of Title VI of the CAA on Sanitation and Food Protection added by Section 764(b) of the 1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act (Public Law 105–277). In this same regulatory action, EPA intends to correct the existing methyl bromide baseline of production allowances and consumption allowances because they contain a fixed quantity associated with quarantine and preshipment. When EPA included methyl bromide in the list of class I controlled ozone depleting substances in the final rule published in the **Federal Register** on December 10, 1993 (58 FR 65018), and established the baseline for production and consumption allowances, the quantities of quarantine and preshipment were included in the baseline.

The second step EPA intends to take in conforming the U.S. methyl bromide program to obligations under the Montreal Protocol and recent changes to the Clean Air Act would be a proposal to set the remaining reduction steps and final phaseout, to establish the process for emergency use exemptions and to create the process for critical use exemptions. Each of these parts of a proposal would be designed to ensure the U.S. meets its obligations under the Montreal Protocol consistent with statutory requirements in the Clean Air Act. The remaining phaseout steps for the production and consumption of methyl bromide are a 50 percent reduction in baseline levels beginning January 1, 2001; a 70 percent reduction in baseline levels beginning January 1, 2003; and a complete phaseout of production and consumption beginning January 1, 2005, with emergency use exemptions and critical use exemptions as permitted under the Montreal Protocol. EPA, in consultation with the U.S. Department of Agriculture, intends to conduct further analysis to support the proposal of these further reduction steps, final phaseout, and exemptions.

IV. Summary of Supporting Analysis

A. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.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 by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a written statement is required under section 202, 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, unless the Agency explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Section 203 of the UMRA requires the Agency to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule. Section 204 of the UMRA requires the Agency to develop a process to allow elected state, local, and tribal government officials to provide input in the development of any proposal containing a significant Federal intergovernmental mandate.

The provisions in today's proposal fulfill the obligations of the United States under the international treaty, The Montreal Protocol on Substances that Deplete the Ozone Layer, as well as the recent amendments to Title VI of the Clean Air Act. Analysis of today's proposed rule estimates an incremental annualized cost of $1 to 3 million for the 25 percent reduction as compared to the 1993 original analysis for establishing the 2001 phaseout. However, further analysis shows that just the 25 percent reduction proposed in today's rule for the two year period of 1999 and 2000 would have an estimated cost of $71 million without other additional reduction steps and without a complete phaseout of the production and consumption of methyl bromide. Therefore, it is unlikely that today's rule will result in expenditures of $100 million or more in any one year for State, local and tribal governments, or for the private sector in the aggregate. Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA. EPA has also determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments; therefore, EPA is not required to develop a plan with regard to small governments under section 203. Finally, because this proposal does not contain a significant intergovernmental mandate, the Agency is not required to develop a process to obtain input from elected state, local, and tribal officials under section 204.

B. Regulatory Flexibility

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

The Agency performed an initial screening analysis and determined that this regulation does not have a significant economic impact on a substantial number of small entities. EPA characterized the regulated community by identifying the SIC codes of the companies affected by this rule. The Agency determined that the members of the regulated community affected by today's rule are not small businesses under SBA definitions. Small governments and small not-for-profit organizations are not subject to the provisions of today's rule. The provisions in today's action regulate large, multinational corporations that either produce, import, or export class I, group VI ozone-depleting substances. Thus, today's rule will not have a significant economic impact on a substantial number of small entities.

EPA concluded that this proposed rule would not have a significant impact on a substantial number of small entities, therefore, I hereby certify that this action 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. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether this regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. 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 a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, OMB has notified EPA that it considers this a ''significant regulatory action'' within the meaning of the Executive Order. EPA has submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

Analysis of today's proposed rule estimates an incremental annualized cost of $1 to 3 million for the 25 percent reduction as compared to the 1993 original analysis for establishing the 2001 phaseout. However, further analysis shows that just the 25 percent reduction proposed in today's rule for the two year period 1999 and 2000 would have an estimated cost of $71 million without additional reduction steps and without a complete phaseout of the production and consumption of methyl bromide.

D. Applicability of E.O. 13045—Children's Health Protection

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

EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This proposed rule is not subject to E.O. 13045 because it implements a Congressional directive to phase out production and consumption of methyl bromide in accordance with the schedule under the Montreal Protocol.

E. Paperwork Reduction Act

This action does not add any information collection requirements or increase burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The Office of Management and Budget (OMB) previously approved the information collection requirements contained in the final rule promulgated on May 10, 1995, and assigned OMB control number 2060–0170 (EPA ICR No. 1432.16).

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.

F. 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 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, copies of 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.''

Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

G. 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 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 or matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. The rule does not impose any enforceable duties on communities of Indian tribal governments. Accordingly, the

requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

H. The National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub L. No. 104–113, § 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. The proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Exports, Imports, Ozone layer.

Dated: February 18, 1999.

Carol M. Browner,

Administrator.

40 CFR part 82 is proposed to be amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

Subpart A—Production and Consumption Controls

2. Section 82.7 is revised to read as follows:

§ 82.7 Grant and phase reduction of baseline production and consumption allowances for class I controlled substances.

For each control period specified in the following table, each person is granted the specified percentage of the baseline production and consumption allowances apportioned to him under §§ 82.5 and 82.6 of this subpart.

[In precent]

Control period	Class I substances in groups I and III	Class I substances in group II	Class I substances in group IV	Class I substances in group V	Class I substances in group VI	Class I substances in group VIII
1994	25	0	50	50	100	100
1995	25	0	15	30	100	100
1996	0	0	0	0	100	0
1997	0	0	0	0	100	0
1998	0	0	0	0	100	0
1999	0	0	0	0	75	0
2000	0	0	0	0	75	0

[FR Doc. 99–4578 Filed 2–24–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6302–2]

Wyoming: Final Authorization of State Hazardous Waste Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to grant final authorization to the hazardous waste program revision (Amendment A) submitted by Wyoming's Department of Environmental Quality. In the ''Rules and Regulations'' section of this **Federal Register** (FR), EPA is authorizing the State's program revision as an immediate final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. The Agency has explained the reasons for this authorization in the preamble to the immediate final rule. If EPA does not receive adverse written comments, the immediate final rule will become effective and the Agency will not take further action on this proposal. If EPA receives adverse written comments, EPA will withdraw the immediate final rule and it will not take effect. EPA will then address public comments in a later rule based on this proposal. EPA may not provide further opportunity for comment. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments on this proposed rule must be received on or before March 29, 1999.

ADDRESSES: Send written comments to Kris Shurr (8P–HW), EPA, 999 18th Street, Suite 500, Denver, Colorado 80202–2466, phone number: (303) 312–6139. You can examine copies of the materials submitted by Wyoming at the following locations: EPA Region VIII, from 8:00 AM to 4:00 PM, 999 18th Street, Suite 500, Denver, Colorado 80202–2466, contact: Kris Shurr, phone number: (303) 312–6312; or Wyoming Department of Environmental Quality (WDEQ), from 8:00 AM to 5:00 PM, 122 W. 25th Street, Cheyenne, Wyoming 82002, contact: Marisa Latady, phone number: (307) 777–7541.

FOR FURTHER INFORMATION CONTACT: Kris Shurr at the above address and phone number.

SUPPLEMENTARY INFORMATION: For additional information see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: February 5, 1999.

William P. Yellowtail,

Regional Administrator, Region VIII.

[FR Doc. 99–3989 Filed 2–24–99; 8:45 am]

BILLING CODE 6560–50–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 990212047–9047–01; I.D. 111998C]

RIN 0648–AL28

International Fisheries Regulations; Pacific Tuna Fisheries

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

ACTION: Proposed rule; implementation of Inter-American Tropical Tuna Commission (IATTC) recommendations.

SUMMARY: NMFS proposes regulations that would implement recommendations of the IATTC to conserve and manage the tuna fisheries of the Eastern Tropical Pacific Ocean (ETP). This proposed rule would provide for an annual announcement of tuna harvest quotas, closure of the U.S. fishery in the IATTC's Convention Area or the Yellowfin Regulatory Area (CYRA) when quotas have been reached, and implementation of other measures recommended by the IATTC to ensure conservation and management of fishery resources. The proposed rule also would prohibit U.S. citizens from utilizing vessels that service fish-aggregating devices (FADs) and would prohibit the transshipment at sea by U.S. purse seine vessels of purse seine-caught tuna. These proposed regulations are intended to ensure that U.S. fisheries are conducted according to the IATTC's recommendations, as approved by the Department of State.

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

ADDRESSES: Comments on the proposed rule should be sent to William T. Hogarth, Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, Sustainable Fisheries Division, Southwest Region, NMFS, 562–980–4030.

SUPPLEMENTARY INFORMATION: The United States is a member of the IATTC, which was established under the Convention for the Establishment of an Inter-American Tropical Tuna Commission signed in 1949. The IATTC was established to provide an international arrangement to ensure conservation and management of yellowfin and skipjack tuna and other species of fish taken by tuna fishing vessels in the ETP. The IATTC has maintained a scientific research and fishery monitoring program for many years and annually assesses the status of tuna stocks and conditions in the fisheries and recommends appropriate harvest levels (quotas) and/or other measures to prevent overexploitation and promote maximum sustainable yield. Each member country of the IATTC is responsible for enforcing quotas and other measures with respect to its own fisheries. Under the Tuna Conventions Act of 1950 the recommendations of the IATTC must be approved by the Secretary of State before they can be implemented for U.S. fisheries.

Under the IATTC quota system, the IATTC sets the annual quota at its annual meeting, usually in June. There are no restrictions on catch until IATTC proposes restrictions through a resolution. The resolution establishing the quota may include modifications of the quota based on catch and effort data collected during the year, as occurred in 1998.

At its annual meeting in June 1998, the IATTC adopted a resolution setting an initial quota of 210,000 metric tons (mt) for yellowfin tuna taken in the CYRA by member countries and recommended its adoption by member countries. This quota could be raised by up to three successive increments of 15,000 mt if the Director of Investigations of the IATTC concluded from examination of available data that such increases would pose no substantial danger to the stocks. The Department of State approved this recommendation. Had the proposed rule been in effect, the Southwest Regional Administrator would have been able to announce the quota to the owners and agents of U.S. fishing vessels by direct notice to them, with subsequent announcement of the quota in the **Federal Register**.

The yellowfin tuna quota is based on a 1998 assessment, which indicates that the yellowfin tuna stock can sustain a fishery of 270,000 to 290,000 mt per year in the CYRA. The quota of 210,000 mt for the CYRA is conservative relative to estimated maximum sustainable yields, but the IATTC recommendation allows for increases totaling 45,000 mt if fishery data indicate that the stock can sustain the added harvest. The IATTC staff report noted that the yield per recruit depends on the fishing strategy employed, with larger fish associated with dolphin and smaller fish associated with floating objects. Removing large numbers of smaller fish reduces the yield per recruit, which reduces the amount of harvest the resource can sustain.

This proposed rule would authorize the NMFS Southwest Regional Administrator to close the U.S. fishery for yellowfin tuna or other species of tuna at such time as the IATTC Director of Investigations advises the quota will be reached. For example, at its meeting in October 1998, the IATTC was advised by the Director of Investigations that the quota for yellowfin tuna would be increased by only one increment in 1998 of 15,000 mt, to 225,000 mt, and that this quota would likely be reached by early December. On November 18, 1998, the Director of Investigations notified member countries that the yellowfin quota would be reached on November 26, 1998. Although U.S. regulations were not in place to implement the closure, the Regional Administrator requested that U.S. fishing vessel operators voluntarily cooperate with the closure. Had this proposed rule been in place for the 1998 season, the Regional Administrator would have been able to direct U.S. vessels to fish in accordance with the recommendation of the IATTC, which could include closure of the fishery, by notifying each vessel owner or agent, with subsequent publication of the requirements of the recommendation in the **Federal Register**.

A second IATTC resolution recommended that action be taken (1) to limit the catch of small bigeye tuna to 45,000 mt in 1998 by prohibiting purse seine sets on all types of floating objects in the Convention Area when this harvest level is reached; (2) to prohibit the use of tender vessels that are not capable of purse seining and whose role is to place or service FADs in the Convention Area; and (3) to prohibit the transshipment of tuna by purse seine vessels at sea in the Convention Area. The Department of State approved this recommendation as well.

The IATTC's recommendation to limit the catch of bigeye tuna was based on data indicating that the stock of bigeye tuna is being exploited at or, possibly, above a sustainable level. The increase in bigeye tuna catches has resulted from using deeper nets and setting on floating objects. This fishery has higher catches of small bigeye tuna than sets on pure schools of tuna or on yellowfin tuna associated with dolphin. The floating object fishery increased partly as a result of restrictions on sets on dolphin and now accounts for a significant portion of total tuna catch in the Convention Area. However, there is concern that bigeye catches may not be sustainable. Therefore, the IATTC recommended implementing a limit on

total catch by prohibiting sets on floating objects after 45,000 mt of bigeye tuna have been caught. At the October meeting, the IATTC was advised that the total bigeye tuna catch in 1998 would not likely reach the quota. While the floating objects fishery was not closed in 1998, the IATTC may limit the fishery in this way in future years, should circumstances require it. This proposed rule would establish a procedure for implementing such measures.

This proposed rule would prohibit the use in the Convention Area of tender vessels that do not fish but only service FADs. IATTC members, including the United States, agreed that the catch of bigeye tuna from fishing on FADs may need to be controlled, and prohibiting tender vessels would contribute to such control.

This proposed rule would prohibit the transshipment of purse seine-caught tuna at sea in the Convention Area. Landings or transshipments would have to occur in a port. This would facilitate effective monitoring of the catch relative to quotas and would support timely data collection and fishery assessment needed to determine whether the yellowfin tuna quota should be increased.

The IATTC resolution regarding yellowfin tuna includes recommendations that apply to fishing vessels after the quota is reached, such as allowing a vessel to retain 15–percent incidental harvest by weight of yellowfin tuna while fishing for other species of tuna and differing provisions that would apply to vessels depending on whether or not an observer is on board the vessel. Provisions regarding managed species may change from year to year. NMFS would notify fishermen of any resolutions adopted by the IATTC and approved by the Department of State, including any measures that apply during any closed season. NMFS would also notify fishermen when species quotas are reached and of the measures that would apply during the closed season.

Finally, this proposed rule would establish procedures for the Regional Administrator to announce other harvest quotas or implement other conservation and management measures to carry out recommendations made by the IATTC and approved by the Department of State.

A public hearing to receive comments on the resolutions of the IATTC was held on December 1, 1998, at 7:00 p.m. at the Embassy Suites Hotel, 601 Pacific Highway, San Diego, CA (63 FR 64031, November 18, 1998). Oral comments from the hearing and written comments on this proposed rule will be considered when drafting the final rule.

Classification

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

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

The proposed action would do three things: Establish a procedure to enable the Regional Administrator (RA) to close the tuna fisheries when the IATTC advises that a quota has been or will be reached; prohibit the use of tender vessels in the Convention Area; and prohibit within the Convention Area the transshipment of tuna caught in purse seines. All of these measures would apply to U.S. vessels fishing for tuna in the Eastern Tropical Pacific (ETP). From 1993–1997, the maximum number of U.S. tuna vessels active in the ETP was 35 vessels. Of these, 27 are small entities.

None of the proposed measures would have any economic impact on small entities. The first measure is procedural, establishing a mechanism by which the RA could announce closures if directed to do so by the IATTC. Although future closures issued under this procedure could result in economic impacts, those closures are speculative at this time. They depend on the establishment and attainment of future quotas and are not being implemented through this proposed rule.

The second measure, the prohibition on the use of tender vessels, would not have any effect on the small entities subject to this proposed rule because no U.S. participants have used tender vessels in the past, and there is no known intent to employ them in the future. Likewise, the prohibition on transshipments would not affect any small entities because the U.S. fleet does not engage in at-sea transfers and there are no plans for such operations.

For these reasons, the National Marine Fisheries Service concludes that the proposed measures would not cause a 5 percent decrease in gross revenues or a 5 percent or greater increase in costs of production or compliance; cause compliance costs as a percent of sales to be 10 percent or more higher for small entities than for large entities; or cause any increase in capital costs of compliance for any small entities. Nor would they result in 2 percent or more of the small entities affected being forced to cease business operations. Therefore, no Initial Regulatory Flexibility Analysis has been prepared for this action.

The Regional Administrator determined that fishing activities conducted pursuant to this rule will not affect endangered and threatened species or critical habitat under the Endangered Species Act.

This action is consistent with the Marine Mammal Protection Act, as amended by the International Dolphin Conservation Program Act.

List of Subjects in 50 CFR Part 300

Fisheries, High seas fishing, International agreements, Reporting and recordkeeping requirements, Permits.

Dated: February 22, 1999.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Services.

For the reasons set out in the preamble, 50 CFR part 300 is proposed to be amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart C—Pacific Tuna Fisheries

1. The authority citation for subpart C continues to read as follows:

Authority: 16 U.S.C. 951-961 and 971 *et seq.*

2. Section 300.20 is revised to read as follows:

§ 300.20 Purpose and scope.

The regulations in this subpart implement the Tuna Conventions Act of 1950 (Act) and the Atlantic Tunas Convention Act of 1975. The regulations provide a mechanism to carry out the recommendations of the Inter-American Tropical Tuna Commission (IATTC) for the conservation and management of highly migratory fish resources in the Eastern Tropical Pacific Ocean so far as they affect vessels and persons subject to the jurisdiction of the United States. They also carry out the recommendations of the International Commission for the Conservation of Atlantic Tunas for the conservation of bluefin tuna, so far as they affect vessels and persons subject to the jurisdiction of the United States.

3. Section 300.21 is amended by removing the definition of ''Regional Director'' and adding definitions for ''Bigeye tuna'', ''Commission's Yellowfin Regulatory Area (CYRA)'', ''Convention Area'', ''Fish aggregating device (FAD)'', ''Fishing trip'', ''Floating object'', ''Incidental catch or incidental species'', ''Land or Landing'', ''Observer'', ''Regional Administrator'', ''Tender vessel'', ''Transship'', and ''Transshipment receiving vessel'' in alphabetical order, to read as follows:

§ 300.21 Definitions.

* * * * *

Bigeye tuna means the species *Thunnus obesus.*

* * * * *

Commission's Yellowfin Regulatory Area (CYRA) means the waters bounded by a line extending westward from the mainland of North America along the 40° N. latitude parallel, and connecting the following coordinates:

40° N. lat., 125° W. long.;
20° N. lat., 125° W. long.;
20° N. lat., 120° W. long.;
5° N. lat., 120° W. long.;
5° N. lat., 110° W. long.;
10° S. lat., 110° W. long.;
10° S. lat., 90° W. long.;
30° S. lat., 90° W. long.; and then eastward along the 30° S. latitude parallel to the coast of South America.

Convention Area means the waters within the area bounded by the mainland of the Americas, lines extending westward from the mainland of the Americas along the 40° N. lat. and 40° S. lat., and 150° W. long.

Fish aggregating device (FAD) means a manmade raft or other floating object used to attract tuna and make them available to fishing vessels.

Fishing trip means a period of time between landings when fishing is conducted.

* * * * *

Floating object means any natural object or FAD around which fishing vessels may catch tuna.

Incidental catch or *incidental species* means species caught while fishing with the primary purpose of catching a different species. An incidental catch is expressed as a percentage of the weight of the total fish on board.

Land or *Landing* means to begin transfer of fish from a fishing vessel. Once transfer begins, all fish on board the vessel are counted as part of the landing.

Observer means an individual placed aboard a fishing vessel under the IATTC observer program or any other international observer program in which the United States may participate.

* * * * *

Regional Administrator means the Administrator, Southwest Region, NMFS.

* * * * *

Tender vessel means a vessel that does not engage in purse seine fishing but tends to FADs in support of tuna fishing operations.

Transship means to unload fish from a vessel that caught fish to another vessel.

Transshipment receiving vessel means any vessel, boat, ship, or other craft that is used to receive fish from a fishing vessel.

4. In § 300.28, the section heading is revised, paragraphs (a) through (c) are redesignated as (e) through (g), and new paragraphs (a) through (d) are added to read as follows:

§ 300.28 Prohibitions.

* * * * *

(a) Land any species of tuna during the closed season for that species in excess of the amount allowed by the Regional Administrator.

(b) Fish with purse seine gear on floating objects in the Convention Area after the Regional Administrator has closed the fishery on floating objects in that area.

(c) Use tender vessels in the Convention Area.

(d) Transship purse seine-caught tuna at sea within the Convention Area.

* * * * *

5. Section 300.29 is added to subpart C to read as follows:

§ 300.29 Eastern Pacific fisheries management.

(a) *Notification of IATTC recommendations.* The Regional Administrator will directly notify owners or agents of U.S. tuna vessels of any fishery management recommendations made by the IATTC and approved by the Department of State that will affect fishing or other activities by U.S. parties with fishery interests in the Convention Area. As soon as practicable after such notification, NMFS will announce approved IATTC recommendations in the **Federal Register**.

(b) *Tuna quotas.* (1) Fishing seasons for all tuna species begin on January 1 and end either on December 31 or when the Regional Administrator closes the fishery for a specific species.

(2) The Regional Administrator may close the U.S. fishery for yellowfin, bigeye, or skipjack tuna or any other tuna species in the Convention Area or portion of the Convention Area when advised by the Director of Investigations of the IATTC that the associated quota has been or is projected to be reached. Any such closure may include:

(i) An allowance for an incidental catch that may be landed while fishing for other tuna species;

(ii) A prohibition on the further setting of purse seines on floating objects by U.S. vessels in the Convention Area;

(iii) Provisions for vessels that are at sea during an announced closure to fish unrestricted until the fishing trip is completed;

(iv) Provisions for vessels at sea with an observer on board during any closure to land fish unrestricted if the landing occurs after December 31; or

(v) Other measures to ensure that the conservation and management measures of the IATTC are achieved.

(3) NMFS will announce any such closures directly to the owners or agents of U.S. vessels who are fishing in or eligible to fish in the Convention Area.

(4) As soon as practicable after being advised of the quota attainment or projection under paragraph (b)(2) of this section, NMFS will publish an announcement of the closure in the **Federal Register**.

(c) *Use of tender vessels.* No person subject to these regulations may use a tender vessel in the Convention Area.

(d) *Transshipments at sea.* No person subject to these regulations may transship purse seine-caught tuna from one vessel to another vessel at sea within the Convention Area.

PART 300—[AMENDED]

6. In addition to the amendments set forth under the authority of 16 U.S.C. 773 *et seq.*; 16 U.S.C. 951–961 and 971 *et seq.*; 16 U.S.C. 973–973r; 16 U.S.C. 2431 *et seq.*; 16 U.S.C. 3371–3378; 16 U.S.C. 3636(b); 16 U.S.C. 5501 *et seq.*; and 16 U.S.C. 1801 *et seq.*, in part 300, revise all references to ''Regional Director'' to read ''Regional Administrator''.

[FR Doc. 99–4712 Filed 2–24–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 990217050-9050-01; I.D. 010799A]

RIN 0648–AM17

Atlantic Highly Migratory Species Fisheries; Fishery Management Plan; Atlantic Bluefin Tuna Fishery

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

ACTION: Notice of availability and proposed rule; supplemental.

SUMMARY: NMFS by an earlier document proposed regulations to implement the draft Fishery Management Plan (FMP) for Atlantic Tunas, Swordfish, and Sharks (Highly Migratory Species or HMS). NMFS has prepared an addendum to the draft HMS FMP (the Addendum). This document announces the availability of the Addendum for public comment and supplements the earlier document by proposing supplemental regulations to implement the Addendum. The supplemental

proposed regulations would set Atlantic bluefin tuna (BFT) fishing category quotas for 1999 and subsequent years, close an area off the New England and mid-Atlantic coast to pelagic longline gear to reduce BFT incidental catch, provide quota adjustment procedures to limit catch of school BFT and to account for dead discards of BFT, and clarify the mandatory nature of certain scientific information collections. In addition, this document proposes BFT General category effort control specifications for the 1999 fishing season. The supplement to the earlier document is necessary to implement the 1998 recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), as required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic fishery management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Comments must be submitted on or before March 4, 1999.

ADDRESSES: For copies of the draft HMS FMP, the proposed regulations to implement the draft HMS FMP, the draft HMS FMP Addendum, or the schedule of public hearings, write to Rebecca Lent, Chief, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3282, (301) 713–2347. Send comments regarding the burden-hour estimates or other aspects of the collection-of-information aspects of the supplemental proposed regulations to Rebecca Lent and to the Office of Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Pasquale Scida or Sarah McLaughlin, (978) 281–9260, or Chris Rogers at (301) 713–2347.

SUPPLEMENTARY INFORMATION: On October 26, 1998, NMFS announced the availability of the draft HMS FMP (63 FR 57093). Information regarding the management of HMS under the draft HMS FMP was provided in the preamble to the proposed regulations to implement that FMP (64 FR 3154, January 20, 1999) and is not repeated here.

NMFS did not identify a preferred alternative for BFT stock rebuilding in the draft HMS FMP because new information on stock status and/or recovery trajectories from the September 1998 stock assessment by the Standing Committee on Research and Statistics (SCRS), as well as the results of negotiations at the November 1998 ICCAT meeting, was not available at the time, and, if it had been available, it could have resulted in the development of new rebuilding alternatives for the BFT stock. NMFS had indicated that the preferred alternative for western Atlantic BFT rebuilding would be identified following the November 1998 ICCAT meeting, that the preferred alternative and associated analyses would be published as an Addendum to the draft HMS FMP, and that proposed measures to implement the preferred rebuilding alternative would be published in a supplement to the proposed rule.

The Addendum contains only alternatives and updated information for BFT; it specifically covers BFT rebuilding, domestic allocations, quota adjustment procedures and measures to reduce dead discards of BFT. This supplement to the proposed regulations would implement the rebuilding and bycatch reduction measures of the FMP Addendum. Additionally, this rule proposes BFT General category effort controls for the 1999 fishing season and clarifies mandatory data collection requirements. Comments on this supplement to the proposed regulations will be received at hearings previously scheduled to receive public comment on the proposed regulations to implement the draft HMS FMP, announced in the **Federal Register** on January 22, 1999 (64 FR 3486).

Bluefin Tuna Rebuilding Program

ICCAT has identified the western stock of BFT as overexploited and recommends fishing quotas for contracting parties. NMFS identified western BFT as overfished in the September 1997 Report to Congress required under the Magnuson-Stevens Act, which triggered the requirement to develop a rebuilding program. Based on the 1998 revised stock assessment, parties at the 1998 meeting of ICCAT adopted a 20-year BFT rebuilding program, beginning in 1999 and continuing through 2018. ICCAT has adopted an annual total allowable catch (TAC) of 2,500 metric tons (mt) of BFT inclusive of dead discards, to apply annually until such time as the TAC is changed based on advice from SCRS. The annual landing quota allocated to the United States was increased by 43 mt from 1,344 mt to 1,387 mt.

Reducing Dead Discards

The ICCAT rebuilding program specifies that all contracting and non-contracting parties must monitor and report on all sources of BFT fishing mortality, including dead discards, and must minimize BFT dead discards to the extent practicable. The recommendation deducts 79 mt from the TAC as an allowance for dead discards; the U.S. portion of this allowance is 68 mt.

The preamble to the proposed regulations to implement the draft HMS FMP describes ongoing and proposed efforts to minimize, to the extent practicable, bycatch and bycatch mortality of protected species and finfish in HMS fisheries. Specifically for BFT, NMFS has analyzed existing databases and examined several alternatives to reduce BFT dead discards. Preliminary results of these analyses have been shared with the public and at meetings of the HMS Advisory Panel throughout 1998. In general, the public has been supportive of NMFS' efforts to reduce BFT dead discards and has suggested various alternatives to effect reduction.

One of the findings of the analyses is that there is no statistically significant relationship between the level of target catch and the level of BFT bycatch. Although there has been extensive public comment in support of changes to target catch requirements (thus increasing landings of incidental catch), NMFS has no basis to conclude that such changes would also result in reducing BFT dead discards. However, the analyses did show that the majority of the dead discards occur in a limited area over a relatively short time period and primarily from the use of pelagic longline gear.

In order to provide the greatest reduction in discards while minimizing the negative impact to targeted fishing activities, NMFS proposes to implement the preferred alternative: the closure of a 4° x 4° area (57,000 square nautical miles), from 37° to 41° N. lat. and from 70° to 74° W. long., for the month of June, to pelagic longline gear. Based on BFT catch and discard rates from 1992 to 1997, it is estimated that closure of this area (the Northeastern United States closed area) would reduce total discards (alive and dead) of BFT by approximately 60 percent.

Although certain negative impacts would be expected, displacement of vessels to other areas during June may mitigate these impacts to some extent. Longline vessels operating outside the closed area would still be able to catch the annual swordfish quota and could use longline gear to target tunas other than BFT. Also, longline vessels would still be allowed to transit the closed area during June provided that their gear is stowed in accordance with the proposed regulations. A separate NMFS proposal for vessel monitoring systems, if implemented, would also enhance the

enforceability of the time-area closure while still allowing transit.

Once implemented, NMFS would evaluate the efficacy of this closure in reducing BFT dead discards, given the distribution of BFT and expected redistribution of fishing effort. Further, NMFS would monitor impacts to the users of pelagic longline gear to determine what, if any, future action or modifications to the proposed time/area closure may be necessary. Such actions could be accomplished by regulatory amendment under the framework procedures of the HMS FMP.

Domestic Quota Allocation

In the proposed regulations to implement the draft HMS FMP, NMFS proposed no changes to the baseline quotas previously established, except that the Purse Seine category quota be no greater than the 1998 level set at 250 mt. Under this proposal, NMFS would maintain the baseline annual quota specifications (i.e., percentage allocations to each fishing category) until further changes are deemed necessary, either to achieve domestic management objectives or to implement new ICCAT rebuilding recommendations.

Given the current ICCAT recommendation on rebuilding BFT, NMFS proposes to specify fishing category allocations consistent with the previously proposed allocation scheme and the 1387 mt U.S. allocation. In specifying the 1999 BFT allocations, however, NMFS must also consider carryover adjustments from the 1998 fishing year, new provisions for the discard allowance and limitations on school BFT catch, and additional adjustments to accommodate the establishment of the proposed new fishing year.

The current ICCAT BFT quota recommendation allows, and U.S. regulations require, the addition or subtraction, as appropriate, of any underharvest or overharvest in a fishing year to the appropriate quota category for the following fishing year, provided that such carryover does not result in overharvest of the total annual quota and is consistent with all applicable ICCAT recommendations, including restrictions on catch of school BFT. Therefore, NMFS proposes to adjust the 1999 annual quota specifications for the BFT fishery to account for underharvest and overharvest in 1998. At the end of 1998, the following subquotas had not been harvested: 1 mt in the General category, 2 mt in the Purse Seine category, 67 mt in the Angling category, and 26 mt in the Incidental category; and additionally, 15 mt remained in the Reserve.

In the proposed regulations to implement the draft HMS FMP, NMFS proposed an adjusted fishing year for Atlantic tunas of June 1 through May 31 of the subsequent calendar year. Therefore, a separate quota would be necessary for the bridge period of January 1–May 31, 1999. Additionally, NMFS proposed to reorganize the Incidental quota category into a Longline category and a Trap category (for pound nets and fish weirs). Through this supplement to the proposed rule, NMFS proposes to use the 1998 underharvest from the Angling and Incidental categories for the bridge period, a time period in which only the Angling, Longline, and Trap categories are open. Note that the reorganization of the Incidental category into the Longline and Trap categories will not take effect until the HMS FMP and implementing regulations are finalized. Any underharvest from the bridge period would be added to the annual quota for the adjusted 1999 fishing year, beginning June 1.

NMFS proposes to subdivide the Angling category bridge period quota of 79 mt as follows: Large school/small medium bluefin––75 mt, with 16 mt to the northern area and 59 mt to the southern area; and large medium/giant bluefin-–4 mt, allocated entirely to the southern area given the likely distribution of large BFT during the proposed bridge period.

NMFS proposes to subdivide the Longline category bridge period quota of 26 mt as follows: 1 mt to longline vessels operating north of 34° N. lat. and 25 mt to longline vessels operating south of 34° N. lat. Because the Incidental category subquota for gear other than longlines was fully harvested in 1998, no bridge period allocation would be made to the proposed Trap category.

For fishing years beginning June 1, 1999, NMFS would make the annual quota of 1,387 mt available. The proposed specifications for 1999 and beyond would set the General category quota at 653 mt, the Harpoon category quota at 54 mt, the Purse Seine category quota at 250 mt, the Angling category quota at 273 mt, the Longline category quota at 113 mt, the Trap category at 1 mt, and the Reserve at 43 mt.

In the proposed regulations to implement the draft HMS FMP, NMFS proposed geographic subdivision of the Angling and Longline category allocations as percentages of the respective category quotas based on historical catches reported for the respective fishing areas. Additionally, NMFS proposed to establish a separate reserve allocation for school BFT within the Angling category to ensure consistency with the ICCAT recommendation to limit the take of school BFT. Taking these proposals into account, the Angling category quota of 273 mt would be divided as follows: School bluefin-–111 mt (8 percent of the annual 1,387 mt), with 48 mt to the northern area (New Jersey and north), 42 mt to the southern area (Delaware and south), and 21 mt held in reserve; large school/small medium bluefin––156 mt, with 83 mt to the northern area and 73 mt to the southern area; and large medium/giant bluefin––6 mt, with 2 mt to the northern area and 4 mt to the southern area. Likewise, the annual Longline category quota of 113 mt would be subdivided as follows: 24 mt to longline vessels operating north of 34° N. lat. and 89 mt to longline vessels operating south of 34° N. lat.

Given the above baseline allocations and accounting for overharvest or underharvest in the General, Purse Seine, and Angling categories in 1998, the adjusted quotas for the 1999 fishing year would be as follows: 654 mt for the General category; 252 mt for the Purse Seine category; and 99 mt for the Angling category school BFT subquota (with 43 mt to the northern area, 38 mt to the southern area, and 18 mt held in reserve).

General Category Effort Controls

In the last 4 years, NMFS has implemented General category time period subquotas and restricted fishing days (RFDs) to increase the likelihood that fishing would continue throughout the summer and fall for scientific monitoring purposes. The subquotas were also designed to address concerns regarding allocation of fishing opportunities, to allow for a late season fishery, and to improve market conditions.

In the proposed regulations to implement the draft HMS FMP, NMFS proposed to maintain the General category quota subdivisions as established for 1998, as follows: 60 percent for June-August, 30 percent for September, and 10 percent for October-December. Given the carryover quota for the General category, adjustments are necessary to allocate the carryover across the established subperiods.

These percentages would be applied only to the new coastwide baseline quota for the General category of 643 mt, with the remaining 10 mt being reserved for the New York Bight fishery. Thus, of the 643 mt baseline General category quota, 386 mt would be available in the period beginning June 1 and ending

August 31, 193 mt would be available in the period beginning September 1 and ending September 30, and 64 mt would be available in the period beginning October 1 and ending December 31. Given the carryover of 1 mt underharvest from 1998, the adjusted quota of 644 mt for the 1999 fishing season would be divided as follows: 387 mt would be available in the period beginning June 1 and ending August 31, 193 mt would be available in the period beginning September 1 and ending September 30, and 64 mt would be available in the period beginning October 1 and ending December 31.

As indicated in the proposed regulations to implement the draft HMS FMP, the remaining 10 mt of the annual General category quota would be set aside for the General category New York Bight fishery. However, the proposed regulatory text inadvertently omitted a change in the administration of the set-aside effected by a prior final rule (63 FR 27862, May 21, 1998). That rule change provided NMFS greater flexibility to open the set-aside fishery in any quota period rather than to wait until the end of the General category fishing season. That inadvertent omission is corrected in this supplement to the proposed regulations.

In the last 4 years, NMFS has also implemented RFDs in the General category. In 1997, NMFS amended the Atlantic tunas regulations to prohibit persons aboard General category vessels from fishing, including tag-and-release, for all sizes of BFT on designated RFDs. The proposed regulations to implement the draft HMS FMP states that NMFS will annually publish a schedule of RFDs in the **Federal Register**.

For the 1999 fishing year, NMFS proposes a schedule of RFDs similar to that implemented for 1998, making the necessary calendar adjustments to coordinate with Japanese market holidays. Persons aboard vessels permitted in the General category would be prohibited from fishing, including tag-and-release, for BFT of all sizes on the following days: July 7, 11, 14, 18, 21, 25, and 28; August 1, 4, 8, 10 11, 12, 15, 18, 22, 25, and 29; September 1, 5, 8, 12, 15, 19, 22, 26, and 29; and October 1. These proposed RFDs would improve distribution of fishing opportunities without increasing BFT mortality.

Quota Adjustment Procedures

Although the ICCAT rebuilding recommendation for BFT requires carryover of underharvest and overharvest, certain additional provisions regarding dead discards and harvest of school BFT apply. Specifically, if a contracting party's fishing activity results in an amount of dead discards in excess of the allowance, it must deduct the excess from the amount of BFT catch that can be retained. Conversely, if the actual amount of dead discards is less than the allowance, one-half of the difference may be added to the allocation of BFT catch that can be retained. NMFS proposes to amend the annual quota adjustment procedures to incorporate the provisions of the dead discard allowance.

The ICCAT rebuilding recommendation also requires that catch of school BFT (less than 30 kg or 115 cm straight fork length) be limited to no more than 8 percent by weight of the total domestic quota over each 4–consecutive-year period. NMFS proposes to implement this provision through the establishment of the school BFT reserve specified here and through annual adjustments to the school BFT landings and reserve categories as necessary to meet the ICCAT requirement. Given the 4-year accounting period, NMFS proposes that adjustments for estimated overharvest or underharvest of school BFT not be restricted to automatic carryover between fishing years. Instead, flexible adjustments would be made to enhance fishing opportunities and the collection of information on a broad range of BFT size classes, provided that the 8 percent landings limit is met over the applicable 4-year period.

Scientific Data Collections

ATCA and the Magnuson-Stevens Act authorize NMFS to require permitting and reporting for commercial and recreational HMS fisheries. The HMS FMP addresses the need for accurate and timely information for the purposes of quota monitoring and stock assessment, as well as the need for required studies on fishing communities and economic impacts of regulations. To meet the needs of the HMS FMP, NMFS has implemented logbooks, surveys, and specialized studies in addition to direct reporting and observer programs.

This supplement to the proposed regulations clarifies the obligation to report by explicitly stating it as a condition for the issuance of the required permits. Failure to report or to respond to any information collection approved by the Office of Management and Budget (OMB) is prohibited. Applications for permits will not be considered complete if required reports have not been submitted or applicants have not responded, as required, to specialized data collections.

Technical Correction

In the proposed regulations to implement the draft HMS FMP, one aspect of the BFT landings quota allocation was inadvertently omitted. Given the proposed 250 mt cap on purse seine landings of BFT, any excess that would result from applying the purse seine percent allocation to the total landings quota must be redistributed. When it occurs, NMFS proposes to allocate such excess to the Reserve category, for inseason redistribution according to the established criteria.

Classification

This proposed rule is published under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq*., and the Atlantic Tunas Convention Act, 16 U.S.C. 971 *et seq*. Preliminarily, the Assistant Administrator for Fisheries, NMFS, has determined that the specifications and regulations contained in this proposed rule are necessary to implement the recommendations of ICCAT and are necessary for management of the Atlantic tuna fisheries.

NMFS amended the Environmental Impact Statement prepared for the proposed regulations to implement the draft HMS FMP with a preliminary finding of no significant impact on the human environment for these specific BFT provisions. In addition, a draft Regulatory Impact Review was prepared with a preliminary finding of no significant impact. The Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that the supplemental proposed regulations, if implemented, would not have a significant economic impact on a substantial number of small entities as follows:

The proposed supplemental regulations would set Atlantic bluefin tuna (BFT) fishing category quotas for 1999 and subsequent years, close an area off the New England and mid-Atlantic coast to pelagic longline gear to reduce BFT incidental catch, provide quota adjustment procedures to limit catch of school BFT and account for dead discards of BFT, and clarify the mandatory nature of certain scientific information collections, in accordance with rebuilding and discard reduction recommendations of the International Commission for the Conservation of Atlantic Tunas and domestic fishery management objectives. The proposed supplemental regulations also would specify General Category effort controls (time period subquotas and restricted-fishing days) for the 1999 fishing season. Because fishing category quota allocations would remain the same or increase, and the designated restricted-

fishing days have been scheduled to correspond directly to Japanese market closures, the likelihood of extending the fishing season is increased and additional revenues would accrue to many small businesses as market prices received by U.S. fishermen may improve. The analysis predicts that only a minimal number of HMS longline fishermen (5 in 1996, 2 in 1997) would experience a reduction in gross revenues of over 5 percent. The analysis also predicts that no pelagic longline fishermen would be forced to cease business operations. Also, as this proposed regulation does not decrease the quota in any fishery, fishermen would still have the opportunity to landthe same amount of fish that they usually do. The proposed measures to minimize dead discards of BFT to the extent practicable would affect only the pelagic longline fleet, and reductions in gross revenues to this sector of the fishery are expected to be insignificant based on agency criteria for preparation of a Regulatory Flexibility Analysis.

Because of this certification, an Initial Regulatory Flexibility Analysis was not prepared.

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

NMFS initiated formal consultation for all HMS commercial fisheries on September 25, 1996, under section 7 of the ESA. NMFS again reinitiated formal consultation on the HMS FMP and Billfish Amendment on May 12, 1998. The consultation request concerned the possible effects of management measures in the Billfish Amendment and the HMS FMP, including implementation of the Atlantic Offshore Cetacean Take Reduction Plan measures for the pelagic longline fishery. In a Biological Opinion issued on May 29, 1997, NMFS concluded that operation of the longline and purse seine components of the Atlantic tunas fishery may adversely affect, but is not likely to jeopardize, the continued existence of any endangered or threatened species under NMFS jurisdiction and that continued operation of the handgear fisheries is not likely to adversely affect the continued existence of any endangered or threatened species under NMFS jurisdiction. The biological opinion was amended August 29, 1997, by identifying a reasonable and prudent alternative regarding the driftnet component of the swordfish and tuna fisheries, and is not relevant to the BFT fishery.

NMFS has determined that proceeding with this proposed rule would not result in any irreversible and irretrievable commitment of resources that would have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures to reduce adverse impacts on protected resources. This proposed rule would implement a domestic quota slightly greater than that of 1998, with minor quota adjustments to individual category quotas to account for underharvest in 1998 and to specify BFT General category effort controls (time period subquotas and restricted fishing days) for the 1999 fishing season and, therefore, would not likely increase fishing effort nor shift activities to new fishing areas. The proposed time/area closure is intended to shift fishing effort away from areas with high BFT discards without changing overall fishing effort. The areas where fishing may be displaced are not expected to increase endangered species or marine mammal interaction rates.

This supplement to the proposed regulations refers to several collections-of-information subject to review and approval by OMB under the Paperwork Reduction Act (PRA). The mandatory nature of required reports has been clarified but the initial proposed regulations contain the specific reporting requirements in question and has solicited public comment on those requirements, which have been submitted to OMB for approval. The supplement to the proposed regulations also makes it mandatory for persons with permits to respond to surveys on fishing activity; OMB approval for such surveys will be obtained prior to their use and public comment on the specific surveys will be solicited at that time.

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

Comments on the Draft HMS FMP, the Addendum to the HMS FMP, the proposed rule to implement the HMS FMP, and on this supplement to that proposed rule are invited and will be accepted if received by March 4, 1999.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Dated: February 18, 1999.

Hilda Diaz-Soltero,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR new part 635, as proposed at 64 FR 3154, January 20, 1999, is proposed to be further amended as follows:

PART 635–ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

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

2. In § 635.2, definition for ''Northeastern United States closed area'' is added in alphabetical order to read as follows:

§ 635.2 Definitions.

* * * * *

Northeastern United States closed area means the area bounded by straight lines connecting the following coordinates in the order stated: 41°00' N. lat., 74°00' W. long.; 41°00' N. lat., 70°00' W. long.; 37°00' N. lat., 70°00' W. long.; and 37°00' N. lat., 74°00' W. long.

* * * * *

3. In § 635.4, paragraphs (j)(1) and (j)(2) are revised to read as follows:

§ 635.4 Permits and fees.

* * * * *

(j) *Permit issuance.* (1) Except for ILAPs, the Office Director or the RA will issue a permit within 30 days of receipt of a complete and qualifying application. An application is complete when all requested forms, information, and documentation have been received, including all reports and fishing or catch information required to be submitted under this part.

(2) NMFS will notify the applicant of any deficiency in the application, including failure to provide information or reports required to be submitted under this part. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

* * * * *

4. In § 635.5, paragraph (g) is revised to read as follows:

§ 635.5 Recordkeeping and reporting.

* * * * *

(g) *Additional data and inspection.* Additional data on fishing effort directed at Atlantic HMS or on catch of Atlantic HMS, whether or not retained, may be collected by contractors and statistical reporting agents, as designees of NMFS, and by authorized officers. As part of OMB-approved surveys, a person issued a permit under § 635.4 is required to provide requested information about fishing activity, and a person, whether or not issued a permit under § 635.4, who possesses an Atlantic HMS is required to make such fish or parts thereof available for

inspection by NMFS or its designees upon request.

5. In § 635.21, paragraphs (c)(2)(v) and (c)(4) are added to read as follows:

§ 635.21 Gear operation and deployment restrictions.

* * * * *

(c) * * *

(2) * * *

(v) (Northeastern United States closed area)–-June 1 through June 30.

* * * * *

(4) *Transiting.* Notwithstanding paragraph (c)(2) of this section, vessels carrying longline gear may transit the Northeastern United States closed area provided that all anchors and buoys are secured and all pelagic longline gear is stowed.

* * * * *

6. In § 635.27, paragraph (a)(1)(iv) is removed, and paragraphs (a) introductory text, (a)(1)(iii), (a)(2) introductory text, and (a)(9) are revised to read as follows:

§ 635.27 Quotas.

(a) *BFT.* Consistent with ICCAT recommendations, NMFS will subtract any allowance for dead discards from the fishing year's total amount of BFT that can be caught and allocate the remainder to be retained, possessed, or landed by persons and vessels subject to U.S. jurisdiction. The total landing quota will be divided among the General, Angling, Harpoon, Purse Seine, Longline, and Trap categories. Consistent with these allocations and other applicable restrictions of this part, BFT may be taken by persons aboard vessels issued Atlantic Tunas permits or HMS Charter/Headboat permits. Allocations of quota will be made according to the following percentages: General - 47.1 percent; Angling - 19.7 percent, which includes the school BFT held in reserve as described under paragraph (a)(7)(ii) of this section; Harpoon - 3.9 percent; Purse Seine - 18.6 percent or 250 mt, whichever is less; Longline - 8.1 percent; and Trap - 0.1 percent. In addition, NMFS is holding in reserve 2.5 percent of the BFT quota for inseason adjustments, to compensate for overharvest in any category other than the Angling category school BFT subquota or for fishery independent research. Should the total landing quota, when multiplied by the Purse Seine percent allocation, exceed 250 mt, the amount above 250 mt shall be redistributed to the Reserve. NMFS may apportion a quota allocated to any category to specified fishing periods or to geographic areas. BFT quotas are specified in whole weight.

(1) * * *

(iii) When the coastwide General category fishery has been closed in any quota period under § 637.28(a)(1), NMFS may publish a notification in the *Federal Register* to make available up to 10 mt of the quota set aside for an area comprising the waters south and west of a straight line originating at a point on the southern shore of Long Island at 72°27' W. long. (Shinnecock Inlet) and running SSE 150 true, and north of 38°47' N. lat. The daily catch limit for the set-aside area will be one large medium or giant BFT per vessel per day. Upon the effective date of the set-aside fishery, fishing for, retaining, or landing large medium or giant BFT is authorized only within the set-aside area. Any portion of the set-aside amount not harvested prior to the reopening of the coastwide General category fishery in the subsequent quota period established under paragraph (a)(1)(i) of this section may be carried over for the purpose of renewing the set-aside fishery at a later date.

(2) *Angling category quota.* The total amount of BFT that may be caught, retained, possessed, and landed by anglers aboard vessels for which an Angling Category Atlantic Tunas Permit or an HMS Charter/Headboat permit has been issued is 19.7 percent of the overall annual U.S. BFT quota. No more than 2.3 percent of the annual Angling category quota may be large medium or giant BFT and, over each 4–consecutive-year period, no more than 8 percent of the overall U.S. BFT quota may be school BFT. The Angling category quota includes the amount of school BFT held in reserve as specified under paragraph (a)(7)(ii) of this section. The size class subquotas for BFT are further subdivided as follows:

* * * * *

(9) *Annual adjustments.* If NMFS determines, based on landings statistics and other available information, that a BFT quota in any category or, as appropriate, subcategory has been exceeded or has not been reached, NMFS may subtract the overharvest from, or add the underharvest to, that quota category for the following fishing year, provided that the total of the adjusted quotas and the reserve is consistent with a recommendation of ICCAT regarding country quotas, the take of school BFT, and the allowance for dead discards. Regardless of the estimated catch in any year, NMFS may adjust the annual school BFT quota to ensure that the average take of school BFT over each 4–consecutive-year period beginning in the 1999 fishing year does not exceed 8 percent by weight of the total BFT quota allocated to the United States for that period. If NMFS determines that the annual dead discard allowance has been exceeded in one fishing year, NMFS shall subtract the amount in excess of the allowance from the total amount of BFT that can be landed in the subsequent fishing year. If NMFS determines that the annual dead discard allowance has not been reached, NMFS may add one-half of the remainder to the total amount of BFT that can be landed. NMFS will file at the Office of the Federal Register a notification of the amount to be subtracted or added and the basis for the quota reductions or increases made pursuant to this paragraph.

* * * * *

[FR Doc. 99–4603 Filed 2–22–99; 10:42 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 64, No. 37
Thursday, February 25, 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

Natural Resources Conservation Service

Mill and Deer Creeks Water Exchange Projects; Determination of Primary Purpose of Program Payments for Consideration as Excludable From Income Under Section 126 of the Internal Revenue Code of 1954, as Amended

AGENCY: Office of the Secretary, USDA.
ACTION: Notice of determination.

SUMMARY: The Secretary of Agriculture has determined that all program payments made to individuals by the State of California under the Mill and Deer Creeks Water Exchange Projects are made primarily for the purposes of protecting or restoring the environment and providing a habitat for wildlife. This determination is made in accordance with Section 126 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 126). The determination permits recipients of these cost-share payments to exclude them from gross income to the extent allowed by the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: David N. Kennedy, Director, Department of Water Resources, 1416 Ninth Street, Room 1115–1, Sacramento, California 95814 (916) 653–7007, or Conservation Operations Division, Natural Resources Conservation Service, USDA, Post Office Box 2890, Washington, DC 20013 (202) 720–1845.

SUPPLEMENTARY INFORMATION: Section 126 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 126), provides that certain payments made to individuals under State conservation programs may be excluded from the recipient's gross income for Federal income tax purposes if the Secretary of Agriculture determines that payments are made ''primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife.'' The Secretary of Agriculture evaluates these conservation programs on the basis of criteria set forth in 7 CFR part 14, and makes a ''primary purpose'' determination for the payments made under each program. Before there may be an exclusion, the Secretary of Treasury must determine that payments made under these conservation programs do not substantially increase the annual income derived from the property benefited by the payments.

Under an agreement between the Department of Water Resources and the Department of Fish and Game, the State Water Project, in 1986, set aside $15 million to begin a program to restore the fish populations of the Sacramento-San Joaquin Delta. Additional funds are also provided each year to compensate for continuing losses of striped bass, chinook salmon, and steelhead at the Harvey O. Banks Delta Pumping Plant. The Mill and Deer Creeks Water Exchange Projects are fishery restoration and enhancement projects eligible for funding under this agreement.

Mill and Deer Creeks, tributaries of the Upper Sacramento River, are two of only a few waterways in the Central Valley that continue to support native populations of wild spring-run salmon and steelhead trout. These species are candidates for either State or Federal listing for endangered species status. In recent years the spring-run population has dwindled to a few hundred adults. A key factor that limits the population in some years is the lack of sufficient water to provide passage to upstream habitat.

In dry years, water right holders may divert nearly the entire flow of Mill and Deer Creeks during the critical migration period of May through June. As a result, upstream migration of adult spring-run chinook and downstream migration of juvenile salmon and steelhead can be impeded. Supplemental flows will help restore the population of wild spring-run chinook and steelhead trout by allowing migrating adults to reach their spawning habitat and by providing transportation flows for juveniles en route to the Sacramento River.

The program is funded by the State Water Contractors through the Department of Water Resources, upon the recommendation of the Delta Pumps Fish Protection Agreement Committee.

Agreements have been completed between the Los Molinos Mutual Water Company, private parties, and the State of California to address fish passage issues on Mill Creek. Agreements are being completed between the Deer Creek Irrigation District, Stanford Vina Ranch Irrigation Company, and the State of California to address similar problems on Deer Creek. Under the agreements, natural flow that would otherwise be diverted for irrigation will be left in the creek to aid fish passage during critical migration periods. The instream flow will be repaid by a combination of ground water pumping and renovation of canals.

In all cases, the agreements guarantee the State certain creek flows and, upon request, provide flows far in excess of the State's ability to instantaneously replace supplemental instream flow. The agreements, however, do not modify the water rights of individuals or agencies. The water exchanges are based upon a one-to-one repayment or credit. The agreements also provide a minimum term of 15 years and are open to renegotiation at completion of the term, which could, in effect, extend the agreements indefinitely.

Procedural Matters

Authorizing legislation, regulations and operating procedures regarding the Water Exchange Projects have been examined using the criteria set forth in 7 CFR part 14. The U.S. Department of Agriculture has concluded that the program payments made for implementation of the project under the Delta Pumps Fish Protection Agreement program are made to eligible persons primarily for the purpose of protecting or restoring the environment and providing a habitat for wildlife.

A ''Record of Decision, Mill and Deer Creeks Water Exchange Projects, Primary Purpose Determination for Federal Tax Purpose'' has been prepared and is available upon request from the Director, Conservation Operations Division, Natural Resources Conservation Service, Post Office Box 2890, Washington, DC 20013, or Director Department of Water Resources, 1416 Ninth Street, Sacramento, CA 95814.

Determination

As required by section 126(b) of the Internal Revenue Code of 1954, as amended, I have examined the authorizing legislation, regulations, and operating procedures regarding the Mill and Deer Creeks Water Exchange Projects. In accordance with the criteria set out in 7 CFR Part 14, I have determined that all program payments for implementation of these projects made under the Delta Pumps Fish Protection Agreement are primarily for the purposes of protecting or restoring the environment and providing a habitat for wildlife. Subject to further determination by the Secretary of the Treasury, this determination permits program payment recipients to exclude from gross income, for Federal income tax purposes, all part of such program payments made under said project.

Signed at Washington, D.C. on February 5, 1999.

Dan Glickman,

Secretary, United States Department of Agriculture.

[FR Doc. 99–4725 Filed 2–23–99; 11:08 am]

BILLING CODE 3410–16–U

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket #AMS–OA–99–1]

Notice of a Public Meeting of the USDA Research and Promotion (R&P) Task Force

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: Pursuant to the Secretary of Agriculture's formation of an interagency R&P Task Force in December 1998, the task force announces a forthcoming meeting with all R&P Boards, their staffs, primary contractors, and other interested parties.

DATES: March 8, 1999 at 8:15 a.m. to 4:15 p.m.; and March 9, 1999 at 8:30 a.m. to 4:00 p.m., Eastern Standard Time (EST), in Room 107A Whitten Bldg, USDA Headquarters, 14th and Independence Ave, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Barbara Robinson, Staff Director, Room 3069 South Bldg, U.S. Department of Agriculture, AMS, OA, Washington, D.C. 20250; telephone (202) 720–4276; fax (202) 690–3967; email: Barbara__C__Robinson@usda.gov.

SUPPLEMENTARY INFORMATION: The agenda of the meeting will follow a structure that includes 45 minutes of discussion with each board; a list of topics that the R&P task force would like to discuss with boards is included below. Boards are requested to call and schedule specific time on the agenda for discussion with the task force. Slotted times are available by contacting Dr. Barbara Robinson at the telephone listed above. Other interested parties are welcome to address these same topics in their oral statements, or in written statements sent to the above address. Media may attend, but may not request time for oral statements. Interested parties must call Dr. Robinson, in order to schedule oral statements not to exceed five (5) minutes before the task force on the afternoon of March 9, commencing at approximately 1 p.m. Oral statements will be accommodated on a ''first come-first serve basis,'' and will not extend beyond the scheduled adjournment time of 4:00 p.m. on March 9, 1999. Any party may submit written statements within 30 days of publication of this notice in the **Federal Register**, to:Dr. Barbara Robinson/ AMS/ Room 3069 South Bldg/Washington, D.C. 20250 or, via electronic mail to: Barbara__C__Robinson@usda.gov.

Selected Topics To Discuss at March 8–9 Meeting

1. Nominations Procedures—methods to ensure that nominations are solicited from the broadest groups for board representation; reaching out to a diverse group of members, such as limited resource/small/minority producers, handlers, importers, public consumer representatives, minorities, etc.

2. Continuance Referendum Procedures—most programs require that calls for referenda must occur with some specified percentage of signatures. In some cases volume thresholds are also used. Are the procedures/ thresholds adequate to ensure that programs have majority support? Some programs call for automatic referenda on a periodic basis (e.g., every two years)—should there be consistent procedures across all programs? What is the best way to ensure that there is continued support for programs?

3. Financial Management Issues: two areas of discussion here might be in: 1) the areas of financial controls, reviews, and audit procedures by Boards—are there consistent procedures used across the boards; relatedly, are there sufficient enforcement authorities to boards to ensure proper financial controls, or to ensure prompt payment of assessments; 2) the role of USDA in overseeing financial management by boards, and audits by USDA—can USDA be of better, more effective assistance in this area, to minimize problems with boards' financial management? How?

4. Other Items * * * e.g., evaluation of effectiveness—how do boards ensure that their paying members (as well as the public, in some cases) are knowledgeable about the use of funds, and the effectiveness of promotion and research activities carried out by boards? Can USDA be of more assistance here? E.g., do boards engage in publishing their accomplishments, plans, or use such means as focus groups to solicit input and demonstrate planned activities and intended accomplishments?

Dated: February 19, 1999.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 99–4726 Filed 2–23–99; 11:08 am]

BILLING CODE 3410–02–U

DEPARTMENT OF AGRICULTURE

Forest Service

Middle Fork John Day Range Planning on the Long Creek/Bear Valley and Prairie City Ranger Districts, Malheur National Forest, Grant County, Oregon

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an environmental impact statement (EIS) to update range management planning on 8 livestock (cattle and horse) grazing allotments and three (3) administrative use pastures which will result in the development of new Allotment Management Plans (AMPs). The allotments are called Austin, Bear Creek, Camp Creek, Lower Middle Fork, Elk, Blue Mountain, Upper Middle Fork on the Long Creek/Bear Valley Ranger District, and Sullens on the Prairie City Ranger District of the Malheur National Forest. The administrative use pastures are called Sunshine, Bear Creek and Blue Mountain. The range planning area is located approximately 20 to 25 air miles north and east of John Day, Oregon. The allotments, combined, are called the Middle Fork John Day Range Planning Area. Small portions of the Umatilla and Wallowa-Whitman National Forest System lands that are within the allotments, will also be considered in the proposal. Management actions are planned to be implemented beginning in the year 2000. The agency gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested

and affected people may become aware of how they may participate in the process and contribute to the final decision.

DATES: Comments concerning the scope of the analysis should be received in writing by March 26, 1999.

ADDRESSES: Send written comments and suggestions concerning this proposal to F. Carl Pence, Forest Supervisor, Malheur National Forest, P.O. Box 909, John Day, Oregon 97845.

FOR FURTHER INFORMATION: Direct questions about the proposed action and EIS to Paul Bridges, Interdisciplinary Team Leader, Wallowa-Whitman National Forest, Baker Ranger District, 3165 10th Street, Baker City, Oregon 97814, phone (541) 523–1950.

SUPPLEMENTARY INFORMATION: The proposed action is to continue to permit livestock grazing on National Forest System lands. The proposed action is designed to continue the improving trends in vegetation, watershed conditions, and in ecological sustainability relative to livestock grazing within the eight allotments of the Middle Fork John Day, Galena and Camp Creek Watersheds. The action is needed to develop new AMPs which incorporate results of recent scientific research, analysis and documentation at the sub-basin level.

The Malheur Forest Plan as amended, recognized the continuing need for forage production from the Forest and recognized the eight allotments of the Middle Fork John Day, Galena and Camp Creek watersheds as containing lands which are capable and suitable for grazing by domestic livestock. This action is needed to continue this historic use.

The eight allotments encompass approximately 185,886 acres of National Forest System lands, with Bureau of Land Management (BLM) and private land included in some allotments. Forest Plan Management Areas (MAs) include MA1 (general forest), MA2 (rangeland), MA3 (riparian zones), MA4 (big game winter range maintenance), MA7 (scenic area), MA13 (dedicated/ replacement old growth), MA14 (visual corridors), MA19 (administrative sites) and MA21 (wildlife emphasis area with non-scheduled timber harvest). The administrative pastures make up approximately 490 acres.

Four species of anadromous and resident salmonid fish species inhabit the Middle Fork John Day Range Planning Area for all or part of their life history. Both resident and/or anadromous forms of inland redband trout/summer steelhead, fluvial and resident bull trout, spring chinook salmon, summer steelhead and mountain whitefish are found within the watershed. Two of these species are listed under the Endangered Species Act, the bull trout are threatened, and the summer steelhead are proposed to be listed as threatened. Spring chinook salmon are regionally listed as sensitive. The planning area contains habitat for two listed animal species, American peregrine falcon (endangered) and northern bald eagle (threatened), and one proposed species, North American lynx. Habitat for many other wildlife species including management indicator species (MIS) is also present in the planning area. These species include California wolverine, North American lynx, Rocky Mountain elk, marten, pileated woodpecker, and goshawk. Since 1992, mitigations associated with the Endangered Species Act and other issues, have addressed many of the areas of past concern on allotments within this planning area.

Preliminary issues include: (1) The effects of livestock grazing on riparian conditions (including water quality, water temperature and stream bank stability); (2) the ability to maintain ecological sustainability and continue watershed restoration with continued livestock grazing; (3) the effects of livestock grazing on threatened, endangered, proposed, or sensitive (TES) species; and (4) the effects of no grazing or reduced grazing on the local economy.

A detailed public involvement plan has been developed, and an interdisciplinary team has been selected to do the environmental analysis, prepare and accomplish scoping and public involvement activities.

The proposed action is intended to provide the analysis needed to prepare new AMPs that meet all the Forest Plan amended requirements of Interim strategies for managing Pacific anadromous fish-producing watersheds in eastern Oregon and Washington, Idaho, and portions of California (PACFISH), Inland Native Strategies for Managing Fish-producing Watersheds in Eastern Oregon and Washington, Idaho, Western Montana, and Portions of Nevada (INFISH), and are consistent with the scientific findings of the Interior Columbia Basin Ecosystem Management Program (ICBEMP). Consultation with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service, as required under the ESA, will be completed for all proposed activities.

Public involvement will be especially important at several points during the analysis, beginning with the scoping process. The Forest Service will be consulting with Indian Tribes and seeking information, comments, and assistance from Federal, State, local agencies, tribes, and other individuals or organizations who may be interested in or affected by the proposals. The scoping process includes:

1. Identifying and clarifying issues.
2. Identifying key issues to be analyzed in depth.
3. Exploring alternatives based on themes which will be derived from issues recognized during scoping activities.
4. Identifying potential environmental effects of the proposals and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).
5. Determining potential cooperating agencies and task assignments.
6. Developing a list of interested people to keep apprised of opportunities to participate through meetings, personal contacts, or written comments.
7. Developing a means of informing the public through the media and/or written material (e.g., newsletters, correspondence, etc.).

Public comments are appreciated throughout the analysis process. The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and be available for public review by September 1999. The comment period on the draft EIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register**. The final EIS is scheduled to be available March 2000.

The Forest Service believes it is important to give reviewers notice of this early stage of public participation and of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.*v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could have been raised at the draft stage may be waived or dismissed by the court if not raised until after completion of the final EIS. *City of Angoon* v. *Hodel,* 803 f.2d 1016, 1022 (9th Cir, 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

In the final EIS, the Forest Service is required to respond to substantive comments and response received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal.

The Responsible Official is F. Carl Pence, Forest Supervisor for the Malheur National Forest. The Responsible Official will document the decision and rationale for the decision in the Record of Decision. That decision will be subject to appeal under 36 CFR Part 215.

Dated: February 12, 1999.

F. Carl Pence,

Forest Supervisor, Malheur National Forest.

[FR Doc. 99–4645 Filed 2–24–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Ashland Watershed Protection Project, Rogue River National Forest, Jackson County, Oregon

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an environmental impact statement (EIS) for the Ashland Watershed Protection Project on the Rogue River National Forest. The overall goal for the management of the Ashland Creek Watershed is to continue to provide high quality drinking water for the City of Ashland and to maintain large areas of late-successional habitat by creating a landscape relatively resistant to large-scale stand replacing wildfires. The objectives of this project is to manage vegetation in a manner that reduces the current fire hazard and restores fire dependent ecosystems to conditions where the chance for large-scale, stand replacing wildfires is reduced. The Forest Service gives notice of the full analysis and decision-making process so that interested and affected peoples are made aware as to how they may participate and contribute to this supplemental analysis and decision.

DATES: Comments concerning the scope of this analysis should be received by March 19, 1999.

ADDRESSES: Submit written comments to Linda Duffy, District Ranger, Ashland Ranger District, Rogue River National Forest, 645 Washington Street, Ashland, Oregon, 97520.

FOR FURTHER INFORMATION CONTACT: Kristi Mastrofini, Ashland Ranger District, Rogue River National Forest, 645 Washington Street, Ashland, Oregon, 97520, Telephone (541) 482–3333; FAX (541) 858–2402.

SUPPLEMENTARY INFORMATION: The Ashland Creek Watershed supplies the City of Ashland with its domestic water. A Cooperative Agreement between the City of Ashland and the Forest Service for the management of the Ashland Watershed was originally approved in 1929. A Memorandum of Understanding drafted in 1985 and updated in 1996, defines the roles and responsibility of both the City of Ashland and the Forest Service in the management of the watershed. In accordance with these agreements and the Rogue River National Forest Land and Resource Management Plan, the Forest Service is responsible for providing fire protection for the Ashland Watershed through appropriate fire management strategies.

The project area is located within the Mt. Ashland Late-Successional Reserve (LSR), which is located mostly within the Ashland Creek Watershed, and partially within the Hamilton and Tolman Creek sub-watersheds (tributaries of Bear Creek). The legal location description for all actions is T. 39 S., R. 1 E., in sections 17, 19, 20, 21, 27, 28, 29, 32, 33, and 34; T. 40 S., R. 1 E., in sections 4 and 5; W.M., Jackson County, Oregon.

As required by the April 1994 Amended Rogue River Land and Resource Management Plan, an LSR Assessment was completed prior to planning for vegetation manipulation activities. The Mt. Ashland LSR Assessment identified the need for this fire hazard reduction strategy, which has been reviewed by the Regional Ecosystem Office.

The Proposed Action for the Ashland Watershed Protection project would treat vegetation and dead and down fuels on an estimated 1,500 acres using a variety of treatment methods. Treatment methods that will be considered include prescribed fire, mechanical manipulation of vegetation (cutting with chainsaws and handpiling for burning), and tree (canopy) removal through commercial means. About 1,000 acres would be treated with underburning or non-commercial mechanical methods, and about 500 acres would be treated using commercial tree removal. This Proposed Action would also include the reconstruction of .25 mile of road, and the construction of one new helicopter landing. Preliminary issues include: maintenance of water quality within a domestic supply watershed; protection of LSR characteristics; maintenance of long-term site productivity; economic feasibility associated with the removal of large amounts of small trees and shrubs; protection of terrestrial habitat, aquatic habitat, and rare plant and animal species; aesthetics and social considerations; and the effectiveness of various fire management strategies proposed. Preliminary alternatives of the Proposed Action include options to: reduce fire hazard using only non-commercial mechanical treatment methods; economically efficient non-commercial and commercial removal techniques; and treatment methods that would focus on minimizing the changes in late-successional stand structures.

In March of 1998, following extensive environmental analysis and community involvement that started in July of 1996, a Decision Notice authorizing the implementation of the Ashland Interface Fire Hazard Reduction (HazRed) project was signed. Appeals to that decision were filed with the Regional Forester that resulted in the decision being reversed in July of 1998. Reversal was based on the finding by the Regional Forester that an additional 30-day Notice and Comment period was warranted following an Environmental Assessment (EA) revision process.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by April 1999. The comment period on the draft EIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register**. The draft and final EIS will be prepared and circulated in accordance with 40 CFR 1502.9. Comments received on the draft EIS will be considered in the preparation of the final EIS. The final EIS is scheduled to be completed July 1999.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of the draft structure their

participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519,553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at the time when it can meaningful consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

In the final EIS, the Forest Service is required to respond to substantive comments and responses received during the comment period that pertain to the environmental consequences discussed at the draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the Ashland Watershed Protection Project.

The Responsible Official is Linda Duffy, Ashland District Ranger on the Rogue River National Forest. The Responsible Official will document her decision and rationale for the decision in the Record of Decision. That decision will be subject to Forest Service appeal regulations (36 CFR Part 215).

Dated: February 12, 1999.

Linda L. Duffy,

District Ranger.

[FR Doc. 99–4644 Filed 2–24–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Five Rivers Landscape Management Project; Siuslaw National Forest, Lincoln and Lane Counties, Oregon

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare and consider an environmental impact statement.

SUMMARY: The USDA Forest Service will prepare an environmental impact statement (EIS) for a proposed action in the Five Rivers Watershed, designed to:

- Increase late-successional habitat in late-successional and riparian reserves;
- Restore the health of watersheds and associated aquatic ecosystems;
- Maintain the function and diversity of matrix (non-reserved) lands, while providing timber and other products and amenities; and
- Learn from various strategies for achieving late-successional conditions and aquatic conservation because no single strategy is known to work best.

The Five Rivers watershed is about 34 air miles southwest of Corvallis and 40 air miles northwest of Eugene, Oregon. Proposed activities include thinning plantations through commercial sales and service contracts, planting hardwoods and shade-tolerant conifers in suitable sites, decommissioning and closing roads, placing large woods in streams, planting conifers in riparian areas, maintaining and creating early-seral habitat, maintaining diverse dispersed recreational opportunities, and maintaining opportunities to harvest greenery and mushrooms. These proposed activities are linked by their interacting effects—through the networks of streams, roads, and forested stands—on this large project area. Efficiencies in planning are also expected.

The Five Rivers planning area comprises about 37,000 acres; of this total, 4,932 acres (13%) are private land. Of the 32,038 acres of National Forest land, about 15,530 acres (48%) have been previously harvested and regenerated. About 11,781 acres (37%) remain in mature condition, and about 5,000 acres (15%) are in hardwood or mixed conifer and hardwood. The project area has an average road density of 3.1 miles per square mile, and an average stream density of 7.9 miles per square mile. The project area does not include any inventoried roadless or designated wilderness areas.

The Forest Service proposal complies with the 1990 Siuslaw National Forest Land and Resource Management Plan, as amended by the 1994 Northwest Forest Plan, which provides guidance for managing this area. The Lobster/Five Rivers watershed analysis (1997) identified many opportunities to restore terrestrial and aquatic ecosystems in the Five Rivers watershed, which the proposed action is designed to address. Some proposed project activities are expected to begin in fiscal year (FY) 2000, but when activities actually begin in a function of many factors—such as availability of funding, market conditions, contract size, and award date. For example, a timber sale planned for 2004 could take 4 or 5 years to complete, for a variety of reasons—for example, because of poor market conditions. Planned post-sale activities to be funded by timber receipts could thus be delayed as well. We expect the work to begin in FY2000 and continue through FY2015.

The Siuslaw National Forest invites written comments on this proposal. Site-specific comments are encouraged because they are the most useful for improving project design. The proposed actions are described in detail below to provide our current thinking in a way to help people understand the proposal. Considerable flexibility exists for developing strategies, depending on the issues raised.

DATES: Comments about the scope of the proposal should be received in writing by March 19, 1999.

ADDRESSES: Send written comments to Doris Tai, District Ranger, Waldport Ranger District, Siuslaw National Forest, P.O. Box 400, Waldport, Oregon 97394.

FOR FURTHER INFORMATION CONTACT: Paul Thomas, EIS Team Leader, Waldport Ranger District, Siuslaw National Forest, Phone 541–563–3211. Maps, referenced below, showing proposed actions for the Five River Watershed Restoration Project, can be viewed at the Waldport District Office or on the Siuslaw National Forest Web site at www.fs.fed.us/r6/siuslaw/projects.htm.

SUPPLEMENTARY INFORMATION: The land managed by the Siuslaw National Forest is public land. In the project area, the Record of Decision for the Northwest Forest Plan (NWFP 1994) designates three land allocations that must be managed under specific guidelines intended to: move tree plantations in the late-successional reserves toward old-growth conditions; improve habitat for riparian-dependent species, including anadromous fish, in late-successional and riparian reserves; and harvest wood products from the remaining area (matrix) to benefit local economies. The Plan also provides a

process for evaluating management actions and identifying steps to modify activities to improve results (adaptive management).

The Assessment Report: Federal Lands in and Adjacent to Oregon Coast Province (1995, chapters C–F), the Late-Successional Reserve Assessment: Oregon Coast Province, Southern Portion (1997, chapter 3), and the Lobster/Five Rivers Watershed Analysis (1997, chapter 5) describe the current terrestrial, aquatic, and social conditions in the Five Rivers watershed. The Lobster/Five Rivers Watershed Analysis (chapter 6) identifies many opportunities for restoring terrestrial and aquatic ecosystems in the planning area. In reviewing these documents, I identified the following needs and proposed actions to meet the current objectives:

A need for increased late-successional habitat in late-successional and riparian reserves. Late-successional reserves were designed to protect and enhance conditions of late-successional and old-growth forest ecosystems, which are required habitat for many species (NWFP 1994). Riparian reserve objectives include protecting and enhancing habitat for terrestrial plants and animals, as well as providing connectivity corridors between late-successional reserves. The watershed analysis showed that the amount of mature and late-successional forest, including large patches, has decreased over the last 100 years, and edge habitat, fragmentation, numbers of hardwoods, and early-seral habitat have increased. Natural stands have more diversity in tree species and structure, as well more coarse woody debris and snags, than do these plantations. To accelerate developing mature and late-successional habitat characteristics, I propose to thin about 3,250 acres of predominately Douglas-fir-from both late-successional and riparian reserves—through commercial timber sales (map 1); to support these sales, about 16 miles of existing road would be temporarily reopened, and about 1.5 miles of new temporary road would be built. After stand development and coarse wood debris restoration objectives are met, about 32.1 million board feet would be available to harvest for manufacturing wood products. About 2,000 acres would be thinned through service contracts. A mixture of shade-tolerant conifers and hardwoods would be planted on 800 acres in existing plantations to add diversity to their future composition and structure.

A need to restore the health of watersheds and associated aquatic ecosystems. The Aquatic Conservation Strategy in the Northwest Forest Plan is intended to restore and maintain the health of watersheds and the aquatic ecosystems they contain. The watershed analysis showed several streams with one or more aquatic habitat components—such as stream temperatures, channel complexity, and stream substrate characteristics—as at risk of or not functioning properly. To facilitate restoring hydrologic processes and conditions, I propose to decommission about 37 miles of road and close about 86 miles of road in the watershed (map 2). To mitigate for the loss of access to a private parcel, I will issue a special-use permit to build, use, and maintain a road across National Forest land (map 2). I am also proposing to evaluate alternative routes for Roads 32 and 3505 in the Upper Five Rivers subwatershed. To facilitate restoring hydrologic processes, I propose to place large conifers and root wads along 36 miles of stream (map 1). To provide for a future supply of conifers and facilitate shade development, 200 acres of alder- or meadow-dominated riparian areas will be planted with conifers and various hardwoods (map 1).

A need to maintain the function and diversity in matrix lands while providing timber and other products and amenities. Producing timber and other products is an important objective for the matrix lands, but the standards and guides of the Northwest Forest Plan are also designed to provide important ecological functions, such as the carryover of some species from one stand to the next and maintaining structural components such as logs, snags, and large green trees. The matrix is also managed to add ecological diversity by providing early-successional habitat. The watershed analysis showed that the habitat components in the matrix lands were similar in composition and structure to lands in late-successional reserves. To ensure that future management activities are able to meet management objectives, I propose to thin about 650 acres in plantations on matrix lands through commercial timber sales (map 1). To support these sales, about 3 miles of existing road would be temporarily reopened, and about 0.5 miles of new temporary road would be built. About 6.5 million board feet would be sold and harvested for manufacturing wood products. To maintain a diversity or seral classes, about 40 acres of existing meadows and plantations in matrix land will be maintained in early-seral condition (map 1).

A need to learn from a variety of strategies for achieving late-successional conditions and aquatic conservation because no single strategy is known to work best. The Northwest Forest Plan identified the standards and guides for management activities. Adaptive management is a process of action-based planning, monitoring, researching, evaluating, and adjusting to improve future actions and to determine if the standards and guides are effective in achieving the goals of the Northwest Forest Plan. The high density of roads in the Siuslaw continues to fuel the debate over their long-term management, primarily related to the values associated with using and maintaining them versus their adverse effects on the terrestrial and aquatic environment. Debate also surrounds the question of whether the plantations will ever achieve old-growth conditions, with or without thinning and under-planting. I propose a management study to compare effects of different road-management strategies and their effects on resources. Four strategies have been proposed so far: no road access, no intervention; continued road access, continuous management; 10-year road closures, intermittent management; and 20-year road closures, intermittent management. Strategies with long road closures will require thinning to wider spacing and different stream-restoration strategies than strategies that keep roads open. The strategies would be distributed across the landscape in a way that makes comparing the results most valid. Details of the management study, reflecting public input, will be described in the draft EIS.

This analysis will consider a range of alternatives that will address the purpose and needs for the proposed project. The no-action alternative will be part of this range so that effects associated with not implementing any of the proposed activities can be evaluated. Preliminary issues considered significant include the effects on habitat of species associated with late-successional and old-growth forests, effects on aquatic habitats and hydro-logic processes, and changes in vehicle access to the watershed.

The Forest Service will be seeking additional information, comments, and assistance from Federal, State, and local agencies; tribes; and other individuals or organizations who may be interested or affected by the proposed project. Field trips and public scoping meetings are not scheduled at this time, pending comments form the public. Comments from other agencies are being sought and will be used in preparing the draft EIS. The scoping process will:

- Identify potential issues;
- Identify key issues to analyzed in depth;

• Eliminate non-key issues or those that have been covered by relevant previous environmental analyses;

• Identify alternatives to the proposed action;

• Identify opportunities for cooperative restoration projects on private land; and

• Identify potential environmental effects (that is, direct, indirect, and cumulative effects) of the proposed action and alternatives.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to available for public review by June 1999. The comment period on the draft EIS will be 45 days after the EPA publishes the notice of availability in the **Federal Register.** The final EIS is scheduled to be available in September 1999.

To assist the Forest Service in identifying and considering issues on the proposed project, comments on the draft EIS should be as specific as possible. Referring to specific pages or chapters of the draft statement is also helpful. Comments may address both the adequacy of the draft EIS and the merits of the alternative formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

At this early stage, I believe that giving reviewers notice of several court rulings related to public participation in reviewing environmental processes is important. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts the agency to the reviewer's position and contentions (*Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 533; 1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until the final environmental impact statement is completed may be waived or dismissed by the courts (*City of Angoon* v. *Hodel,* 803 F. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of those court rulings, participation by those interested in this proposed project by the close of the 45-day comment period is essential, so that substantive comments and objections are made available to the Forest Service when it can consider and respond to them in developing issues and alternatives in the final EIS.

After the 45-day public comment period, the comments received will be reviewed and considered in preparing the final EIS. The forest supervisor of the Siuslaw National Forest is the responsible official for this EIS. After considering public comments and responses, environmental consequences discussed in the final EIS, and applicable laws, regulations and policies; as the responsible official, I will reach a decision on this proposal. This decision and the evidence supporting it will be documented in a record of decision, which is subject to Forest Service appeal regulations (36 CFR Part 215).

Dated: February 9, 1999.

James R. Furnish,

Forest Supervisor.

[FR Doc. 99–4646 Filed 2–24–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Rimrock Projects, Umatilla National Forest, Grant, Morrow, and Wheeler Counties, Oregon

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) on a proposal to implement ecosystem management projects designed to promote long-term resiliant, sustainable watershed conditions. Project guidance is provided by the Ecosystem Analysis of the Wall Watersheds (September 1995). The project area is located on the Heppner Ranger District and lies approximately 25 miles southwest of Heppner, Oregon, within the Wall Creek watershed (subwatersheds 24A–G).

Proposed project activities consist of in-channel fish structure maintenance, hydrologic stability projects (road obliteration/decomissioning, road resurfacing/reconstruction), wildlife enhancement projects, aspen habitat enhancement, noxious weed treatments, range improvements, recreation opportunities, landscape prescribed fire, and restoration of forest stand structure/composition using a variety of silvicultural treatments including commercial timber harvest. The proposed action is designed to reduce risks to ecosystem sustainability, prevent further degradation of forest health, reduce risks of catastrophic wildfire, improve or maintain water quality and aquatic habitat, and provide economic return to local economies. The proposed projects will be in compliance with the 1990 Land and Resource Management Plan FEIS for the Umatilla National Forest, as amended, which provides overall direction for management of this area.

DATES: Written comments concerning the scope of the analysis should be received on or before March 31, 1999.

ADDRESSES: Send written comments and suggestions to the Responsible Official, Delanne Ferguson, District Ranger, Heppner Ranger District, P.O. Box 7, Heppner, Oregon 97836.

FOR FURTHER INFORMATION CONTACT: Charlene Bucha Gentry, Project Team Leader, Heppner Ranger District, Phone: (541) 676–9781.

SUPPLEMENTARY INFORMATION: The decision area contains approximately 42,000 acres within the Umatilla National Forest in Grant, Morrow, and Wheeler Counties, Oregon. It is within the boundary of the Wall watershed which includes Lower, Middle, and Upper Big Wall; Porter; Lower and Upper Wilson; and Indian subwatersheds. The legal description of the decision area is as follows: R.25E. T.6S. sections 24–28 and 32–36; R.25E. T.7S. sections 1–5, 9–15, 23–25, and 36; R.26E. T6S. sections 16, 19–23, and 26–35; R.26E. T.7S. sections 1–36; R.26E. T.8S. sections 1–6, 8–16, and 24; R.27E. T.7S. sections 13–36; R.27E. T.8S. sections 2–10 and 16–19; and R.28E. T.7S. sections 19, 30, and 31, W.M. surveyed. All proposed activities are outside the boundaries of any roadless or wilderness areas.

Fish habitat projects include maintenance and restoration of in-channel structures. Proposed hydrologic stability projects include 34 miles of road obliteration or decommissioning, 37 miles of road resurfacing, 47 miles of road reconstruction, installation of a culvert to replace a low-water ford (Forest Road 23), and installation of three low-water fords designed for fish passage (concrete approaches with a suspended grate) on Forest Road 23 and 2300100 where they intersect with Big Wall Creek. Aspen habitat enhancement includes removal of encroaching conifers, construction of ungulate-proof fences, prescribed burning, and mechanical root stimulation. Range improvements consist of the construction of barbed wire fencing on three creeks to protect riparian areas. Bull Prairie Reservoir has silted in considerably in the 32 years since its construction. Excavation of three identified areas along the shoreline of the reservoir would remove cattails, deepen the lake shoreline, and enhance

fishing opportunities. Landscape prescribed fire across the analysis area would reduce the potential for future catastrophic wildfires, enhance wildlife habitat, maintain forest health, and reduce fuel loadings. A variety of silvicultural methods would treat approximately 5,500 acres within the area. This would result in an estimated 33,000 ccf (17.5 million board feet) of wood products produced for local economies. Proposed silvicultural treatments are as follows:

Precommercial Thinning: Saplings (generally up to 6 inch dbh) would be thinned to a tree per acre variable spacing to promote growth, restore and maintain a more sustainable species composition, and to promote visual quality along Hwy 207. This treatment is proposed on about 380 acres.

Commercial Thinning: Stand densities would be reduced to a residual square foot of basal area per acre based on recommended stocking levels appropriate for the plant association to restore a more ecologically sustainable structure and species composition. All stands would remain fully stocked upon completion of harvest activities. This treatment is proposed on approximately 5,100 acres.

Proposed commercial thinning units would be harvested using tractor, harvester/forwarder, and helicopter logging systems. Access for harvest would require reconstruction of about 47 miles of existing roads and construction of approximately 12 miles of temporary roads. The temporary roads would be closed and obliterated upon completion of harvest activities. Activities that would occur concurrently or in association with timber harvest include subsoiling of landings and temporary roads to mitigate soil compaction, waterbarring, seeding of skid trails and landings for noxious weed control, and burning of some slash.

Public participation will be especially important at several points during the analysis, beginning with the scoping process (40 CFR 1501.7). Scoping will include listing of this EIS in the Spring 1999 issue of the Umatilla National Forest's Schedule of Proposed Activities; letters to agencies, organizations, and individuals who have already indicated their interest in such activities; and news releases in the East Oregonian and other local newspapers. No public meetings have been planned at this time; they will be scheduled later as needed. This notice is to encourage members of the public, interested organizations, federal, state and county agencies, and local tribal governments to take part in planning this project. They are encouraged to visit with Forest Service officials at any time during the analysis and prior to the decision. Any information received will be used in preparation of the Draft EIS. The scoping process includes:

1. Identifying potential issues
2. Identifying major issues to be analyzed in depth
3. Considering alternatives based on themes which will be derived from issues recognized during scoping activities
4. Identifying potential environmental effects of project and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).

Preiliminary issues include: effects of proposed activities on water quality and the anadromous and resident fisheries resource; effects of the proposed activities on Threatened, Endangered and Sensitive (TES) species and what opportunities exist to improve habitat; and the ability of proposed activities to restore historic vegetation composition, structure, and pattern.

A full range of alternatives will be considered, including a ''no-action'' alternative in which none of the activities proposed above would be implemented. Based on the purpose and need, as well as issues gathered through scoping, the action alternatives will vary (1) the number, type and location of projects, (2) the silvicultural and post-harvest treatments prescribed, (3) the amount and location of harvest and thinning, (4) the type and amount of excavation to occur in Bull Prairie Reservoir, and (5) the type and amount of repairs to occur on Forest Road 23.

Appropriate Federal, state, and local permits or licenses will be obtained for activities associated with the project, including Oregon Division of State Lands Fill and Removal Permit.

The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available to the public for review by July 1999. At that time, the EPA will publish a Notice of Availability of the Draft EIS in the **Federal Register**. The comment period on the Draft EIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register**. It is important that those interested in the management of the Umatilla National Forest participate at that time.

The Final EIS is scheduled to be completed by October 1999. In the Final EIS, the Forest Service will respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the Draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519,553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 f.2d 1016, 1022 (9th Cir, 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provision of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points).

The Forest Service is the lead agency. Delanne Ferguson, District Ranger, is the Responsible Official. As the Responsible Official, she will decide which, if any, of the proposed projects will be implemented. She will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service Appeal Regulations (36 CFR part 215).

Dated: February 8, 1999.

Delanne Ferguson,

District Ranger.

[FR Doc. 99–4647 Filed 2–24–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–809]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation

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

EFFECTIVE DATE: February 25, 1999.

FOR FURTHER INFORMATION CONTACT: Lyn Baranowski (Severstal), Carrie Blozy (MMK), Lesley Stagliano (Novolipetsk), or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3208, (202) 482–0165, (202) 482–0190, and (202) 482–3818, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (1998).

Preliminary Determination

We preliminarily determine that hot-rolled flat-rolled carbon-quality steel products (''hot-rolled steel'') from the Russian Federation is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

On October 15, 1998, the Department initiated antidumping duty investigations of imports of hot-rolled steel from Brazil, Japan, and the Russian Federation. *See Initiation of Antidumping Duty Investigations: Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil, Japan, and the Russian Federation,* 63 FR 56607 (October 22, 1998). Since the initiation of this investigation the following events have occurred:

The Department set aside a period for all interested parties to raise issues regarding product coverage. The Department received numerous filings from respondents and other interested parties proposing amendments to the scope of these investigations. On January 6, 1999 and January 27, 1999, petitioners (Bethlehem Steel Corporation, U.S. Steel Group, a unit of USX Corporation, Ispat Inland Steel, LTV Steel Company, Inc., National Steel Corporation, California Steel Industries, Gallatin Steel Company, Geneva Steel, Gulf States Steel Inc., IPSCO Steel Inc., Steel Dynamics, Weirton Steel Corporation, the Independent Steelworkers Union, and the United Steelworkers of America) filed letters agreeing to amend the scope of these investigations to exclude those products for which Itochu International Inc., Nippon Steel Corporation, and others had requested exclusion. *See Memorandum to Joseph A. Spetrini, from Richard Weible, Edward Yang, and Roland MacDonald; Re: Antidumping and Countervailing Duty Investigations of Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil, Japan, and the Russian Federation: Scope Amendments,* dated February 12, 1999.

On October 19, 1998, the Department requested comments from petitioners and respondents regarding the criteria to be used for model matching purposes. On October 22 and 27, 1998, petitioners and respondents (Companhia Siderurgica Nacional, Companhia Siderurgica Paulista, Usinas Siderurgicas de Minas Gerais, Nippon Steel Corporation, NKK Corporation, Kawasaki Steel, Sumitomo Metal Industries, Ltd., and Kobe Steel Ltd.) in the Japanese and Brazilian investigations submitted comments on proposed model matching criteria.

On November 16, 1998, the United States International Trade Commission (''the ITC'') notified the Department of its November 13, 1998 affirmative preliminary finding of threat of material injury with respect to subject imports from the Russian Federation. Additionally, on November 25, 1998, the ITC published its preliminary determination that there is a reasonable indication that an industry in the United States is being threatened with material injury by reason of imports of the subject merchandise from the Russian Federation (63 FR 65221).

On October 19, 1998, the Department issued Section A of its antidumping questionnaire to JSC Severstal (''Severstal''), Novolipetsk Iron & Steel Corporation (''Novolipetsk''), Magnitogorsk Iron & Steel Works (''MMK''), Amursteel, Novosibprokat Joint-Stock Co., Chusovskoy Iron & Steel Works, Gorkovsky Metallurgichesky Zavod, Kuznetskiy Met Kombinat, Lysva Metallurgical Plant, Nosta, Shchelkovsky Sheet Rolling Mill, Taganrog, Tulachermet, Volgograd Steel Works (Red October), Zapsib Met Kombinat, and Mechel. On October 30, 1998, the Department issued Sections C and D of its antidumping questionnaire to the above-named companies.

On November 16, 1998, we received the section A questionnaire responses from Severstal, Novolipetsk, and MMK. Petitioners filed comments on all three of the respondents section A questionnaire responses on November 30, 1998 and December 1, 1998. We issued supplemental questionnaires for section A to Severstal, Novolipetsk, and MMK on December 4, 1998. On December 11, 1998, we issued a letter to respondents informing them that the Department would consider these supplemental questions for section A to have been issued on January 4, 1999. On December 21, 1998, we received responses to sections C and D of the questionnaire from Severstal, Novolipetsk, and MMK. Petitioners filed comments on Severstal's, Novolipetsk's, and MMK's section C and D questionnaire responses on December 28, 1998. We issued supplemental questionnaires for sections C and D to Severstal, Novolipetsk, and MMK on January 4, 1999, and received responses to these questionnaires on January 25, 1999, as well as to our supplemental section A questionnaires. On February 2, 1999, we issued an additional supplemental questionnaire to Severstal, and received the company's response on February 5, 1999.

On February 9, 1999, MMK submitted additional narrative explanation and worksheets describing its calculation of the factors of production. Because of the late date of this submission, the Department has not had time to fully analyze the information provided by MMK. Therefore, the Department has not considered this submission for its preliminary determination. However, the Department will consider MMK's February 9, 1999 submission for its final determination.

In the petition filed on September 30, 1998, petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of hot-rolled steel from Brazil, Japan, and the Russian Federation. On November 23, 1998, in the investigations of Japan and the Russian Federation, the Department issued its preliminary critical circumstances decisions (63 FR 65750; November 30, 1998). In these determinations, the Department preliminarily determined that there is a reasonable basis to believe or suspect that critical circumstances exist for

imports of hot-rolled steel from Japan and the Russian Federation.

The Department notes that it has requested company specific export information from Severstal, Novolipetsk, and MMK. We invite interested parties to comment on the issue of critical circumstances, and we will consider these comments and the company-specific data in making our final determination.

Scope of Investigation

For purposes of this investigation, the products covered are certain hot-rolled flat-rolled carbon-quality steel products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers) regardless of thickness, and in straight lengths, of a thickness less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of these investigations.

Specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (''IF'')) steels, high strength low alloy (''HSLA'') steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of this investigation, regardless of HTSUS definitions, are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
1.50 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.012 percent of boron, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.41 percent of titanium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this investigation unless otherwise excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this investigation:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including e.g., ASTM specifications A543, A387, A514, A517, and A506).
- SAE/AISI grades of series 2300 and higher.
- Ball bearing steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 1.50 percent.
- ASTM specifications A710 and A736.
- USS Abrasion-resistant steels (USS AR 400, USS AR 500).
- Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10–0.14%	0.90% Max	0.025% Max	0.005% Max	0.30–0.50%	0.50–0.70%	0.20–0.40%	0.20% Max

Width = 44.80 inches maximum; Thickness = 0.063–0.198 inches; Yield Strength = 50,000 ksi minimum; Tensile Strength = 70,000–88,000 psi.

- Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10–0.16%.	0.70–0.90%.	0.025% Max.	0.006% Max.	0.30–0.50%.	0.50–0.70%.	0.25% Max	0.20% Max
Mo	.....	.....	.....	.....	.....	.....	
0.21% Max	.....	.....	.....	.....	.....	.....	

Width = 44.80 inches maximum; Thickness = 0.350 inches maximum; Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi Aim.

- Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10–0.14%.	1.30–1.80%.	0.025% Max.	0.005% Max.	0.30–0.50%.	0.50–0.70%.	0.20–0.40%.	0.20% Max
V (wt.)	Cb	.....	.....	.....	.....	.....	
0.10 Max ..	0.08% Max	.....	.....	.....	.....	.....	

Width = 44.80 inches maximum; Thickness = 0.350 inches maximum; Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi Aim.

- Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.15% Max	1.40% Max	0.025% Max.	0.010% Max.	0.50% Max	1.00% Max	0.50% Max	0.20% Max
Nb ..... 0.005% Min.	Ca ..... Treated	Al ..... 0.01–0.07%.	....	....	....	....	

Width = 39.37 inches; Thickness = 0.181 inches maximum; Yield Strength = 70,000 psi minimum for thicknesses ≤ 0.148 inches and 65,000 psi minimum for thicknesses >0.148 inches; Tensile Strength = 80,000 psi minimum.

- Hot-rolled dual phase steel, phase-hardened, primarily with a ferritic-martensitic microstructure, contains 0.9 percent up to and including 1.5 percent silicon by weight, further characterized by either (i) tensile strength between 540 N/mm² and 640 N/mm² and an elongation percentage ≥ 26 percent for thicknesses of 2 mm and above, or (ii) a tensile strength between 590 N/mm² and 690 N/mm² and an elongation percentage ≥ 25 percent for thicknesses of 2mm and above.
- Hot-rolled bearing quality steel, SAE grade 1050, in coils, with an inclusion rating of 1.0 maximum per ASTM E 45, Method A, with excellent surface quality and chemistry restrictions as follows: 0.012 percent maximum phosphorus, 0.015 percent maximum sulfur, and 0.20 percent maximum residuals including 0.15 percent maximum chromium.

The merchandise subject to these investigations is classified in the *Harmonized Tariff Schedule of the United States* (''HTSUS'') at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, 7211.19.75.90, 7212.40.10.00, 7212.40.50.00, 7212.50.00.00. Certain hot-rolled flat-rolled carbon-quality steel covered by this investigation, including: vacuum degassed, fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation (POI) is January 1, 1998 through June 30, 1998.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters/producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. When it is not practicable to examine all known producers/exporters of subject merchandise, this provision permits the Department to investigate either: (1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection; or (2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined.

After consideration of the complexities expected to arise in this proceeding and the resources available to the Department, we determined that it was not practicable to examine all known producers/exporters of subject merchandise. Instead, we found that, given our resources, we would be able to investigate the three Russian producers/exporters with the greatest export volume. Based on the responses to section A from Severstal, Novolipetsk, and MMK, these companies accounted for substantially all known exports of the subject merchandise during the POI. For a more detailed discussion of respondent selection in this investigation, *see Memorandum to Joseph A. Spetrini, from the Russia Team; Re: Selection of Respondents* (''*Respondent Selection Memo*''), dated November 19, 1998.

Date of Sale

For its U.S. sales, Severstal and Novolipetsk reported the date of order specification as the date of sale. MMK has argued that the Department should use the date of shipment as the date of sale.

As stated in 19 CFR 351.401(i), the Department will use as the date of sale that date which best reflects the date on which the exporter or producer establishes the material terms of sale. Severstal has stated that the material terms of sale, namely price, quantity and product characteristics, are set on the order specification date, and, therefore it is the most appropriate date to use as date of sale. Novolipetsk reported that the order specification date is the first time that the material terms of the sale are recorded, making this date the appropriate date of sale. However, Novolipetsk stated that it does not date its order specifications. Novolipetsk reported that, to the best of its knowledge, order specifications are not signed more than 30 days prior to commencing delivery. Therefore, the company claimed to have reported as sales within the POI all specification orders with delivery dates between January and July 1998 (one month beyond the POI) to ensure that the entire universe of sales with order specification dates within the POI was properly reported. In its supplemental questionnaire response, Novolipetsk further stated that the company reported the date on which the order was accepted, as evidenced by the date stamp on the document. For a further discussion of this issue, *see Memorandum to the File from Lesley Stagliano, Case Analyst; Re: Analysis for Novolipetsk Iron & Steel Corporation (Novolipetsk),* dated February 22, 1999.

In its section A questionnaire response, MMK stated that it considered date of shipment to be the date of sale. However, MMK also stated that the date of the order specification would most likely be considered by the Department to be the most appropriate date of sale, because the terms of sale are set in the order specification. See MMK's section A questionnaire response at 13. Nevertheless, in MMK's subsequent

questionnaire responses, MMK maintained that the Department should treat the date of shipment as the date of sale because this is the date that MMK recognizes as the date of sale in its accounting system and because the terms of sale are subject to change until the shipment date. *See,* e.g., supplemental section A questionnaire response at SA–1. MMK identified sales for which the order specifications were amended after the order was signed and reported the date of the order amendment as the date of sale. Based on the sample order specification and the order amendments provided by MMK, it appears that the terms of sale are set in the order specification or, if applicable, in the order amendment. We note that there is no evidence on the record which indicates that, when no order amendment was provided, the terms of sale for the merchandise shipped differed from the terms of sale set in the order specification. Therefore, for the preliminary determination, the Department is using the date of the order specification or order amendment, if applicable, as the date of sale.

The Department is preliminarily using the date of sale for U.S. sales as reported by respondents Severstal and Novolipetsk. For MMK, we have preliminarily decided to use the order specification date as the date of sale for U.S. sales. We intend to fully examine this issue at verification, and we will incorporate our findings, as appropriate, in our analysis for the final determination. Due to the complexity of this issue, we invite all interested parties to submit comments on this issue in accordance with the schedule set forth in this notice.

Nonmarket Economy Country Status

The Department has treated the Russian Federation as a nonmarket economy (''NME'') country in all past antidumping investigations and administrative reviews (*see, e.g., Titanium Sponge from the Russian Federation: Final Results of Antidumping Administrative Review,* 64 FR 1599 (January 11, 1999); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the Russian Federation,* 62 FR 61787 (November 19, 1997); *Notice of Final Determination of Sale at Less Than Fair Value: Pure Magnesium and Alloy Magnesium from the Russian Federation,* 60 FR 16440 (March 30, 1995); *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of the Final Determination: Ferrovanadium and Nitridid Vanadium from the Russian Federation,* 60 FR 438 (January 4, 1995)). A designation as an NME remains in effect until it is revoked by the Department (*see* section 771(18)(C) of the Act). Therefore, for this preliminary determination, the Department is continuing to treat the Russian Federation as an NME.

Surrogate Country

When the Department is investigating imports from an NME, section 773(c) of the Act provides for the Department to base normal value (''NV'') on the NME producers'' factors of production, valued in a surrogate market economy country or countries considered appropriate by the Department. In accordance with section 773(c)(4), the Department, in valuing the factors of production, shall utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that are comparable in terms of economic development to the NME country and are significant producers of comparable merchandise. The sources of individual factor values are discussed under the NV section below.

The Department has determined that Tunisia, Colombia, Poland, Venezuela, South Africa, and Turkey are countries comparable to the Russian Federation in terms of overall economic development. *See Memorandum to Rick Johnson, Program Manager, from Jeff May, Director, Office of Policy; Re: Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation: Nonmarket Economy Status and Surrogate Country Selection (''Policy Memorandum''),* dated December 21, 1998. According to the available information on the record, we have determined that Turkey is an appropriate surrogate because it is at a comparable level of economic development and is a significant producer of comparable merchandise. Furthermore, there is a wide array of publicly available information for Turkey. Accordingly, we have calculated NV using Turkish prices to value the Russian producers' factors of production, when available and where appropriate. We have obtained and relied upon public information wherever possible.

We note that, in this investigation, Severstal, Novolipetsk, and MMK have argued that Poland is a more appropriate surrogate than Turkey. *See* January 7 and January 15, 1999 *Letters to the Department from Novolipetsk and MMK,* and January 7, 1999 *Letter to the Department from Severstal.* The Department concurs with respondents that Poland also meets the above-mentioned criteria of being comparable in terms of economic development to the Russian Federation and is likewise a significant producer of comparable merchandise.

However, as noted in the *Policy Memorandum,* in the event that more than one country satisfies both statutory requirements, the Department should narrow the field to a single country on the basis of data availability and quality. *See also Notice of Final Determination of Sales at Less Than Fair value: Certain Cased Pencils from the People's Republic of China,* 59 FR 55625 (November 8, 1994). Based on the information submitted by interested parties in response to the Department's solicitation of surrogate values, as well as information independently gathered by the Department for the purposes of this preliminary determination, we find that the Turkish data is more complete and, for most values, of either the same or superior quality when compared with the Polish data.

In accordance with section 351.301(c)(3)(i) of the Department's regulations, for a final determination in an antidumping investigation, interested parties may submit publicly available information to value factors of production within 40 days after the date of publication of the preliminary determination. Therefore, in the event that interested parties submit timely additional information, including information pertaining to Polish surrogate values, the Department will re-examine its selection of Turkey as the primary surrogate country for the purposes of its final determination. For a further discussion of the Department's selection of Turkey as the primary surrogate, *see Memorandum to the File, from Carrie Blozy, Case Analyst; Re: Selection of a Surrogate Country,* dated February 22, 1999.

Separate Rates

The Department presumes that a single dumping margin is appropriate for all exporters in an NME country. *See Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994) (''*Silicon Carbide*''). The Department may, however, consider requests for a separate rate from individual exporters. Severstal, Novolipetsk, and MMK have each requested a separate, company-specific rate. To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56

FR 20588 (May 6, 1991) and amplified in *Silicon Carbide*. Under the separate rates criteria, the Department assigns separate rates in NME cases only if a respondent can demonstrate the absence of both *de jure* and *de facto* government control over export activities. For a complete analysis of separate rates, *see Memorandum to Edward C. Yang from Lesley Stagliano, Case Analyst; Re: Separate Rates for Exporters that Submitted Questionnaire Responses* (''*Separate Rates Memo*''), dated February 22, 1999.

1. Absence of *De Jure* Control

An individual company may be considered for separates rates if it meets the following *de jure* criteria: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.

The respondents have placed on the administrative record a number of documents to demonstrate absence of *de jure* control. These documents include laws, regulations, and provisions enacted by the central government of the Russian Federation, describing the deregulation of Russian enterprise as well as the deregulation of the Russian export trade, except for a list of products that may be subject to central government export constraints. Respondents claim that the subject merchandise is not on this list. This information supports a preliminary finding that there is an absence of *de jure* government control. *See Separate Rates Memo.*

2. Absence of *De Facto* Control

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) whether the export prices (''EP'') are set by or subject to the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. All three respondents have reported that they are publicly-owned companies. In no case is there aggregate government ownership greater than 25 percent.

Severstal has asserted that the company establishes its prices in negotiation with its customers, and that these prices are not subject to review or guidance from any government organization. Furthermore, Severstal's management has the authority to negotiate and sign contracts, also without review or guidance from outside organizations. Severstal stated that it can retain all export earnings, and that there are no restrictions on the use of the company's export revenues or utilization of profits. Severstal further reports that its management is appointed by the company's shareholders, and that the government has no role in, and is not advised of, the selection of its management.

Novolipetsk stated that it either negotiates directly with customers or contracts with agents in determining price. The company has reported that its prices are not subject to review by, or guidance from, any government nor does the government have any involvement in decisions involving the allocation of export profits. Novolipetsk stated that only its Board of Directors makes decisions as to how profits will be used. Novolipetsk's shareholders elect the Board of Directors and the company's Director General at the annual shareholder's meeting. Novolipetsk reports that the company's sales director is authorized to contractually bind the company, and that no organization outside the company reviews or approves any aspect of the company's sales transactions.

MMK stated that it also negotiates prices directly with its customers. These negotiations are conducted by the export department. MMK reports that no outside authority or organization reviews or approves pricing or any other aspect of the company's sales transactions. Additionally, MMK reported that the allocation of MMK's profits is determined by the General Shareholder's Meeting (with respect to the payment of dividends) and MMK's management. MMK stated that the members of the Board of Directors are elected to the Board by the shareholders of MMK and the Chairman is elected by the Board of Directors.

In addition, the respondents' questionnaire responses indicate that company-specific pricing during the POI does not suggest coordination among exporters. This information supports a preliminary finding that there is an absence of *de facto* governmental control of the export functions of these companies. Consequently, we preliminarily determine that Severstal, Novolipetsk, and MMK meet the criteria for application of separate rates. For a further discussion of this issue, *see Separate Rates Memo.*

Fair Value Comparisons

To determine whether hot-rolled steel products from the Russian Federation sold to the United States by the Russian producers/exporters receiving separate rates were made at less than fair value, we compared the EP to the NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice.

Export Price

For Severstal, we preliminarily calculated EP in accordance with section 772(a) of the Act, because the subject merchandise was sold to the first unaffiliated purchaser in the United States prior to importation and constructed export price (''CEP'') methodology was not otherwise indicated. We will examine the EP/CEP designation further at verification. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs to the NV based on factors of production.

We calculated EP based on either packed FOB prices or FCA prices to unaffiliated trading companies. When appropriate, for FOB sales, we made deductions from the starting price for brokerage and handling. These services were assigned a surrogate value based on public information from *Certain Circular Welded Carbon Steel Pipe and Tube from Turkey. See Memorandum to Edward C. Yang; Re: Factor Valuation for Severstal, MMK, and Novolipetsk (''Factor Valuation Memo''),* dated February 22, 1999. We also made adjustments for foreign inland freight, which was valued using Polish transportation rates, since public information on Turkish values was unavailable. Because the mode of transportation reported by Severstal is proprietary, for a further discussion, *see Factor Valuation Memo* (proprietary version).

For MMK, we preliminarily calculated EP in accordance with section 772(a) of the Act, because the subject merchandise was sold to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise indicated. We will examine the EP/CEP designation further at verification. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs to the NV based on factors of

production. We calculated EP based on packed prices to unaffiliated trading companies.

For Novolipetsk, we preliminarily calculated EP in accordance with section 772(a) of the Act, because the subject merchandise was sold to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise indicated. We will examine the EP/CEP designation further at verification. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs to the factors of production.

For Novolipetsk, we calculated EP based on either packed FOB prices to the port of loading in the Russian territory or FCA rail prices to unaffiliated trading companies. With regard to FOB sales, we made deductions from the starting price, when appropriate, for brokerage and handling. We assigned a surrogate value based on public information from *Certain Circular Welded Carbon Steel Pipe and Tube from Turkey. See Factor Valuation Memo.*

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a factors-of-production methodology if: (1) the merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

Factors of production include: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs, including depreciation. We calculated NV based on factors of production reported by Severstal, Novolipetsk and MMK, with the following exceptions: Severstal's ''charge by-products,'' packing bands, packing fasteners and cleaning gas; Novolipetsk's by-products; and MMK's fluxing agents and quantities purchased of raw materials (used in freight calculation). For further discussions of these exceptions, *see Factor Valuation Memo, Memorandum to the File, from Lyn A. Baranowski, Case Analyst; Re: Margin Calculation for the Preliminary Determination for JSC Severstal (Severstal),* dated February 22, 1999 and *Memorandum to the File, from Carrie Blozy, Case Analyst; Re: Analysis for Magnitogorsk Iron and Steel Works (''MMK'') (''Analysis Memo: MMK''),* dated February 22, 1999. We valued all the input factors using publicly available published information as discussed in the ''Surrogate Country'' and ''Factor Valuations'' sections of this notice.

Factor Valuations

The selection of the surrogate values was based on the quality and contemporaneity of the data. When possible, we valued material inputs on the basis of tax-exclusive domestic prices in the surrogate country. When we were not able to rely on domestic prices, we used import prices to value factors. As appropriate, we adjusted import prices to make them delivered prices. For those values not contemporaneous with the POI, we adjusted for inflation using producer or wholesale price indices, as appropriate, published in the International Monetary Fund's International Financial Statistics.

To value coal, iron ore concentrate, iron ore pellets, sinter, aluminum, dolomite, ferro-alloys, recycled materials, lime and scrap, we used public information published by the United Nations Trade Commodity Statistics for 1997 (''UNTCS''). Neither Novolipetsk nor Severstal provided information on the record regarding iron content for iron ore pellets. For the preliminary determination, we have valued iron ore pellets based on the 1997 UNTCS Turkish value for HTS 260112, which represents iron ore pellets with a low iron content. We have based our valuation on evidence from *The Making, Shaping and Treating of Steel* that indicates low iron content iron ore pellets are used in blast furnaces. *See Factor Valuation Memo,* Attachment 6. We intend to fully review actual iron ore content at verification.

For limestone, coal tar, grease and kerosene, we used information from 1996 UNTCS. For packing, Severstal reports that it uses a certain material for bands. Therefore, we have used the 1996 UNTCS for valuing bands, as well as fasteners (for which Severstal has not reported the composition). For packing, MMK reports that it uses straps, wire rods and cold-rolled sheets. For wire rods and sheets, we have used 1996 UNTCS for carbon wire rod and cold-rolled sheets. For packing straps, we have based their value on the value of packing bands reported in public information from the antidumping investigation, *Stainless Steel Plate in Coils from South Africa* (*see* July 15, 1998 response of Columbus Stainless Steel Company, page 48).

We note that certain inputs into the production of subject merchandise have been reported by all three companies as being self-produced. The Department instructed respondents, in the initial questionnaire, that ''if you manufacture or produce one or more products in a separate production process that is then used in a subsequent process to manufacture the subject merchandise (*e.g.*, if your company produces), report separately the materials, labor, and energy factors (Fields 2.0 through 6.n) consumed in each production stage or process. If you have any questions regarding the reporting of intermediate production factors, please contact the Official In Charge immediately.'' *See* page D–3 of the original questionnaire.

Subsequently, in supplemental questionnaires to Severstal, Novolipetsk, and MMK, the Department noted that each respondent had reported that it produced certain inputs internally. We again indicated that ''these and any other factors produced internally should be included in your calculation of factors of production for subject merchandise. As requested in the original questionnaire, you should provide a complete narrative description of your calculations, including supporting documentation and calculation worksheets.'' *See, e.g.*, Supplemental Questionnaire to JSC Severstal, page 10, dated January 4, 1999. Nevertheless, we note that none of the three respondents appear to have reported the factors of production for these self-produced inputs in their supplemental responses of January 25, 1999 (*see* Novolipetsk's response to supplemental section D questionnaire, pgs. 23–24; Severstal's response to supplemental section D questionnaire, pg. 23; MMK's response to supplemental section D questionnaire, pg. SD–6).

For this preliminary determination, the Department has used the direct factors reported by respondents for these self-produced inputs. However, should the Department find at verification that reporting the factors used to produce these intermediate products would lead to higher overall usage rates, we may apply facts available with adverse inferences for the final determination.

MMK has not reported any direct usage rates for fluxing agents in its factors of production database for hot-rolled steel. Therefore, we have assigned, as facts available, usage rates for certain fluxing agents, as reported in Exhibit D–2 of MMK's section D questionnaire response, dated December 21, 1998. For a further discussion of this issue, *see Analysis Memo: MMK.*

We have valued by-products in the production of hot-rolled steel reported by these companies. We have valued non-solid by-products at their natural gas equivalents. We have valued solid

by-products based on 1996 and 1997 UNTCS. However, we note that Novolipetsk apparently aggregated the production of all of its by-products into a single database field. As discussed in the *Factor Valuation Memo,* we found Novolipetsk's by-product factors to be aberrational. Moreover, Novolipetsk failed to support those factors with requested calculation worksheets. For these reasons, we have disregarded Novolipetsk's by-product factors for the preliminary determination. As facts available for the preliminary determination, the Department has allocated a theoretical output for Novolipetsk's by-products based on outputs of the two largest components of the aggregate by-products field reported by Novolipetsk. For a further discussion of this issue, *see Factor Valuation Memo* (proprietary version).

For some of the energy inputs reported (natural gas, blast furnace gas, coke oven gas, and electricity), we relied on public information from ''Energy Prices and Taxes: 2nd quarter 1998,'' published by the International Energy Agency, OECD. In addition to these inputs, MMK reported coal as an energy input, while Novolipetsk reported grease as an energy input. We valued coal and grease based on 1997 and 1996 UNTCS Turkish values, respectively. Because we were unable to obtain publicly available Turkish values, we used Polish transport information to value transport for raw materials. Since the mode of transportation reported by all respondents is proprietary, for a full discussion of this issue, *see Factor Valuation Memo* (proprietary version).

For labor, we used the Russian regression-based wage rate at Import Administration's homepage, Import Library, Expected Wages of Selected NME Countries, revised on June 2, 1997. Because of the variability of wage rates in countries with similar per capita gross domestic products, section 351.408(c)(3) of the Department's regulations requires the use of a regression-based wage rate. The source of this wage rate data on the Import Administration's homepage is found in the *1996 Year Book of Labour Statistics,* International Labour Office (''ILO''), (Geneva: 1996), Chapter 5B: Wages in Manufacturing.

To value overhead, general expenses and profit, we used public information reported in the 1997 financial statements of Eregli Demir ve Celik Fabrikalari TAS (''Erdemir''), a Turkish steel producer. We adjusted Erdemir's depreciation expenses for the effects of high inflation, and we reduced its financial expenses for estimated short-term interest income and excluded estimated long-term foreign exchange losses. For a further discussion of this issue, *see* Attachment 10 of the *Factor Valuation Memo.*

Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our final determination.

Facts Available

Section 776(a)(2) of the Act provides that if an interested party: (a) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, as provided in section 782(i), the Department shall, subject to subsections 782(d), use facts otherwise available in reaching the applicable determination.

As discussed in the *Factor Valuation Memo,* and the ''Factor Valuations'' section above, the Department had requested information regarding by-products both in its initial and supplemental questionnaires. Novolipetsk did not report the by-products as instructed, and failed to adequately answer the Department's questions regarding the calculation of the quantities of these by-products. Having found the reported quantities of by-product to be aberrationally high, the Department has instead utilized an applied theoretical output for the two largest by-products. These output factors were based on information published in a steel industry treatise, *The Making, Shaping and Treating of Steel.*

As discussed in the ''Factor Valuations'' section above, and in *Analysis Memo: MMK,* MMK failed to report direct usage rates for certain fluxing agents in its database. As a result, we have assigned usage rates based on information included in Exhibit D–2 of MMK's section D questionnaire response, dated December 21, 1998.

Suspension of Liquidation

In accordance with section 733(d) and (e) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date 90 days prior to the date of publication of this notice in the **Federal Register**. We will instruct the U.S. Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin (percent)
JSC Severstal	70.66
Novolipetsk Iron & Steel Corp.	217.67
Magnitogorsk Iron & Steel Works	149.54
All Others	156.58

The All-Others Rate

The three companies selected by the Department have all preliminarily qualified for a separate rate. Moreover, the information on the record indicates that these three companies account for all imports of subject merchandise during the period of investigation. *See Respondent Selection Memo.* We have no evidence that there are any other Russian exporters of subject merchandise that may be subject to common government control. For this reason, we have not calculated a Russia-wide rate in this investigation. We have calculated an all-others rate in accordance with section 735(c)(5) of the Act. *See Notice of Final Determination of Sales at Less Than Fair Value; Polyvinyl Alcohol From the People's Republic of China,* 61 FR 14057, 14059 (1996). This all-others rate has been calculated based on the weighted-average of all margins that are not zero, *de minimis* or based on facts available. The all-others rate applies to all entries of subject merchandise except for entries from exporters/factories that are identified individually above.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of hot-rolled steel from the Russian Federation are materially injuring, or threatening material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than fifty days after the date of publication of this notice, and rebuttal briefs, limited to issues raised in case briefs, no later than fifty-five days after

the date of publication of this preliminary determination. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, any hearing will be held fifty-seven days after publication of this notice at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief, and may make rebuttal presentations only on arguments included in that party's rebuttal brief. *See* 19 CFR 351.310(c). If this investigation proceeds normally, we will make our final determination no later than May 10, 1999.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Act.

Dated: February 22, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–4840 Filed 2–24–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021799C]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Groundfish Harvest Rate Review Panel will hold a work session which is open to the public.

DATES: The Groundfish Harvest Rate Review Panel will meet beginning at 8 a.m., March 25, 1999 and continue until 12 p.m. on March 26, 1999 or as necessary to complete business.

ADDRESSES: The Harvest Rate Policy Review Panel meeting will be held at the California Department of Fish and Game Office, 20 Lower Ragsdale Drive, Suite 100, Main Conference Room, Monterey, CA 93940; telephone: (604) 535–1432.

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

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

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review recent information regarding appropriate harvest rates for various groundfish species. Some investigations indicate current harvest policies (F_{35}% and F_{40}%) may not adequately protect stocks and may not produce the maximum sustainable yield. This panel will provide external review of the new information on appropriate harvest rates. The review panel's conclusions will be forwarded to the Groundfish Management Team and the Council.

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

Special Accommodations

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

Dated: February 18, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–4636 Filed 2–24–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 020599A]

Fisheries Off West Coast States and in the Western Pacific

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

ACTION: Receipt of an exempted fishing permit application; announcement of the window period for the selection of participants.

SUMMARY: NMFS announces the receipt of an Exempted Fishing Permit (EFP) application from the Northwest Fisheries Science Center (NWFSC), NMFS. If awarded, the EFP will allow fishers aboard three commercial trawl vessels to collect depth-specific samples of fish according to NMFS' approved protocols. These fish will be delivered to designated ports in the State of Oregon where Oregon Department of Fish and Wildlife (ODF&W) and NMFS scientists will collect biological data that will be used to improve survey and stock assessments for sablefish, Dover sole, and thornyhead. An EFP is needed to allow the retention and sale of sablefish and Dover sole samples in excess of trip limits. NMFS also announces a 2-week window period in which interested parties may submit application materials that NMFS will use to select the 1999 industry participants. These actions are taken under the authority of the Pacific Coast Groundfish Fishery Management Plan (FMP).

DATES: The EFP will be effective from March 1, 1999, or as soon as possible thereafter, through February 29, 2000. Applications from interested parties must be received from February 25, 1999 to March 11, 1999.

ADDRESSES: Submit applications to Sharon Hunt, NMFS, 2030 South Marine Science Drive, Newport, OR 97365. Submit comments on this action to Katherine King, Northwest Region, NMFS, 7600 Sand Point Way NE., Bldg. 1, Seattle, WA 98115–0070.

FOR FURTHER INFORMATION CONTACT: Sharon Hunt 541–867–0307, or Cyreis Schmitt 206–860-3322 or 541–867-0127.

SUPPLEMENTARY INFORMATION:

I. Background

This action is authorized by the FMP and implementing regulations at 50 CFR 600.745 and 50 CFR 660.350, which specify that an EFP may be issued to a

commercial fishing vessel for the purpose of collecting resource information in excess of current management limits, according to NMFS approved protocol, and that the participating vessel may be compensated with fish for doing so.

At its November 2–6, 1998, meeting, the Pacific Fishery Management Council (Council) considered an EFP application for depth-specific groundfish sampling submitted by the NWFSC, NMFS. The EFP application represents a cooperative data collection effort among NMFS, ODF&W, and the groundfish industry. An opportunity for public testimony was provided during the November Council meeting. However, none was given. The Council recommended that NMFS approve the EFP application, with the understanding that approximately 30 mt of sablefish and 15 mt of Dover sole would be sampled and sold in excess of current trip limits, but within the allocations and optimum yields for those species.

The purpose of this exempted fishing is to collect data on the seasonal distribution and biological characteristics of sablefish, Dover sole, and shortspine and longspine thornyhead. These crucial stock parameters are poorly understood at the present time. Collecting these data will enable NMFS to determine the most appropriate season in which to conduct surveys, better analyze fishery logbook data, and improve assumptions regarding fish stock structure and life history that are critical to stock assessments. An EFP is needed (1) to allow the participating vessels to land sablefish and Dover sole in excess of the normal cumulative trip limits and in excess of the ''per-trip'' limit for trawl-caught sablefish smaller than 22 inches (56 km) (total length) so that the fish may be sampled, and (2) to sell the samples of sablefish and Dover sole to avoid waste and to allow compensation for participating in the project. The objectives of this project are consistent with the research goals of NMFS and the Council.

The Administrator of the Northwest Region, NMFS, has determined that the application contains all of the required information and constitutes valid exempted fishing appropriate for issuance of EFPs.

II. Project Design

For the first year of the project, only three vessels that deliver to ports in the State of Oregon will be used. Oregon ports were selected because of the availability of trained ODF&W port samplers for collecting the necessary biological data. If, at any point during the year, a vessel cannot complete its obligation, a replacement vessel will be asked to collect samples. Vessels will be selected at random from a list of qualified applicants. Completed applications, as described in this notice, received during the two-week window period will be used to compile the list of qualified applicants. After completion and evaluation of the first year's work, a request to conduct a revised and expanded program in the year 2000 is expected.

The quantity and composition of groundfish catches landed by the participating vessels are not expected to differ greatly relative to their normal operations. During commercial operations, fishers aboard the selected vessels will use predefined methods to gather samples of the four species of fish—nine samples of each of the four species from three specified depth zones in each 3-month sampling period. Therefore, in each of the 3-month sampling period, each vessel would bring in 108 samples. The approximate sample sizes are as follows: 200 lb (91 kg) of sablefish, 100 lb (45 kg) of Dover sole, 100 lb (45 kg) of shortspine thornyhead, and 50 lb (23 kg) of longspine thornyhead. Sample selection is not expected to hinder fishing operations. Samples will need to be labeled and kept separate from the commercial catch. The samples will be delivered to a port in Oregon where NMFS or ODF&W scientists will collect additional scientific information. Sampling instructions will be provided in writing, and participating vessels will be required to carry a NMFS scientist during an initial training period and at any other time that NMFS believes it necessary.

Sampled fish may be sold after all needed biological information is collected. Sablefish and Dover sole samples will not count toward the vessel's cumulative trip limit total or toward the trip limit for sablefish smaller than 22 inches (56 cm). However, shortspine and longspine thornyhead samples will count toward the vessel's cumulative trip limits. Because the vessels are under normal trip limit restrictions for shortspine and longspine thornyhead, cumulative trip limits for these species may not be exceeded. Sample fish are expected to be marketable after the collection of biological data, but, regardless of whether or not the vessel is able to sell the sample fish, the samples will count toward the vessel's cumulative trip limits or EFP limits.

If the recommended sampling levels are achieved, over the 12-month sampling period, each of the three vessels is expected to provide samples of 21,600 lb (9.8 mt) of sablefish, 10,800 lb (4.9 mt) of Dover sole, 10,800 lb (4.9 mt) of shortspine thornyhead, and 5,400 lb (2.4 mt) of longspine thornyhead. As stated above, only the sablefish and Dover sole samples will be above normal trip limit amounts. The total catch by all participating vessels will be about 30 mt of sablefish, 15 mt each of Dover sole and shortspine thornyhead, and 7 mt of longspine thornyhead.

III. Minimum Qualifying Requirements

The following criteria must be met for a vessel to be considered qualified for the random selection of participants.

(1) The vessel must have an ''A'' limited entry permit with a trawl endorsement.

(2) The vessel must be capable of, and equipped for, commercial trawling for sablefish, Dover sole, shortspine thornyhead, and longspine thornyhead throughout the year and in depths greater than 400 fm.

(3) The vessel must be capable of and equipped for measuring haul depth and fishing location.

(4) The vessel owner must agree to:

a. Provide vessel accommodations (comparable to those provided for the crew) for a NMFS scientist during an initial training period and at any other time NMFS believes it is necessary;

b. Follow the sampling protocol provided by NMFS scientists, which states that samples of the four species be taken from each of the three depth zones (100–200 fm, 201–400 fm, deeper than 400 fm) while commercial fishing during each of the four sampling periods (March 1, 1999–May 31, 1999, June 1, 1999– August 31, 1999, September 1, 1999–November 30, 1999, and December 1, 1999–February 29, 2000), and that communication with NMFS and ODF&W personnel be maintained throughout the duration of the project;

c. Offload sample fish in at least one of the following Oregon ports: (1) Astoria (including Garibaldi, Warrenton and Pacific City; (2) Newport (including Depoe Bay and Florence), and (3) Coos Bay/Charleston (including Bandon, Port Orford, Gold Beach and Brookings).

d. Provide a vessel operator for all fishing conducted under this permit who, since January 1, 1997, has had experience as a trawl vessel operator fishing for Dover sole, sablefish, and thornyheads off Washington, Oregon, or California during at least one trip in each quarter of the year and who has experience fishing for sablefish, Dover

sole, and shortspine and longspine thornyhead deeper than 400 fm.

(5) The vessel must be in compliance with all required USCG regulations at 46 CFR part 28 pertaining to navigational systems, communications equipment, emergency source of electrical power, radar and depth sounding devices, electronic position fixing devices, electronic position indicating radio beacon (EPIRBs), and safety provisions.

IV. Announcement of Window Period and Application Process

This document also announces a 2-week window period from February 25, 1999 to March 11, 1999 in which applications must be received. The applicant must be the registered owner of the vessel named in the application. Applications will be screened to determine those that meet the minimum requirements. Applicants may be contacted by NMFS to clarify information in the application and to discuss the project and the terms and conditions of the EFP; the applicant may decline further consideration. The qualified applications will be separated into three port groups according to the area that the applicant indicated most of the four species will be landed. Within each port group, the final participant will be randomly selected. If no qualified applications are received for a port group, the qualified applications from the other ports will be pooled, and the participant will be selected at random**.** Participants will be selected and notified shortly after the close of the window period. If needed, replacement vessels may be randomly selected later in the year from the same group of qualified applicants.

Applications must be received no later than March 11, 1999 (see **ADDRESSES**), and include the following information:

General

(1) Vessel name, U.S. Coast Guard documentation number, radio call sign, Pacific Coast Groundfish limited entry permit number and gear endorsements.

(2) Owner of the vessel listed in the application (hereafter referred to as ''vessel'') and operator(s) who would be fishing under this EFP;

(3) Address, phone number, cell phone number, and fax number, if applicable, of vessel owner and operator;

(4) Hull type, vessel length overall;

(5) Number of engines, model(s), horsepower;

(6) Because vessels may be selected depending on the port of landing indicated in the application, name the one area where you anticipate landing the majority of your sablefish, Dover sole, and thornyhead between March 1, 1999, and February 29, 2000. The areas are (1) Astoria (including Garibaldi, Warrenton, and Pacific City), (2) Newport (including Depoe Bay and Florence), and (3) Coos Bay/Charleston (including Bandon, Port Orford, Gold Beach and Brookings).

(7) Do you intend to fish commercially for sablefish, Dover sole, shortspine thornyhead, and longspine thornyhead, as deep as 500 fm, during each of the stated sampling periods? The sampling periods are March 1, 1999–May 31, 1999, June 1, 1999–August 31, 1999, September 1, 1999–November 30, 1999, and December 1, 1999–February 29, 2000.

(8) Will you commit to following NMFS sampling protocols and to maintaining communications with NMFS and ODF&W personnel throughout the duration of this project?

V. Owner and Operator Experience

(1) Does each operator(s) who will be fishing under this EFP have experience as a trawl vessel operator(s) fishing for Dover sole, sablefish, and thornyhead off Washington, Oregon, or California during at least one trip in each quarter since January 1, 1997? Briefly describe each operators's relevant experience.

(2) Will vessel accommodations (comparable to those provided for the crew) for a NMFS scientist be provided? Briefly describe the accommodations that will be provided.

VI. Fishing Gear

(1) Describe the trawl gear that will be used, including type, manufacturer, headrope length, footrope length, footrope type.

(2) Describe the trawl doors that will be used, including type, size, and weight.

(3) Estimate the maximum and average towing speed with the gear described above.

(4) Estimate the maximum towing depth with the gear described above.

VII. Electronics and Survival Equipment

(1) List the types, manufacturers, and models of radios aboard the vessel that are used for communications. Also describe the emergency power source for the communications systems, including the number of continuous hours of operation the system is expected to supply.

(2) List the number and class of EPIRBs.

(3) Describe the electronic positioning, radar, and depth sounding devices aboard the vessel, including type, manufacturer, model, and system's accuracy at measuring tow depth and fishing location. If your current system(s) is insufficient for this project, state whether or not you are willing to purchase the necessary electronics for use under the EFP.

(4) State whether or not your vessel meets all applicable U.S. Coast Guard requirements or statutes pertaining to the safe operation of a vessel (46 CFR Chapter I; copy available, see **ADDRESSES**).

(5) Do you agree to provide and maintain the above equipment in good working order while fishing under the EFP?

Certification

State that the information in the application is accurate to the best of your knowledge. Sign and date the application, which must be received by March 11, 1999. Only the registered owner of a vessel may submit an application.

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

Dated: February 19, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–4711 Filed 2–24–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Department of the Army

Proposed Collection; Comment Request

AGENCY: Deputy Chief of Staff for Personnel (DAPE–ZXI–RM), DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. 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 information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 26, 1999.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to, US Total Army Personnel Command (TAPC–PED–D), 2461 Eisenhower Avenue, Alexandria, Virginia 22331–0482, ATTN: (Harold Campbell). Consideration will be given to all comments received within 60 days of the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Department of the Army Reports clearance officer at (703) 614–0454.

Title: Record of Preparation and Disposition of Remains (Within CONUS), DD Form 2063, OMB Control Number 0702–0014.

Needs and Uses: DD Form 2063 provides a record of technical information regarding conditions of remains before and after preparation, techniques used in embalming, and essential fiscal data. Information is used to prepare and defend annual budgets, evaluates claims received from next-of-kin, provide information upon which to take corrective action where deficiencies in preparation of remains are noted, and provide data utilized to answer inquiries from next-of-kin and members of Congress concerning the care and disposition of remains.

Affected Public: Business or other for profit.

Annual Burden Hours: 338.

Number of Respondents: 1350.

Responses Per Respondent: 1.

Average Burden Per Response: 15 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION: DD Form 2063 provides technical information from embalmers regarding preparation and condition of remains. Information is used to substantiate claims and provide information for inquiries into death cases. The form becomes an integral part of the individual deceased personnel file and provides a chain of custody of the remains.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–4729 Filed 2–24–99; 8:45 am]

BILLING CODE 3710–08–U

DEPARTMENT OF DEFENSE

Department of the Army

Proposed Collection; Comment Request

AGENCY: Deputy Chief of Staff for Personnel (DAPE–ZXI–RM), DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. 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 information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 26, 1999.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to, U.S. Total Army Personnel Command (TAPC–PED–D), 2461 Eisenhower Avenue, Alexandria, Virginia 22331–0482, ATTN: (Harold Campbell). Consideration will be given to all comments received within 60 days of the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Department of the Army Reports clearance officer at (703) 614–0454.

Title: Disposition of Remains—Reimbursable Basis Request for Payment of Funeral and/or Interment Expenses DD Form 2065 and DD Form 1375, OMB Control Number 0704–0030.

Needs and Uses: DD Form 2065 (Disposition of Remains—Reimbursable Basis) is the instrument by which a sponsor records disposition instructions and acknowledges costs for necessary services and supplies (if any) for remains. DD Form 1375 (Request for Payments of Funeral and/or Interment Expenses) provides an instrument upon which the next-of-kin may register and/or apply to the government for reimbursement of funeral/interment expenses, if they so desire.

Affected Public: Individual or households.

Annual Burden Hours: 425.

Number of Respondents: 2450.

Responses Per Respondent: 1.

Average Burden Per Response: 30 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION: DD Form 2065 records disposition instructions and costs for preparation and final disposition of remains. DD 1375 provides next-of-kin an instrument to apply for reimbursement of funeral/interment expenses. This information is used to adjudicate claims for reimbursement of these expenses.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–4730 Filed 2–24–99; 8:45 am]

BILLING CODE 3710–08–U

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 29, 1999.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address *Pat—Sherrill@ed.gov*, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: February 19, 1999.

William E. Burrow,

Acting Leader, Information Management Group, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: Extension.
Title: Even Start Statewide Family Literacy Initiative Grants (84.314B).
Frequency: Annually.
Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.
Reporting and Recordkeeping Hour Burden:
Responses: 52
Burden Hours: 624
Abstract: The Even Start Statewide Family Literacy Initiative is designed for States to plan and implement Statewide family literacy initiatives, coordinate and, where appropriate, integrate existing Federal, State, and local literacy resources for the purpose of strengthening and expanding family literacy services in the State. The Department will use the information to make awards.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, this 30-day public comment period notice will be the only public comment notice published for this information collection.

[FR Doc. 99–4640 Filed 2–24–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board.

ACTION: Amendment to notice of a partially closed meeting.

SUMMARY: This amends the notice of a partially closed meeting of the National Assessment Governing Board published on February 19, 1999 (64 FR 8338). On Friday, March 5, the full Board will convene at 8:00 a.m. for an Ethics Briefing provided by the Department of Education, Office of the General Counsel.

Dated: February 19, 1999.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 99–4612 Filed 2–24–99; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Arms Control and Nonproliferation Policy; Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed ''subsequent arrangement.'' The Government of the United States of America and the Government of the Republic of Korea hereby jointly determine pursuant to Article VIII.C of the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Korea Concerning Civil Uses of Atomic Energy, signed November 24, 1972, as amended, that the provisions in Article XI of that Agreement may be effectively applied for the alteration in form or content of U.S.-origin nuclear material contained in irradiated nuclear fuels from pressurized water reactors at the Post Irradiation Examination Facility and the DUPIC Fuel Fabrication Facility at the Headquarters of the Korea Atomic Energy Research Institute in accordance with the plan contained in KAERI/AR–510/98-rev.1, dated October 1998, as clarified by ''Supplementary Statements for the Clarification of Several Technical Issues,'' dated November 1998. These facilities are acceptable to both parties pursuant to Article VIII(C) of the Agreement for the sole purpose of alteration in form or content of irradiated fuel elements for research and development and manufacture of DUPIC fuel powders, pellets, and elements for the period ending March 31, 2002.

The Government of the United States of America and the Government of the Republic of Korea also refer to the Joint Determination signed on March 29, 1996 concerning the alteration in form or content of U.S.-origin nuclear material contained in irradiated nuclear fuels from pressurized water reactors, CANDU reactors, and a research reactor at the Post Irradiation Examination Facility and the Irradiated Materials Examination Facility at the Headquarters of the Korea Atomic Energy Research Institute in accordance with the plan contained in KAERI/AR–417/95-rev.1, dated May 1995. KAERI/AR–510/98-rev.1, as clarified, is hereby incorporated into the 1995 plan. Incorporation of activities described in KAERI/AR–510/98-rev.1 affects only activities in the Post Irradiation Examination Facility. The Government of the United States and the Government of the Republic of Korea agree that the 1995 Joint Determination remains effective following that incorporation. These facilities are hereby found acceptable to both parties pursuant to article VIII(C) of the Agreement for the sole purpose of alteration in form or content of irradiated fuel elements from the aforementioned reactors for post-irradiation examination for the period ending December 31, 2001.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: February 19, 1999.

For the Department of Energy.

Edward T. Fei,

Deputy Director, International Policy and Analysis Division, Office of Arms Control and Nonproliferation.

[FR Doc. 99–4707 Filed 2–24–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Arms Control and Nonproliferation Policy; Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: This notice is being issued under the authority of Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed ''subsequent arrangement'' under the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy between the United States of America and the European Atomic Energy Community (EURATOM).

This subsequent arrangement involves United States advance consent for retransfer from EURATOM to Switzerland of U.S.-obligated plutonium recovered from Swiss spent fuel. The U.S. is designating Switzerland as a country eligible to receive retransfers of US-obligated plutonium from EURATOM to Switzerland as referred to in Article 8.1(C)(iii) and paragraph B(3) of the Agreed Minute to the Agreement. Subsequent to this designation, Switzerland will be able to receive retransfers of certain US-obligated plutonium, including plutonium contained in mixed oxide (MOX) fuel, from EURATOM on an advance, long-term basis. This subsequent arrangement applies both to US-obligated plutonium recovered from Swiss spent fuel that has been transferred to EURATOM for reprocessing pursuant to previous U.S.-Switzerland agreements for peaceful nuclear cooperation and U.S.-obligated plutonium recovered from Swiss spent fuel that may be transferred to EURATOM for reprocessing under the new U.S.-Switzerland Agreement signed October 31, 1997.

In Agreed Minute paragraph (D) of the Agreement for Co-operation Between the Government of the United States of America and the Swiss Federal Council Concerning Peaceful Uses of Nuclear Energy, signed at Bern on October 31, 1997 (H. Doc. 105–184, January 28, 1998), the United States agreed to approve such retransfers from EURATOM to Switzerland on an advance, long-term basis.

Under section 131(b) of the Atomic Energy Act, and in connection with the President's submission of the U.S.-Switzerland Agreement for Cooperation to Congress for review under section 123 (b)&(d) of the Atomic Energy Act (H. Doc. 105–184), the Secretary of Energy provided Congress with a report stating, inter alia, his reasons for entering into this subsequent arrangement and determined (memorandum dated September 5, 1997) that it will not be inimical to the common defense and security and will not result in a significant increase in the risk of proliferation beyond that which exists now, or which existed at the time approval was requested.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: February 19, 1999.

For the Department of Energy.

Edward T. Fei,

Deputy Director, International Policy and Analysis Division, Office of Arms Control and Nonproliferation.

[FR Doc. 99–4709 Filed 2–24–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Arms Control and Nonproliferation Policy; Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: This notice is being issued under the authority of Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed ''subsequent arrangement'' under the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy between the United States of America and the European Atomic Energy Community (EURATOM).

This subsequent arrangement concerns the addition of Argentina, South Africa, and Switzerland to the list of countries referred to in paragraph 2 of the Agreed Minute to the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy, listing countries eligible to receive retransfers under Article 8.1(C)(i) of the Agreement of low enriched uranium, non-nuclear material, equipment and source material transferred under the Agreement, or receive retransfers of low enriched uranium produced through the use of nuclear material or equipment transferred under the Agreement, for nuclear fuel cycle activities other than the production of high enriched uranium or plutonium.

The United States has brought into force new Agreements for Cooperation in the Peaceful Uses of Nuclear Energy, under the authority of Section 123 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), with Argentina, South Africa and Switzerland. These three countries have also made effective non-proliferation commitments as prescribed in paragraph 2 of the Agreed Minute to the U.S.-EURATOM Agreement. Accordingly, they are eligible third countries to which retransfers may be made.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, we have determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: February 19, 1999.

For the Department of Energy.

Edward T. Fei,

Deputy Director, International Policy and Analysis Division, Office of Arms Control and Nonproliferation.

[FR Doc. 99–4710 Filed 2–24–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. PP–204]

Application for Presidential Permit; Sumas Energy 2, Inc.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: Sumas Energy 2, Inc. (SE2) has applied for a Presidential permit to construct, connect, operate and maintain electric transmission facilities across the U.S. border with Canada.

DATES: Comments, protests, or requests to intervene must be submitted on or before March 29, 1999.

ADDRESSES: Comments, protests, or requests to intervene should be addressed as follows: Office of Coal & Power Import and Export (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0350.

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael T. Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: The construction, connection, operation, and maintenance of facilities at the international border of the United States for the transmission of electric energy between the United States and a foreign country is prohibited in the absence of a Presidential permit issued pursuant to Executive Order (EO) 10485, as amended by EO 12038.

On February 10, 1999, SE2, an independent power producer in the

State of Washington, filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE) for a Presidential permit. SE2 proposes to construct a double-circuit 230,000-volt (230-kV) transmission line across the U.S. border with Canada. The proposed transmission lines would extend approximately one half mile from a 710-megawatt (MW) gas-fired, electric powerplant SE2 proposes to construct in Sumas, Washington. At the border, the SE2 transmission lines would continue approximately 6 additional miles into Canada to the Abbotsford and the Clayburn substations of British Columbia Hydro, the provincial utility of Canada's Province of British Columbia.

In its application, SE2 asserts that the facilities proposed herein are not to be interconnected with any other part of the U.S. electric power system thereby precluding third party use of these transmission facilities.

Prior to exporting electric energy to Canada, SE2 will be required to obtain an authorization from DOE pursuant to section 202(e) of the Federal Power Act (FPA) (16 U.S.C. § 824a(e)).

Procedural Matters

Any person desiring to be heard or to protest this application should file a petition to intervene or protest at the address provided above in accordance with section 385.211 or 385.214 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214).

Fifteen copies of such petitions and protests should be filed with DOE on or before the date listed above. Additional copies of such petitions to intervene or protests also should be filed directly with: Matthew M. Schreck, Corbett & Schreck, P.C., 820 Gessner, Suite 1390, Houston, TX 77024.

Before a Presidential permit may be issued or amended, DOE must determine that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system. In addition, DOE must consider the environmental impacts of the proposed action pursuant to the National Environmental Policy Act of 1969 (NEPA). DOE also must obtain the concurrence of the Secretary of State and the Secretary of Defense before taking final action on a Presidential permit application.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above. In addition, the application may be reviewed or downloaded from the Fossil Energy Home Page at: http://www.fe.doe.gov. Upon reaching the Fossil Energy Home page, select ''Regulatory Programs,'' then ''Electricity Regulations,'' and then ''Pending Proceedings'' from the options menus.

Issued in Washington, D. C., on February 22, 1999.

Anthony J. Como,

Manager, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Fossil Energy.

[FR Doc. 99–4708 Filed 2–24–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–51–004]

Algonquin Gas Transmission Company; Notice of Correction Filing

February 19, 1999.

Take notice that on February 12, 1999, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Third Sub Third Revised Sheet No. 662, to become effective November 2, 1998.

Algonquin asserts that the above listed tariff sheet is being filed to correct Algonquin's November 13, 1998 compliance filing in Docket No. RP99–51–002 (November 13 Filing). Algonquin states that the November 13 Filing was made in compliance with the Commission's Letter Order issued on October 29, 1998, in Docket Nos. RP99–51–000 and RP99–51–001 (October 29 Order) which required Algonquin, inter alia, to revise Section 23.3 of the General Terms and Conditions of its Tariff to specify that bumped parties would be notified by telephone or facsimile in addition to notification through the LINK System and the Web site.

Algonquin states that the November 13 Filing did not, through an inadvertent error, correctly reflect Section 23.3 as accepted by the Commission in the October 29 Order. Algonquin states that this filing correctly reflects Section 23.3 as approved by the Commission in the October 29 Order and removes extraneous language which was inadvertently included in Section 23.4 in Algonquin's November 13 Filing.

Algonquin states that copies of the filing were mailed to all affected customers of Algonquin 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–4621 Filed 2–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–426–004]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

February 19, 1999.

Take notice that on February 12, 1999, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, bearing a proposed effective date of:

November 2, 1998
- Substitute Original Sheet No. 307A
- Second Substitute Seventh Revised Sheet No. 456

November 16, 1998
- Substitute First Revised Sheet No. 307A

Columbia states that this filing is being submitted in compliance with the Federal Energy Regulatory Commission's Order issued January 29, 1999 in Docket No. RP98–426, et al., pertaining to Standards for Business Practices of Interstate Natural Gas Pipelines (Order 587–H).

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers and affected state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–4619 Filed 2–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–427–003]

Columbia Gulf Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

February 19, 1999.

Take notice that on February 12, 1999, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, bearing a proposed effective date of November 2, 1998:

Substitute First Revised Sheet No. 162A
Second Substitute Fourth Revised Sheet No. 286

Columbia Gulf states that this filing is being submitted in compliance with the Federal Energy Regulatory Commission's Order issued January 29, 1999 in Docket No. RP98–427, *et al.*, pertaining to Standards for Business Practices of Interstate Natural Gas Pipelines (Order 587–H).

Columbia Gulf states that copies of its filing have been mailed to all firm customers, interruptible customers and affected state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–4620 Filed 2–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–83–002]

Eastern Shore Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

February 19, 1999.

Take notice that on February 16, 1999, Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1), the following revised tariff sheets, with a proposed effective date of November 2, 1998:

2nd Sub 3rd Rev. Sheet No. 160A
First Revised Sheet No. 162
Original Sheet No. 162A

Eastern Shore states that the filing is being made in compliance with the Commission's letter order issued on February 9, 1999 (February 9 Order) in the referenced docket

Eastern Shore states that on October 9, 1998, it submitted a filing to comply with the Commission's Order No. 587–H issued July 15, 1998 in Docket No. RM96–1–008 (the Order). The Order required pipelines to adopt Version 1.3 of the Gas Industry Standards Board (GISB) standards dealing with intraday nominations and nomination and scheduling procedures. In addition, the Order established November 2, 1998 as the date for implementation of the regulations regarding intraday nominations.

Eastern Shore states that the commission, in a letter order issued on November 6, 1998, found that, although Eastern Shore had generally complied with Order No. 587–H, it (i) incorrectly changed the GISB version number from 1.2 to 1.3 for several GISB Standards previous incorporated into Eastern Shore's tariff, (ii) failed to incorporate verbatim or by reference GISB Standards 1.3.2(v), 1.3.2(vi), and 1.2.8 through 1.2.12, (iii) filed to include bumping notice procedures consistent with those in its OFO provisions, and (iv) did not address the issue of waiver of daily ''non-critical'' penalties.

Eastern Shore states that on December 1, 1998, it submitted a filing to comply with items (i), (ii) and (iii) above. With respect to item (i) above, no action was necessary as the Commission rejected such proposed tariff sheets as moot. With respect to item (ii) Eastern Shore added appropriate language to Sheet No. 160A to incorporate by reference GISB Standards 1.3.2(v), l.3.2(vi) and 1.2.8 through 1.2.12. With respect to item (iii) Eastern Shore revised Sheet Nos. 155A and 155B, respectively, to include bumping notice procedures consistent with those in its OFO provisions. In regard to item (iv) above, waiver of ''non-critical'' penalties, Eastern Shore requested an additional fifteen days within which to complete a review of its tariff and respond to this item.

In a letter order issued on February 9 Order, the Commission found that Eastern Shore's Substitute Third Revised Sheet No. 160A incorporated by reference Version 1.3 of GISB Standards 1.3.2 (v), 1.3.2 (vi), and 1.2.8 through 1.2.12. However, this tariff sheet also deleted GISB Standard 1.3.23 of Version 1.2 and left in effect both Version 1.2 and 1.3 of GISB Standard 1.3.32. The Commission thus directed Eastern Shore to file a revised tariff sheet to delete Version 1.2 of GISB Standard 1.3.32, and leave in effect Version 1.2 of GISB Standard 1.3.23. Second Substitute Revised Tariff Sheet No. 160A is submitted herewith to comply with the Commission's directive.

Eastern Shore also states that in response to the Commission's February 9 Order, Eastern Shore has completed a review of its gas tariff and has identified only one situation where a non-critical daily penalty would apply to a bumped interruptible shipper, namely Section 22 of the General Terms and Conditions which addresses Unauthorized Daily Overruns. In the absence of the issuance of an Operational Flow Order (''OFO''), Eastern Shore would view these daily penalties as non-critical and would therefore waive any penalties against Buyers whose scheduled and flowing IT quantities were bumped as a result of firm intra-day nomination changes. Eastern Shore has made appropriate revisions on First Revised Sheet No. 162, submitted herewith, to comply with the Commission's directive.

Eastern Shore states that copies of its filing has been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–4622 Filed 2–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–188–002]

Equitrans, L.P; Notice of Proposed Changes in FERC Gas Tariff

February 19, 1999.

Take notice that on February 12, 1999, Equitrans, L.P. (Equitrans) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheet to become effective February 1, 1999:

First Revised Third Revised Sheet No. 314

Equitrans states that the purpose of this filing is to correct the pagination of this 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–4624 Filed 2–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–195–001]

Equitrans, L.P.; Notice of Proposed Changes in FERC Gas Tariff

February 19, 1999.

Take notice that on February 12, 1999, Equitrans, L.P. (Equitrans) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheet to become effective February 1, 1999:

Fourth Revised Sheet No. 265
Fourth Revised Sheet No. 266

Equitrans states that its filing is made in compliance with the Commission's January 28, 1999 ''Order Accepting and Suspending Tariff Sheet Subject to Refund and Conditions, and Establishing Technical Conference.'' The Commission requested Equitrans to file tariff sheets to re-establish an annual tracking mechanism for products extraction costs on its system. In addition, the Commission instructed Equitrans to file additional workpapers and contractual documentation to support the extraction rate proposed. Equitrans states that this filing is made in compliance with the Commission's Order.

Equitrans states that the revised tariff sheets establish an annual tracking of products extraction costs with annual filings to made by December 31 with an effective date of February 1. Equitrans states that this is the same language included previously in its tariff.

Equitrans states that it is including with copies of the original contracts, which were filed with the Commission as exhibits to the original certificate applications regarding the construction of the two plants in the early 1980's. Equitrans states that it is further providing additional workpapers supporting the level of the products extraction charge and a narrative explanation of the level of the charge. Equitrans states that the $0.1841/Dth rate which the Commission accepted subject to refund in the January 28 Order is reasonable and representative in light of the information it provides.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All Such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be reviewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–4625 Filed 2–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–532–001]

Equitrans, L.P.; Notice of Proposed Tariff Changes

February 19, 1999.

Take notice that on February 17, 1999, Equitrans, L.P. (Equitrans), 3500 Park Lane, Pittsburgh, Pennsylvania 15275, filed its Original Volume No. 1 FERC Gas Tariff to be effective November 19, 1998. The proposed Tariff reflects the fact that Equitrans is now a limited partnership. The proposed Tariff is on file with the Commission and open to public inspection.

On May 22, 1996, Equitrans, L.P. and Equitrans, Inc. filed jointly t permit the transfer of facilities and services to a limited partnership structure. On October 20, 1998, the Commission approved the proposed transfer. One of the conditions of that approval directed Equitrans to refile its FERC Gas Tariff.

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, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests should 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 proceeding. Any person wishing to become a party must file a motion to intervene. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance).

David P. Boergers,

Acting Secretary.

[FR Doc. 99–4678 Filed 2–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–227–000]

High Island Offshore System; Notice of Tariff Filing

February 19, 1999.

Take notice that on February 16, 1999 High Island Offshore System (HIOS), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to be effective April 1, 1999.

Fifth Revised Sheet No. 1
Fourth Revised Sheet No. 2
Second Revised Sheet No. 5
Original Revised Sheet No. 9A
Third Revised Sheet No. 12
First Revised Sheet No. 13A
Third Revised Sheet No. 14
Original Sheet Nos. 23A through 23R
Third Revised Sheet No. 25
Third Revised Sheet No. 26
Third Revised Sheet No. 35
Third Revised Sheet No. 39
Third Revised Sheet No. 41
Third Revised Sheet No. 47
Third Revised Sheet No. 54
Third Revised Sheet No. 54A
First Revised Sheet No. 55
First Revised Sheet No. 60
Second Revised Sheet No. 61
Third Revised Sheet No. 62
Fifth Revised Sheet No. 69
Second Revised Sheet No. 72
First Revised Sheet No. 73
First Revised Sheet No. 78A
Third Revised Sheet No. 79
Second Revised Sheet No. 81
Second Revised Sheet No. 87
Third Revised Sheet No. 91
Second Revised Sheet No. 95
Fourth Revised Sheet No. 111
Third Revised Sheet No. 114
Third Revised Sheet No. 115
Original Sheet Nos. 138 through 148

HIOS states that the purpose of this tariff filing is to establish a flexible firm transportation service on HIOS' offshore transmission system. HIOS seeks to implement flexible firm service on its offshore system in order that it might compete with these new and existing offshore pipelines that have already been approved to offer this type of service.

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, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–4682 Filed 2–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–228–000]

Mississippi Canyon Gas Pipeline, LLC; Notice of Proposed Changes in FERC Gas Tariff

February 19, 1999.

Take notice that on February 15, 1999, Mississippi Canyon Gas Pipeline, LLC (MCGP) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, tariff sheets listed in Appendix A to the filing, with an effective date of March 1, 1999.

MCGP states that the purpose of this filing is to reflect a new option for Shippers under the FT–2 Rate Schedule, stated as Option Q: Quarterly Election, which will allow FT–2 Shippers to elect to establish MDQ's by Calendar Quarter.

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, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–4683 Filed 2–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–133–001]

Mississippi River Transmission Corporation; Notice of Filing

February 19, 1999.

Take notice that on February 15, 1999, Mississippi River Transmission Corporation (MRT) tendered for filing a Refund Report and Repayment Plan of MRT's of Gas Supply Realignment Costs (GSRC) collected during MRT's GSRC Collection Periods.

MRT states that pursuant to the Commission's January 14, 1999 order and Section 16.3 of the General Terms and Conditions of its FERC Gas Tariff, Third Revised Volume No. 1, MRT is filing a Repayment Plan to its refund to its Firm Transportation Customers based on the percentage of GSRC amounts paid by each customer to the total GSRC amounts paid by all firm customers during each collection period. MRT further states that within 30 days of FERC acceptance of the filing, MRT will make refunds to the customers reflected in its detailed Refund Report.

MRT states that a copy of this filing is being mailed to the parties to this proceeding, each of MRT's customers and to the state commissions of Arkansas, Illinois and Missouri.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before February 26, 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. This filing may be viewed on the web at http://

www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–4623 Filed 2–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–204–000]

National Fuel Gas Supply Corporation; Notice of Application

February 19, 1999.

Take notice that on February 9, 1999, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP99–204–000 an application pursuant to Sections 7(b) and 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's Regulations (18 CFR 157) for a certificate of public convenience and necessity authorizing the replacement of a portion of an existing pipeline and for permission and approval to abandon the facilities to be replaced, all as more fully set forth in the application on file with the Commission and open to public inspection. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance.

National Fuel proposes to replace and relocate a portion of its existing 12-inch Line R–34 located in the Town of Hanover, Chautauqua County, New York. Specifically, National Fuels request authorization to replace 1,050 feet of its existing Line R–34 with 1,300 feet of 12-inch pipeline. National Fuel indicates that a portion of Line R–34 would be located in a new right-of-way because since the installation of Line R–34, farm buildings have encroached upon the right-of-way, necessitating the relocation of a portion Line R–34. As a result, National Fuel proposes to reroute a portion of the pipeline to avoid the farm buildings.

It is stated that approximately 320 feet of new pipeline will be installed in the same trench or immediately adjacent to the existing pipeline. National Fuel further avers that the existing 16-inch casing under Allegany Road will be used for the new road crossing. It is stated that starting on the east side of Allegany Road, the pipeline will leave the original right-of-way for approximately 980 feet to avoid farm buildings. National Fuel estimates the construction cost of this project to be $171,385.

National Fuel also seeks authorization to abandon approximately 1,050 feet of its existing Line R–34. It is stated that approximately 950 feet of the existing line will be removed by trench excavation and approximately 100 feet of pipe will be abandoned in place. It is averred that the 100 feet of pipe will be left in place because it is located under a concrete pad. National Fuel estimates that the abandonment work will cost approximately $10,000.

No above-ground facilities will be abandoned. National Fuel states that removal of these facilities will not affect service to existing markets. National Fuel further states that the facilities will be financed with internally generated funds and/or interim short-term bank loans.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 12, 1999, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the National Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that the grant of a certificate and permission and approval for the proposed construction and abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for National Fuel to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 99–4679 Filed 2–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–229–000]

National Fuel Gas Supply Corporation; Notice of Request for Waiver

February 19, 1999.

Take notice that on February 16, 1999, pursuant to Rule 207 of the Rules of Practice and Procedure of the Commission, 18 CFR 385.207, National Fuel Gas Supply Corporation (National Fuel) tendered for filing a request for a waiver of the electronic data interchange (EDI) GISB standards adopted by the Commission in Order Nos. 587–B, 587–C and 587–G.

National Fuel seeks a permanent waiver of the following GISB standards (Version 1.3); Nominations Standards 1.4.1 to 1.4.7, Flowing Gas Standards 2.4.1 to 2.4.6, Invoicing Standards 3.4.1 to 3.4.4, EDM Standards 4.3.1 to 4.3.3, and, to the extent applicable to EDI transactions, 4.3.9 to 4.3.15, and Capacity Release Standards 5.4.1 to 5.4.17. In the alternative, as a fallback measure only, National Fuel seeks a one-year waiver of these standards.

National Fuel states that copies of the filing has been served upon each of National Fuel's firm customers, interested state commissions and interruptible customers.

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, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/

rims.htm (call 202–208–222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–4684 Filed 2–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2000–010]

Power Authority of the State of New York; Notice of Meetings To Discuss Settlement for Relicensing of the St. Lawrence-FDR Power Project

February 19, 1999.

The establishment of the Cooperative Consultation Process (CCP) Team and the Scoping Process for relicensing of the St. Lawrence-FDR Power Project was identified in the NOTICE OF MEMORANDUM OF UNDERSTANDING, FORMATION OF COOPERATIVE CONSULTATION PROCESS TEAM, AND INITIATION OF SCOPING PROCESS ASSOCIATED WITH RELICENSING THE ST. LAWRENCE-FDR POWER PROJECT issued May 2, 1996, and found in the **Federal Register** dated May 8, 1996, Volume 61, No. 90, on page 20813.

The following is a list of the 1999 schedule of meetings for the CCP Team to continue settlement negotiations on ecological and local issues. The meetings will be conducted at the New York Power Authority's (NYPA) Robert Moses Powerhouse, at 10:00 a.m., located in Massena, New York.

The CCP Team will meet: February 25, 1999, March 24–25, 1999, April 14–16, 1999, May 25–27, 1999, and June 29–30, 1999.

In addition, the Ecological Subcommittee will meet on the February 25, 1999.

If you would like more information about the CCP Team and the relicensing process, please contact any one of the following individuals:

Mr. Thomas R. Tatham, New York Power Authority, (212) 468–6747, (212) 468–6272 (fax), EMAIL:Ytathat@IP3GATE.USA.COM.

Mr. Bill Little, Esq., New York State Dept. of Environmental Conservation, (518) 457–0986, (518) 457–3978 (fax), EMAIL:WGLITTLE@GW.DEC. State. NY.US

Dr. Jennifer Hill,Ms. Patti Leppert-Slack, Federal Energy Regulatory Commission, (202) 219–2797 (Jennifer), (202) 219–2676 (Patti), (202) 219–0125 (fax), EMAIL:Jennifer.Hill@FERC.FED.US, EMAIL:Patricia. LeppertSlack@FERC.FED.US

Further information about NYPA and the St. Lawrence-FDR Power Project can be obtained through the Internet at http://www.stl.nypa.gov/index.html. Information about the Federal Energy Regulatory Comission can be obtained at http://www.ferc.fed.us.

David P. Boergers,

Secretary.

[FR Doc. 99–4681 Filed 2–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–210–000]

Reliant Energy Gas Transmission Company; Notice of Request Under Blanket Authorization

February 19, 1999.

Take notice that on February 12, 1999, Reliant Energy Gas Transmission Company (REGT), formerly NorAm Gas Transmission Company, 1111 Louisiana, Houston, Texas 77002–5231, filed in Docket No. CP99–210–000 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 construct and operate certain facilities to be located in Roger Mills County, Oklahoma, under its blanket certificate issued in Docket Nos. CP82–384–000 and CP82–384–001 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance).

REGT proposes to construct and operate a 1-inch delivery tap and first-cut regulator to serve Arkla, a division of Reliant Energy (Arkla). REGT states that the estimated volumes to be delivered to this tap, which will be installed on REGT's Line 2-T, are 85 Dth annually and 0.25 Dth on a peak day. REGT further states that the proposed facilities will be constructed at an estimated cost of $1,500 and that Arkla will reimburse REGT for the costs.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 99–4626 Filed 2–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–214–000]

Reliant Energy Gas Transmission Company; Notice of Request Under Blanket Authorization

February 19, 1999.

Take notice that on February 16, 1999, as supplemented on February 18, 1999, Reliant Energy Gas Transmission Company (Reliant, formerly known as NorAm Gas Transmission Company), P.O. Box 21734, Shreveport, Louisiana, filed a prior notice request with the Commission in Docket No. CP99–214–000 pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to construct and operate certain facilities in Poinsett County, Arkansas, under its blanket certificate issued in Docket Nos. CP82–384–000 and CP82–384–001 pursuant to Section 7 of the NGA, all as more fully set forth in the request which is open to the public for inspection. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance).

Reliant proposes to upgrade three existing delivery points to serve Reliant Energy Arkla (Arkla), a division of Reliant Energy, Incorporated. Reliant states that it would remove the three existing 1-inch meters and replace them with three 2-inch meters. Reliant also states that the existing 1-inch meters would be removed and junked at no value. Reliant would own and operate the meters on its Line J in Poinsett County. Reliant would deliver approximately 240 Dekatherm equivalent of natural gas daily to Arkla at each delivery point. Reliant asserts that Arkla would reimburse Reliant for

the $9,177 estimated total construction cost of the three 2-inch meters.

Reliant states that it has sufficient capacity to accomplish the deliveries of the requested gas volumes without detriment or disadvantage to Reliant's other existing customers and that Reliant's FERC Gas Tariff does not prohibit the construction 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.

David P. Boergers,

Secretary.

[FR Doc. 99–4627 Filed 2–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–199–000]

South Georgia Natural Gas Company; Notice of Request Under Blanket Authorization

February 19, 1999.

Take notice that on February 8, 1999, South Georgia Natural Gas Company (South Georgia), P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP99–199–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for authorization to abandon a pipeline lateral located in Gadsden County, Florida, under the blanket authorization issued in CP82–548–000 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 application may be viewed on the web at www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance.

South Georgia states that it constructed and installed the two-inch pipeline lateral to provide interruptible transportation service to the Floridin Company, Inc. (Floridin) in Gadsden County, Florida. South Georgia was notified by the Englehard Corporation (Englehard) in a letter dated October 12, 1998 that Englehard had purchased Floridin. In the letter, Englehard stated that the Jamieson Plant has been out of operation for decades and that all remnants of the Jamieson plant had been removed. Englehard also stated that all of its gas requirements are met at an alternate site and that it has no present or future requirements for natural gas transportation services through the pipeline lateral, and has requested that South Georgia abandon the pipeline lateral in place. No other customers are presently receiving service from the pipeline lateral under any South Georgia rate schedule and the abandonment will have no adverse impact on South Georgia's pipeline system. The proposed abandonment of the pipeline lateral is not prohibited by any existing tariff of South Georgia.

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 Commisison's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 99–4615 Filed 2–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–140–004]

Tennessee Gas Pipeline Company; Notice of Compliance Filing

February 19, 1999.

Take notice that on February 11, 1999, Tennessee Gas Pipeline Company (Tennessee) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, First Revised Sheet No. 405D, with an effective date of March 13, 1999.

Tennessee states that the revised tariff sheet is being filed in compliance with the Commission's ''Order on Rehearing and Clarification'' issued on January 27, 1999 in Docket No. RP98–140–003 and the Commission's Letter Order issued on January 27, 1999 in Docket No. RP98–140–002.

Tennessee further states that the revised tariff sheet contains certain modifications which the Compliance Order and the Rehearing Order, taken in tandem, required Tennessee to make to its tariff provisions authorizing Tennessee to reserve certain types of existing available capacity for future expansion projects.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–4618 Filed 2–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–181–000]

Texas Gas Transmission Corporation; Notice of Request Under Blanket Authorization

February 19, 1999.

Take notice that on January 28, 1999, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP99–181–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to remove a 2-inch positive meter and meter run at the Robinson-General Carbon Delivery Meter Station located on Texas Gas' Robinson 6-inch Pipeline in Crawford

County, Illinois, under Texas Gas' blanket certificate issued in Docket No. CP82–407–000, 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 application may be viewed on the web at www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance).

Texas Gas states that it currently delivers gas to Central Illinois Public Service Company at the Robinson-General Carbon Delivery Meter Station, and that the meter to be removed was used to measure small volumes of gas and is no longer needed at this location. Texas Gas also states the removal of this meter will not cause any change in service at this point as deliveries will continue to be made through the 3-inch turbine meter at this location. Texas Gas estimates that the cost to remove the 2-inch meter and meter run is $500.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 99–4680 Filed 2–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–216–000]

Williams Gas Pipelines Central, Inc.; Notice of Request Under Blanket Authorization

February 19, 1999.

Take notice that on February 16, 1999, Williams Gas Pipelines Central, Inc. (Williams), Post Office Box 3288, Tulsa, Oklahoma 74101, filed a request with the Commission in Docket No. CP99–216–000, pursuant to Sections 157.205, 157.212 and 157.216(b) of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to replace and relocate Columbus town border meter setting and appurtenant facilities and to abandon in place by sale certain lateral pipeline, located in Cherokee County, Kansas, authorized in blanket certificate issued in Docket No. CP82–479–000, all as more fully set forth in the request on file with the Commission and open to public inspection. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance).

Williams proposes to replace and relocate the ONEOK, Inc. d.b.a. Kansas Gas Service Company (KGS) Columbus town border meter setting and appurtenant facilities to the high pressure regulator site. Williams also proposes to abandon in place by sale to KGS approximately 126 feet of 4-inch and 4,049 feet of 6-inch lateral pipeline downstream of the relocated meter. Williams reports the estimated cost would be approximately $34,614, and the reclaim cost would be estimated at approximately $386.

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.

David P. Boergers,

Secretary.

[FR Doc. 99–4616 Filed 2–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2131–015]

Wisconsin Electric Power Company; Notice of Availability of Environmental Assessment

February 19, 1999.

An environmental assessment (EA) is available for public review. The EA analyzes the environmental impacts of deleting about 215 acres of land (primary action) from the Kingford Hydroelectric Project boundary and development of this land (secondary action) as a Florence County, Michigan, planned unit development (PUD). The Wisconsin Electric Power Company is the project's licensee and the project is located on the Menominee River in Florence County, Wisconsin and Dickinson County, Michigan.

Removing this land would support economic development in Florence County and is designed to compensate Florence County for selling about 3,900 acres to the Wisconsin Department of Natural Resources (WDNR) to help create the 8,850 acre Spread Eagle Barrens State Natural Area (SEBNA). A portion of the SEBNA (1,366 acres) occupies Kingford Project lands.

The 215 acres are located in Florence County on the Wisconsin side of the Menominee River, Township 39 North, Range 19 East, Sections 11 and 14 within the project boundary. This area is in northeast Wisconsin to the west of the cities of Kingford and Iron Mountain, Michigan, at the upper end of the Kingford and Iron Mountain, Michigan, at the upper end of the Menominee River impounded by the dam.

The EA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the EA are available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, N.E., Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. The EA may be viewed on the web at www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–4617 Filed 2–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission, Establishing a Deadline for Final Amendment, and Soliciting Additional Study Requests

February 19, 1999.

Take notice that the following hydroelectric application has been filed with the commission and is available for public inspection:

a. *Type of Application:* Subsequent License.

b. *Project No.:* 3090–008.

c. *Date filed:* January 27, 1999.

d. *Applicant:* Village of Lyndonville Electric Department.

e. *Name of Project;* Vail Power Project.

f. *Location:* On Passumpsic River In Caledonia County, Vermont. No Federal Lands used in this project.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C., § 791(a)–825(r).

h. *Applicant Contact:* Mr. Kenneth C. Mason, Village of Lyndonville Electric Department, 20 Park Avenue, P.O. Box 167, Lyndonville, VT 05851, (802) 626–3366.

i. *FERC Contact:* Any questions on this notice should be addressed to Robert Bell, E-mail address, robert.bell@ferc.fed.us, or telephone 202–219–2806.

j. *Deadline for filing final amendments:* June 30, 1999.

k. *Deadline for filing additional study Requests:* March 29, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's rules of practice and procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. *Status of environmental Analysis:* This application is not ready for environmental analysis at this time.

m. *Descripton of Project:* The existing project consists of : (1) the 96-foot-long ogee-shaped concrete gravity dam varying in height from 8 to 15 feet and topped with 20⅝-inch-high wooden flashboards; (2) the impoundment having a surface area of 79 acres, with negligible storage and normal water surface elevation of 688.63 feet msl; (3) the intake structure; (4) the powerhouse containing one generating unit with an installed capacity of 350-kW; (5) the tailrace; (6) a 0.8-mile-long, 2.4-kV transmission line; and (7) appurtenant facilities.

The applicant does not propose any modifications to the project features or operation.

The project would have an average annual generation of 1,850 MWh and would be used to provide energy to its customers.

n. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h. above.

o. with this notice we are initiating consultation with the Vermont State Historic Preservation Officer as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

David P. Boergers,

Secretary.

[FR Doc. 99–4628 Filed 2–24–99; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

February 12, 1999.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before March 29, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, 445 12th Street, S.W., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0707.

Title: Over-the-Air Reception Devices.

Form Number(s): N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households; State, Local, or Tribal Government.

Number of Respondents: 320.

Estimated Time per Response: 2–6 hours.

Frequency of Response: On occasion reporting requirements.

Total Annual Burden: 1,240 hours.

Total Annual Costs: $144,280.

Needs and Uses: Petitions for waivers of the Section 207 rules are used by the Commission to determine whether the state, local or non-governmental regulation or restriction is unique in a way that justifies waiver of our rules prohibiting restrictions on the use of over-the-air reception devices.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–4614 Filed 2–24–99; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m. (EST), March 8, 1999.

PLACE: 4th Floor, Conference Room 4506, 1250 H Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the February 8, 1999, Board member meeting.

2. Thrift Savings Plan activity report by the Executive Director.

3. Review of KPMG Peat Marwick audit report: ''Executive Summary of the Fiduciary Oversight Program for the Thrift Savings Plan as of September 30, 1998, United States Department of Labor, Pension and Welfare Benefits Administration''.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs (202) 942–1640.

Dated: February 23, 1999.

John J. O'Meara,

Secretary to the Board, Federal Retirement Thrift Investment Board.

[FR Doc. 99–4863 Filed 2–23–99; 3:14 pm]

BILLING CODE 6760–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

Board of Scientific Counselors, National Institute for Occupational Safety and Health: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Public Law 92–463) of October 6, 1972, that the Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH), of the Department of Health and Human Services, has been renewed for a 2-year period through February 3, 2001.

For information, contact Bryan Hardin, Ph.D., Deputy Director, NIOSH, CDC, 1600 Clifton Road, m/s D35, Atlanta, Georgia 30333. Telephone 404/639–3773, e-mail bdh1@cdc.gov.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: February 19, 1999.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–4648 Filed 2–24–99; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Endocrinologic and Metabolic Drugs Advisory Committee; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an amendment to the notice of meeting of the Endocrinologic and Metabolic Drugs Advisory Committee Meeting that is scheduled for March 26, 1999. This meeting was announced in the **Federal Register** of February 8, 1999 (64 FR 6100). The amendment is being made to reflect a change in the agenda of the meeting notice. There are no other changes.

FOR FURTHER INFORMATION CONTACT: Kathleen R. Reedy or LaNise Giles, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12536.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 8, 1999 (64 FR 6100), FDA announced that the meeting of the Endocrinologic and Metabolic Drugs Advisory Committee would discuss experience since approval for marketing, benefits, and risks of Rezulin™ (troglitazone, Parke-Davis Pharmaceutical Research, a Division of Warner-Lambert) in the treatment of type 2 diabetes mellitus. This amendment is being made to provide new information regarding the agenda of the meeting. On page 6100, in the third column, the *Agenda* is amended to read as follows:

Agenda: The committee will discuss: (1) Experience since approval for marketing, benefits, and risks of Rezulin™ (troglitazone, Parke-Davis Pharmaceutical Research, a Division of Warner-Lambert) in the treatment of type 2 diabetes mellitus; and (2) new drug application 20–720; S12 Rezulin™ for triple therapy with sulfonylurea and metformin in the treatment of type 2 diabetes mellitus.

Dated: February 16, 1999.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 99–4611 Filed 2–24–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Safety and Occupational Health Study Section (SOHSS) [Task Group], National Institute for Occupational Safety and Health (NIOSH).

Times and Dates: 9:30 a.m.-11:30 a.m. March 12, 1999.

Place: Teleconference, NIOSH, 1095 Willowdale Road, Morgantown, WV, 26505.

Status: Open 9:30 a.m.–9:45 a.m. March 12, 1999. Closed 9:45 a.m.–11:30 a.m. March 12, 1999.

Purpose: The Safety and Occupational Health Study Section [Task Group] will review, discuss, and evaluate grant application(s) received in response to the Institute's standard grants review and funding cycles pertaining to research issues in occupational safety and health and allied areas.

It is the intent of NIOSH to support broad-based research endeavors in keeping with the Institute's program goals which will lead to improved understanding and appreciation for the magnitude of the aggregate health burden associated with occupational injuries and illnesses, as well as to support more focused research projects which will lead to improvements in the delivery of occupational safety and health services and the prevention of work-related injury and illness. It is anticipated that research funded will promote these program goals.

Matters to be Discussed: The meeting will convene in open session from 9:30–9:45 a.m. on March 12, 1999, to address matters related to the conduct of Study Section business. The remainder of the meeting will proceed in closed session. The purpose of the closed sessions is for the Safety and Occupational Health Study Section to consider safety and occupational health related grant applications. These portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6) title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Pub. L. 92–463.

Agenda items are subject to change as priorities dictate.

Contact Person For More Information: Pervis C. Major, Ph.D., Scientific Review Administrator, Office of Extramural Coordination and Special Projects, Office of the Director, NIOSH, 1095 Willowdale Road, Morgantown, West Virginia 26505. Telephone 304/285–5979.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: February 19, 1999.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–4649 Filed 2–24–99; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–269]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection;

Title of Information Collection: Evaluation of Competitive Bidding Demonstration for Durable Medical Equipment (DME) and Prosthetics, Orthotics, and Supplies (POS)—Data Collection Plan for Baseline Beneficiary Surveys, Oxygen Consumer Survey, Medical Equipment and Supplies Consumer Survey and Supporting Statute Section 4319 of the Balanced Budget Act of 1997;

Form No.: HCFA–R–0269;

Use: Section 4319 of the Balanced Budget Act (BBA) mandates HCFA to implement demonstration projects under which competitive acquisition areas are established for contract award purposes for the furnishing of Part B items and services, except for physician's services. The first of these demonstration projects implements competitive bidding of certain categories of durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS). Under the law, suppliers can receive payments from Medicare for items and services covered by the demonstration only if their bids are competitive in terms of quality and price. Each demonstration project may be conducted in up to three metropolitan areas for a three year period. Authority for the demonstration expires on December 31, 2002. The schedule for the demonstration anticipates about a six month period between mailing the bidding forms to potential bidders and the start of payments for DMEPOS under the demonstration. HCFA intends to operate the demonstration in two rounds, the first of two years, and the second of one year. HCFA has announced that it intends to operate its first demonstration in Polk County, Florida, which is the Lakeland-Winter Haven Metropolitan Area.

This evaluation is necessary to determine whether access to care, quality of care, and diversity of product selection are affected by the competitive bidding demonstration. Although secondary data will be used wherever possible in the evaluation, primary data from beneficiaries themselves is required in order to gain an understanding of changes in their level of satisfaction and in the quality and selection of the medical equipment.

The purpose of the data collection plan is to describe the baseline data collection procedures and the plan for analyzing the data to be collected.

The baseline beneficiary surveys will take place March 1999 to May 1999, prior to the competitive bidding demonstration. We will sample beneficiaries from claims summaries provided by the durable medical equipment regional carrier (DMERC). The sample will be stratified into two groups: beneficiaries who use oxygen and beneficiaries who are non-oxygen users, i.e., users of the other four product categories covered by the demonstration (hospital beds, enteral nutrition, urological supplies, and surgical dressings) but not oxygen. To draw a comparison, we will sample in both the demonstration site (Polk County, Florida) and a comparison site (Brevard County, Florida) that matches Polk County on characteristics such as number of Medicare beneficiaries and DME/POS utilization.

The research questions to be addressed by the surveys focus on access, quality, product selection, and satisfaction with products and services. Our collection process will include fielding the survey for oxygen users and the survey for non-oxygen users before the demonstration begins and again after the new demonstration prices have been put into effect. The same data collection process will be followed in the comparison site (Brevard County). In the analysis of the data, we will also control for socioeconomic factors. This will allow us to separate the effects of the demonstration from beneficiary-or site-specific effects.

Information collected in the beneficiary survey will be used by the University of Wisconsin-Madison (UW–M), Research Triangle Institute (RTI), and Northwestern University (NU) to evaluate the Competitive Bidding Demonstration for DME and POS. Results of the evaluation will be presented to HCFA and to Congress, who will use the results to determine whether the demonstration should be extended to other sites. The information that these surveys will provide about access, quality, and product selection will be very important to the future of competitive bidding within the Medicare program. This is the first Medicare demonstration that allows competitive bidding for services and equipment provided to beneficiaries. A negative impact on access, quality, or product selection would have significant implications for the future of competitive bidding within the Medicare program.

Frequency: Annually.

Affected Public: Individuals or Households.

Number of Respondents: 2,560.

Total Annual Responses: 2,560.

Total Annual Hours: 724.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Dawn Willinghan, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 17, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–4704 Filed 2–24–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–287, HCFA–1491, HCFA–P–15A & HCFA–37]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

(1) *Type of Information Collection Request:* Extension of a currently approved collection;

Title of Information Collection: Home Office Cost Statement and Supporting Regulations in 42 CFR Section 413.17;

Form No.: HCFA–287 (OMB #0938–0202);

Use: Medicare law permits components of chain organizations to be reimbursed for certain costs incurred by the Home Offices of the chain. The Home Office Cost Statement is required by the fiscal intermediary to verify Home Office Costs claimed by the components. This requires that the provider include in its costs, the costs incurred by the related organization in furnishing such services, supplies or facilities.

Frequency: Annually.

Affected Public: Not-for-profit institutions, Business or other for-profit.

Number of Respondents: 1,231.

Total Annual Responses: 1,231.

Total Annual Hours: 573,646.

(2) *Type of Information Collection Request:* Extension of a currently approved collection;

Title of Information Collection: Request for Medicare Payment—Ambulance and Supporting Regulations in 42 CFR Section 410.40 and 424.124;

Form No.: HCFA–1491 (OMB #0938–0042);

Use: This form is used by physicians, suppliers, and beneficiaries to request payment of Part B Medicare services. It is used to apply for reimbursement for ambulance services.

Frequency: On occasion;

Affected Public: Business or other for-profit, Individuals or households, and Not-for-profit Institutions;

Number of Respondents: 9,634,435;

Total Annual Responses: 9,634,435;

Total Annual Hours: 406.251.

(3) *Type of Information Collection Request:* New Collection;

Title of Information Collection: Medicare Information Needs: Supplement to the Medicare Current Beneficiary Survey (MCBS).

Form No.: HCFA–P–15A (OMB# 0938–NEW);

Use: This supplement to the MCBS builds upon the previously fielded Round 18 Supplement, which provided useful information to HCFA's Center for Beneficiary Services on beneficiary information needs and preferences for how to receive information. Results from this data collection will be used by HCFA to guide continued development of communication and education programs for Medicare beneficiaries.

Affected Public: Individuals or Households;

Number of Respondents: 12,000;

Total Annual Responses: 12,000;

Total Annual Hours: 3,000.

(4) *Type of Information Collection Request:* Revision of a currently approved collection;

Title of Information Collection: Medicaid Program Budget Reports and Supporting Regulations in 42 CFR Section 430.30;

Form No.: HCFA–37 (OMB# 0938–0101);

Use: The Medicaid Program Budget report is prepared by the State Medicaid Agencies and is used by HCFA for; (1) developing National Medicaid Budget estimates, (2) quantifying Budget Assumptions, (3) issuing quarterly Medicaid Grant Awards, and (4) collecting projected State receipts of donations and taxes;

Frequency: Quarterly;

Affected Public: State, Local or Tribal Government;

Number of Respondents: 57;

Total Annual Responses: 228;

Total Annual Hours: 7,980.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's web site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326.

Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: February 22, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–4703 Filed 2–24–99; 8:45 am]

BILLING CODE 4120–03–P

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 invention listed below is owned by an agency of the U.S. Government and is 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.

ADDRESS: Licensing information and a copy of the U.S. patent application referenced below may be obtained by contacting J.R. Dixon, Ph.D., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804 (telephone 301/496–7056 ext 206; fax 301/402–0220; E–Mail: jd212g@NIH.GOV). A signed Confidential Disclosure Agreement is required to receive a copy of any patent application.

Entitled: Recombinant Ribonuclease Proteins

Inventors: Drs. Susan M. Rybak (NCI–FCRDC), Dianne L. Newton (NCI–FCRDC), and Lluis Boque (EM), Serial No. 08/875,811 filed 2 February 1997, [= PCT/US97/02588 filed 19 February 1997].

This invention describes and relates to the expression of recombinant ribonucleases which are modifications of the native RNase derived from the oocytes of *Rana pipiens.* Various humanized and recombinant forms of these recombinant ribonucleases are described as well as their use as

cytotoxic reagents to inhibit the growth of tumor cells. This invention also describes that when these ribonucleases are expressed recombinantly they have significant increased eytotoxicity. These ribonucleases may be used to form chemical conjugates, as well as form targeted recombinant immunofusion molecules that can be used to decrease tumor cell growth. Importantly, these ribonucleases can be administered directly to patients to decrease and inhibit tumor cell growth without the use of a targeting agent. Humanized versions of these ribonucleases are described with portions of mammalian or human-derived neurotoxin, grafted to the molecule. This invention also includes methods of selectively killing cancer cells using the recombinantly expressed ribonucleases joined to a ligand to create a selective cytotoxic reagent. The method comprises contacting the cells to be killed with a cytotoxic reagent having a ligand binding moiety that specifically delivers the reagent to the cells to be killed. This method may be used for cell separation *in vitro* by selectively killing unwanted types of cells, for example, in bone marrow prior to transplantation into a patient undergoing marrow ablation by radiation, or for killing leukemia cells or T–Cells that would cause graft-versus-host disease.

The above mentioned invention is available, including any available foreign intellectual property rights, for licensing on an exclusive or non-exclusive or non-exclusive basis.

Dated: February 16, 1999.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 99–4656 Filed 2–24–99; 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

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Entitled: Immunotoxins Directed Against Malignant B-Cells [Immunotoxins, Comprising an ONC Protein, Directed Against Malignant Cells]

Inventors: Drs. Susanna M. Rybak (NCI–FCRDC), Dianne Newton (NCI–FCRDC), and David Goldenberg (EM), DHHS Ref. No. E–157–97/0 filed 2 March 1997, [= PCT/US98/08983 filed 1 May 1998] and 09/071,672 filed 5 May 1998.

This invention relates to immunotoxins, that are useful for killing malignant B-Cells and other malignant cells and are directed to a surface marker on B-Cells and the nucleic acid constructs encoding the immunotoxins. These reagents comprise a toxic moiety that is derived from a *Rana pipiens* protein having a ribonucleolytic activity linked to an antibody capable of specific binding with a chosen tumor cell. It has been found that these immunotoxins are up to 2,000 fold more active against malignant B-Cells than their human RNase counterparts or the toxin itself. These immunotoxins when administered *in vivo* against disseminated tumors, resulted in dramatically lower side effects. These highly effective, but apparently non-toxic immunotoxins directed against such ubiquitous diseases as B-Cell Lymphomas and Leukemias and other malignancies, such as neuroblastoma, present a new and exciting therapeutic option for patients suffering from such diseases.

The above mentioned invention is available, including any foreign intellectual property rights, for licensing on an exclusive or non-exclusive basis.

Dated: February 16, 1999.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 99–4657 Filed 2–24–99; 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 invention listed below is owned by an agency of the U.S. Government and is 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.

ADDRESS: Licensing information and a copy of the U.S. patent application referenced below may be obtained by contacting J.R. Dixon, Ph.D., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804 (telephone 301/496–7056 ext 206; fax 301/402–0220; E-Mail: jd212g@NIH.GOV). A signed Confidential Disclosure Agreement is required to receive a copy of any patent application.

Entitled: Methods for Determining the Prognosis of Breast Cancer Using Antibodies Specific for Thymidylate Synthase

Inventors: Drs. Patrick G. Johnston (NCI) and Carmen J. Allegra (NCI), Serial No. 09/152,647 filed 14 September 1998.

Thymidylate synthase provides the sole de novo source of thymidylate for DNA synthesis. It is also a critical therapeutic target for the fluoropyrimidine cytotoxic drugs, such as fluorouracil (''5-FU'') and flurodeoxyureidine (''FudR''). In pre-clinical and clinical studies increased expression of thymidylate synthase protein has been associated with resistance to 5-FU. The quantitation of thymidylate synthase has traditionally been performed using enzymatic biochemical assays; however, these assays have major limitations when applied to human tumor tissue samples. Recently, monoclonal antibodies have been developed to human thymidylate synthase that have the required sensitivity and specificity to detect and quantitate thymidylate synthase enzyme in formalin-fixed tissue sections. Hence, this invention provides a method for determining the prognosis of a patient afflicted with breast cancer, by obtaining a solid breast tumor tissue sample, measuring the level of thymidylate synthase expression in the

tissue sample using antibody specific for thymidylate synthase. This invention further provides a method for predicting the benefit of chemotherapy for a patient afflicted with breast cancer. The above mentioned invention is derived from the discovery that high thymidylate synthase expression is associated with a poor prognosis in node-positive, but not in node-negative, breast cancer patients. Further, with some 2,504 patients, thymidylate synthase expression was not found to be correlated with other prognostic factors including tumor size, ER status, PR Status, tumor grade, vessel invasion, and histology.

The above mentioned invention is available for licensing on an exclusive or non-exclusive basis.

Dated: February 16, 1999.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 99–4658 Filed 2–24–99; 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.

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ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by contacting Richard U. Rodriguez, M.B.A., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7056 ext. 287; fax: 301/402–0220; e-mail: rr154z@nih.gov. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Use Of Calreticulin And Calreticulin Fragments To Inhibit Endothelial Cell Growth And Angiogenesis, And Suppress Tumor Growth

G Tosato, SE Pike (FDA), DHHS Reference No. E–082–98/0 filed 06 Oct. 98

Tumor growth and invasion into normal tissues is dependent upon an adequate blood supply, and agents that target tumor blood supply have been shown to prevent or delay tumor formation and to promote the regression or dormancy of established tumors in preclinical models. It has been shown that EBV-immortalized cell lines can promote regression of experimental Burkitt's lymphoma, colon carcinoma and other human malignancies established in athymic mice through a vascular-based process. The inventors analyzed the cultured-media from EBV-immortalized cells and isolated a unique and potent factor which inhibits angiogenesis and tumor cell growth. This novel compound was named vasostatin. Vasostatin is an NH_2-terminal fragment of human calreticulin, and it can inhibit endothelial cell proliferation *in vitro*, suppress neovascularization *in vivo* and prevent or reduce growth of experimental tumors while having minimal effect on other cell types. Vasostatin is the most conserved domain among calrecticulins so far cloned and has no homology to other protein sequences. Data suggests that the antitumor effects of vasostatin are related to inhibition of *new* vessel formation rather than to a toxic effect on established tumor vascular structures. Vasostatin has key differences from other inhibitors of angiogenesis. It is small and soluble, and it is stable for greater than 19 months in aqueous solution. It is easily produced and delivered. By comparison, angiostatin, endostatin and thrombospondin can be difficult to isolate, purify and deliver. Additionally, studies have shown that the effective dose of vasostatin is 4–10 fold lower than the effective doses of endostatin and angiostatin. Therefore, this new and potent anti-angiogenic molecule should prove highly useful for the prevention and treatment of human cancers.

Polynucleotide Inhibition Of RNA Destabilization And Sequestration

DJ Lipman (NLM)
DHHS Reference No. 3–130–97/1 filed 19 Aug 98; PCT/US98/17261

A variety of mechanisms are available in eukaryotic cells for regulating gene expression such that each gene product is produced at appropriate times and in appropriate quantities. It is well established that a significant amount of control over gene expression can be exerted at the level of RNA processing and RNA stability. Evidence exists that suggests a role for antisense RNA transcripts (countertranscripts) in RNA destabilization and nuclear sequestration which promotes down-regulation of protein expression. Countertranscript-RNAs are encoded by the complementary-strand of a gene, and they are sometimes found in different tissues or developmental stages than their corresponding sense or transcript-RNAs, and these different expression patterns yield different gene-product expression patterns. Therefore, transcript-countertranscript complexes can play a critical role in the degradation and sequestration of RNAs and thus affect protein expression. The disclosed invention provides a means whereby defined polynucleotides can be introduced into a cell or tissue in order to prevent transcript-countertranscript interactions and thereby inhibit this degradation and nuclear sequestration of transcript RNA. This methodology could enhance the expression of a target gene-product encoded by a transcript-RNA by preventing transcript-countertranscript association. The polynucleotides themselves can be introduced or expression vectors can be created containing the polynucleotide sequence in order to express the defined polynucleotides in the cells or tissue of choice. These polynucleotides can also be used in *in vivo* and *ex vivo* regimens. As an example, these polynucleotides could be used to treat tumorigenic cells in such a way as to promote the expression of known apoptotic proteins whereby the tumorigenic cells are selectively killed. In summary, this technology could be used in any number of applications where the promotion of the expression of a particular gene-product is desirable.

Labeling DNA Plasmids With Triplex-Forming Oligonucleotides and Methods for Assaying Distribution of DNA Plasmids in Vivo

IG Panyutin, RD Neumann, O Sedelnikova (CC), DHHS Reference No. E–142–98/0 filed 26 May 98.

Monitoring the intracellular distribution of circular plasmids that have been introduced into cells is problematic because labeling moieties are not readily attached to covalently closed circular DNA molecules. Monitoring the biodistribution of DNA vectors that are introduced into a host animal, e.g., to determine the efficiency of transfection of target tissues in developing a method for gene therapy,

is also problematic because commonly used assays based on detecting marker gene expression do not provide accurate biodistribution data due to failure to obtain a signal in those tissues in which the marker gene is not expressed. This invention obviates these deficiencies by disclosing the use of triplex-forming-oligonucleotides (TFO) which bind to their target sequences in circular plasmid DNA and thereby creating stable readily detectable triplex-complexes when introduced into living eukaryotic cells. These fluorescent or radio-labled polypurine TFOs can provide a noninvasive way to study the biodistribution of a plasmid of interest *in vivo* using tools developed for probe detection and radioimaging. In summary, this technology allows one to quantitatively monitor the whole-body distribution of labeled-vectors in living animals or patients.

Extension of a Protein-Protein Interaction Surface To Inactivate the Function of a Cellular Protein

CR Vinson, D Krylov (NCI), DHHS Reference No. E–113–95/1 filed 29 May 96, Related cases: Serial No. 08/690,111 filed 31 Jul 96; PCT/US96/12590 filed 31 Jul 96.

This invention uses sequence-specific DNA binding proteins as eukaryotic transcription factors, i.e., transcription regulatory proteins. Specifically, multimeric proteins having nucleic acid (DNA or RNA) binding domains in which the binding domain or protein interaction surface is engineered or modified to be acidic in nature. The acidic nature of the protein increases the stability of heteromultimeric or heterodimeric complexes that are formed. This type of nucleic acid binding protein should be capable of regulating the function of a target nucleic acid sequence or gene to which it is bound, thereby acting as a potent dominant-negative regulator of gene transcription, cell growth and cell proliferation. These proteins would be useful as drugs, inhibitory molecules or growth-controlling agents that can inhibit the expression,and thus the activity, of cellular proteins which have harmful, deleterious and even lethal effects on cell growth and survival. These proteins could also be used in gene therapy by using appropriate constructs to allow expression of a regulatory protein to treat suitable disease states. The constructs could also be used to create transgenic animals or plants in which the dominant-negative protein interacts with the wild-type protein to provide viable phenotypes to evaluate and assess the *in vivo* effects of the protein. In summary, this technology provides for useful tools and therapeutics which are capable of regulating specific target gene expression and gene-product activity.

Dated: February 16, 1999.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 99–4659 Filed 2–24–99; 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.

ADDRESS: 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.

Activity Dependent Neurotrophic Factor III (ADNP)

DE Brenneman (NICHD), Ilana Gozes (Tel Aviv University)
M Bassan
Serial No. 09/187,330 filed 06 Nov 1998 and claiming priority to PCT/US98/02485 and 60/037,404.
Licensing Contact: Susan S. Rucker; 301/496–7056 ext. 245; e-mail: sr156v@nih.gov

These application(s) disclose the identification, isolation, cloning and sequencing of a newly discovered gene which encodes a product known as ADNF III (Activity Dependent Neurotrophic Factor III)/ADNP (Activity Dependent Neuroprotective Protein). The gene has been localized to the long arm of chromosome 20 at 20q13.2—a region which has previously been associated with autosomal dominant nocturnal frontal lobe epilepsy (ADNFLE). In addition to describing ADNF III/ADNP, the applications describe an eight (8) amino acid peptide fragment NAP which is an active region ADNF III/ADNP.

ADNP and NAP exhibit neuroprotective activity, the ability to protect neurons from cell death, with an EC50 in femtomolar range. Neuronal cell death is suggested as one mechanism in operation in Alzheimer's disease making ADNP or NAP attractive as candidates for the development of therapeutics for prevention or treatment of Alzheimer's disease. Early work using Apo-E deficient mice indicates that NAP can ameliorate learning and memory deficiencies normally exhibited in these mice. Other diseases involving neuronal cell death where ADNP or NAP may be useful include stroke, Huntington's disease, epilepsy, Parkinson's disease and Tourette's syndrome.

A Mutant OF TEV Protease That Is Resistant To Autoinactivation

David S. Waugh (NCI)
Serial No. 60/104,799 filed 19 Oct 98
Licensing Contact: Kai Chen; 301/496–7056 ext. 247; e-mail: kc169a@nih.gov

This invention concerns a mutant of the tobacco etch virus (TEV) proteinase. Due to its high degree of sequence specificity, the TEV protease is valuable reagent for cleaving fusion proteins. However, the wild-type TEV protease also cleaves itself to yield a truncated enzyme with greatly reduced proteolytic activity. As a result, more protease must be used to achieve complete digestion of a fusion protein substrate, and the stability of the enzyme during long term storage becomes problematic. This invention provides a means of avoiding autoinactivation of TEV, thereby enhancing its utility as a reagent for cleaving fusion proteins at a specific, predetermined site.

Fluorescent Pteridine Adenosine Analogs As DNA Probes Not Requiring Separation of Products

ME Hawkins, FM Balis, W Pfledierer (NCI)
Serial No. 60/099,487 filed 08 Sep 98
Licensing Contact: Manja Blazer; 301/496–7056 ext. 224; e-mail; mb379e@nih.gov

These are part of a series of nucleic acid analogs to be used as fluorescent probes for DNA analysis. Their site-specific incorporation into DNA through a deoxyribose linkage causes them to be much more sensitive to changes in the DNA than traditional fluorophores.

Incorporated through automated DNA synthesizers, these probes are effected by base stacking and therefore are excellent detectors of binding, cleavage and configurational changes brought about by interactions with proteins or other DNA. This property makes them useful in the following commercial applications:

- Study of DNA/DNA and DNA/protein interactions
- Detection of positive PCR products without the use of radioactive isotopes and gels

Highly Selective Butyrycholinesterase Inhibitors For The Treatment And Diagnosis Of Alzheimer's Disease And Dementias

NH Greig, A Brossi, TT Soncrant, Q Yu, M Hausman (NIA)
DHHS Reference No. E–247–97/1 filed 09 Jul 98 (CIP of Provisional U.S. Patent Application No. 60/052,087 filed 09 Jul 97)
Licensing Contact: Leopold J. Luberecki, Jr.; 301/496–7735 ext. 223; e-mail: 1187a@nih.gov

Defects in the cholinergic system have been reported to primarily underlie memory impairments associated with normal aging and with Alzheimer's disease (AD). This invention describes compounds that are selective, long-acting and reversible inhibitors of the enzyme butyrylcholinesterase, BChE, that readily enter the brain to both improve cognitive performance and reduce levels of β-amyloid precursor protein for the treatment of AD. Specific cholinergic pathways within the brain are regulated by BChE, rather than by its sister enzyme acetylcholinesterase, AChE, that regulates the vast majority. Selective BChE inhibitors, described within this invention, substantially improve cognitive performance in animals without the classical peripheral and central side effects associated with cholinesterase inhibition. They, additionally, reduce levels of β-amyloid precursor protein, the source of the toxic peptide, β-amyloid, which is elevated in the brain of patients with AD. Since small populations of people entirely lack BChE activity and yet live normal healthy lives, complete inhibition of BChE can be sustained without harm. In addition to therapeutics, analogues of compounds described in the invention can be used as potential early diagnostics of AD. Unlike AChE, which is substantially reduced early in AD, levels of BChE are increased, particularly in areas associated with deposits of β-amyloid. The high, selective binding of compounds of this invention to BChE provides the means to image and quantitate the enzyme as a marker of AD and disease progression. Hence, the compounds described in this invention have both therapeutic and diagnostic potential for AD.

Novel Nitric Oxide-Releasing Amidine- and Enamine-Derived Diazeniumdiolates, Compositions and Uses Thereof and Method of Making Same

JA Hrabie, LK Keefer (NCI)
DHHS Reference No. E–067–97/1 filed 01 Jul 98 (based on Provisional U.S. Patent Application No. 60/051,690 filed 03 Jul 97)
Licensing Contact: Leopold J. Luberecki, Jr.; 301/496–7735 ext. 223; e-mail: 1187a@nih.gov

Diazeniumdiolates are compounds that contain an N_2O_2 functional group. These compounds are potentially useful as prodrugs because they generate nitric oxide upon degradation. Nitric oxide (NO) plays a role in regulation of blood pressure, inflammation, neurotransmission, macrophage-induced cytostasis, and cytotoxicity. NO is also important in the protection of the gastric mucosa, relaxation of smooth muscle, and control of the aggregation state of blood cells. A series of amidine- and enamine-derived diazeniumdiolates have been produced that offer many advantages over previously known derivatives.

For example, these derivatives are not expected to decompose into carcinogenic nitrosamines and exhibit a full range of solubility in water. Many of these derivatives are more heat stable than previous analogs and release NO at a slow rate. Additionally, some of these compounds are insoluble in water and thus coatings prepared from them may not secrete component material after NO release. These properties may make these derivatives suitable for coating medical devices, stents, and implants to take advantage of the anti-coagulant properties of NO. The newly developed synthetic scheme also allows for the production of NO-releasing agents from known pharmaceuticals. Using enamines, it may be possible to incorporate the actions of three pharmaceuticals into a single agent, one as a carbonyl compound, another as an amine, and the third as the NO-releasing diazeniumdiolate. Overall, these compounds appear to be applicable toward the wide variety of processes involving nitric oxide.

Therapeutic And Prophylactic Uses Of Sucrose Octasulfate

Thomas C. Quinn (NIAID), Manuel A. Navia
Serial No. 60/076,314 filed 27 Feb 98
Licensing Contact: Peter Soukas; 301/496–7056 ext. 268; e-mail: ps193c@nih.gov

This invention claims methods for the use of sucrose octasulfate against gonorrhea and chlamydia infections. Furthermore, the invention claims compositions combining sources octasulfate with antibacterial or anti-infective agents. Prior to this invention, sucrose octasulfate (FDA apporoved) has been widely used as an anti-ulcerant. The methods described in the application are characterized by one or more of the following advantages: (1) sucrose octasulfate minimizes disruption of the epithelial cell surface to which it is applied; (2) sucrose octasulfate has little, if any, toxic or tumorigenic effects; (3) sucrose octasulfate has little, if any, anticoagulant activities (in contrast to larger anionic sulfated polysaccharides), contraceptive effects, or other reproductive or teratogenic effects; (4) sucrose octasulfate has affinity for damaged epithelium, which is known to be a preferred site for bacterial entry; and (5) sucrose octasulfate forms non-covalent gels, or remains in a liquid state depending upon the particular salt used. The absence of contraceptive and/or teratogenci activity demonstrated for sucralfate to date makes this compound ideal for use in preventing sexually transmitted infections such as chlamydia or gonorrhea. In vitro studies have been completed on the effects of sucrose octasulfate against chlamydia and gonorrhea.

O-Linked GlcNAc Transferase (OGT): Cloning, Molecular Expression, and Methods of Use

JA Hanover, W Lubas (NIDDK)
DHHS Reference No. E–128–97/0 filed 31 Mar 97
Licensing Contract: Manja Blazer; 301/496–7056 ext. 224; e-mail: mb379@nih.gov

This technology relates to a post-translational modification of a protein involving the addition of N-acetylglucosamine in O-glycosidic linkage to serine or threonine residues in cytoplasmic and nuclear proteins. It is believed that such modification plays a significant role in regulation the activity of proteins involved in transcriptional and translational processes. It likely represents a novel signal transduction pathway. In particular, this invention provides an enzyme catalyzing the formation of these derivatives, uridine diphospho-N-acetylglucosamine:polypeptide B-N-acetylglucosaminyl transferase (O-ClcNAc, OGT), and a nucleic acid encoding the system.

The invention also modifies many phosphoproteins that are components of multimeric complexes. The sites modified by O-linked GlcNAc often resemble phosphorylation sites, leading to a suggestion that the modification may compete for substrate in these polypeptides. Based on the above properties, this technology may be useful in the following ways:

- As a terminal component of the hexosamine biosynthetic pathway, OGT may be a key target for systemic problems with glucose homeostasis such as diabetes mellitus.
- Model for glucose sensing by the pancreatic Beta cell.
- Model for the study of OGT role in regulating oncogene activity and function.
- Screen for various tumors correlating OGT activity with metastatic potential.
- Tumor suppressor activity and the involvement of OGT in transcriptional disregulation during transformation.

Dated: February 16, 1999.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 99–4660 Filed 2–24–99; 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.

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ADDRESS: Licensing information and copies of the U.S. patent applications listed below may be obtained by contacting Susan S. Rucker, J.D., Patent and Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057 ext. 245; fax: 301/402–0220; e-mail: sr156v@nih.gov. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Attenuated and Dominant Negative Varient cDNAs of Stat6: Stat6b and Stat6c

WJ LaRochelle, BKR Patel, JH Pierce (NCI)

PCT/US98/17821 filed 27 Aug 1998 and based on applications 60/070,397 and 60/056,075.

These application(s) disclose the identification, isolation, cloning and sequencing of two human variants of a signal transducer and activator of transcription (STAT) protein known as Stat6. The variants or isoforms of human Stat6 are designated Stat6b and Stat6c and they are, respectively, attenuated and dominant negative isoforms of Stat6. The STAT proteins are a family of signal transduction molecules which have been shown to play a role in modulating the activity of a variety of cytokines. In particular, Stat6 has been shown to be involved in interleukin-4 (IL-4) regulation suggesting that Stat6 may play a role in inflammatory and cell-mediated immune responses. The dominant negative isoform, Stat6c, is particularly interesting because of its ability to down-regulate the IL-4 response. This suggest that it may be useful alone or in identifying agents which may be useful in treating diseases linked to the IL-4 response such as asthma. Diagnostic applications for allergy or asthma may also be possible. In addition to describing the variants of Stat6 the application describes the promoter for Stat6 and notes that the gene is located on the long arm of chromosome 12 at 12q13.3–14.1. Regulation of the Stat6 promoter might provide insights toward the control of proliferative and inflammatory processes.

This work has appeared, in part, in PNAS, USA 95(1):172–77 (January 6, 1998) and Genomics 52(2):192–200 (Sept. 1, 1998).

Methods and Compositions for Treatment of Restenosis

AB Mukherjee, GC Kundu, DK Panda (NICHD)

DHHS Reference No. E–163–96/1 filed 07 Aug 98 (PCT/US98/16569) and claiming priority to 60/054,694 filed 07 Aug 97

This application describes the use of antisense oligonucleotides designed to inhibit osteopontin production, and their use in treating restenosis, the reocclusion of an artery following angioplasty. Utilizing blood samples and coronary artery tissues from patients it was demonstrated that OPN levels are increased both in the atherosclearotic tissues as well as in the blood following angioplasty. Further, using an in vitro system employing human coronary artery smooth muscle cell culture (CASMC), it has been demonstrated that these antisense molecules inhibit osteopontin expression.

This research has been published in PNAS USA 94(19):9308–13 (August 18, 1997).

cDNA for a Human Gene Deleted in Liver Cancer

BZ Yuan, NC Popescu, SS Thorgeirsson (NCI)

Serial No. 60/075,952 filed 25 Feb 98

This application discloses the identification, isolation, cloning and sequencing of a newly discovered gene, DLC-1 (Deleted in Liver Cancer), which has been localized to the short arm of chromosome 8 at 8p21.3–22 using FISH (fluorescent in situ hybridization). Studies of human tumors show that DLC-1 is deleted in 50% of primary hepatocellular carcinomas and is not expressed in 20% of hepatocellular carcinoma cell lines. This differential expression suggests that diagnostic applications of DLC-1 may be developed. Other cancers where preliminary data indicates that DLC-1 may have diagnostic possibilities are breast and colon cancer. A polyclonal antibody which recognizes DLC-1 has been characterized. Work to date indicates that DLC-1 is a tumor suppressor gene suggesting that gene therapy utilizing DLC-1 may also be possible.

This work has appeared, in part, in Cancer Research 58(10) : 2196–9 (May 15, 1998).

Partial Intron Sequence of Von Hippel-Lindau (VHL) Disease Gene and Its Use in Diagnosis of Disease

WM Linehan, MI Lerman, F Latif, B Zbar (NCI)

Serial No. 08/623,428 filed 28 Mar 96

This application, in conjunction with patents 5,654,138 (8/5/1997) and 5,759,790 (6/2/1998), describes the isolation, cloning, and sequencing of the gene associated with Von Hippel Lindau (VHL) syndrome. The sequence of VHL includes, in addition to the coding region, the sequence of the VHL promoter and genomic sequence information at the intron/exon boundaries of the VHL gene. The VHL gene is found on the short arm of chromosome 3 at 3p25–26. It functions as a tumor suppressor and has been associated with sporadic kidney cancer,

in particular clear cell renal carcinoma (cRCC). In particular, antibody-based or nucleotide-based diagnostics are contemplated in the applications. Various techniques have been used to examine VHL mutations including FISH (fluorescent in situ hybridization), southern blotting, PCR–SSCP and complete sequencing of the VHL gene.

There are numerous publications detailing the work of Dr. Linehan and his colleagues regarding the VHL disease gene. Two of these are Hum Mutat 12(6): 417–23 (1998) and Biochim Biophys Acta 1243 (3): 201–10 (March 18, 1996).

Dated: February 18, 1999.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 99–4661 Filed 2–24–99; 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.

Chimeric Virus-Like Particles for the Induction of Autoantibodies

John T. Schiller, Bryce Chackerian and Douglas R. Lowy (NCI)
Serial No. 60/105,132 filed 21 Oct 98
Licensing Contact: Robert Benson; 301/496–7056 ext. 267; e-mail: rb20m@nih.gov

This invention provides methods and constructs for inducing a B cell mediated antibody response against a self-antigen or tolerogen. Given that many disease states can be alleviated by decreasing the effect of a self-antigen, this invention has broad applicability. Autoantibody therapy might be preferable to monoclonal antibody therapy in some instances because the concentration of the therapeutic antibody would likely remain in an effective range for longer periods, an antibody response to the therapeutic antibody response would not be expected, and a polyclonal autoantibody response might be more effective than the monospecific response of a monoclonal antibody. The inventors have found that by presenting an epitope from the self-antigen as a highly organized array on the surface of virus-like particles (VLP), such as papillomavirus VLPs, that antibodies are raised against the self-antigen. Any therapeutic or prophylactic treatment which involves using monoclonal antibodies against a self-antigen can be replaced with the methods and VLPs of this invention. Examples of such diseases include autoimmune diseases such as rheumatoid arthritis and inflammatory bowel disease, or cancers such as breast cancer. The invention is also useful for producing mouse anti-self-antigen sera or monoclonal antibodies which should find myriad uses. The inventors have demonstrated a potential anti-HIV treatment by raising antibodies against the HIV co-receptors CCR5 in a mouse model system. Bovine papillomavirus L1 protein containing an epitope from an extracellular domain of CCR5 formed VLPs which raised anti-CCR5 antibodies. These antibodies blocked binding by the normal CCR5 ligand, RANTES, and, more importantly, blocked entry of HIV into the cells.

High-Stability Prokaryotic Plasmid Vector System

Stuart J. Austin (NCI)
Serial No. 60/108,253 filed 12 Nov 1998
Licensing Contact: J. Peter Kim; 301/496–7056 ext. 264; e-mail: jk141n@nih.gov

Plasmids used in vaccine production, production of biopharmaceuticals, and products of industrial importance are often unstably maintained, and loss of the plasmid from the host is a common limitation for efficient product yield. Accordingly, the subject invention could be particularly useful in continuous flow applications, e.g, large fermentation vat productions, where accumulation of cells that have lost the producer plasmid leads to long-term decline in product yield.

The present invention relates to the identification of a locus for plasmid stability. The scientists have mapped, sequenced, and characterized this locus. The DNA element appears to be highly effective in promoting the stable maintenance of a variety of unstable plasmids.

Identification of a Region of the Major Surface Glycoprotein (MSG) Gene of Human Pneumocystis carinii

Joseph Kovacs et al. (CC)
Serial No. 60/096,805 filed 17 Aug 1998
Licensing Contact: J. Peter Kim; 301/496–7056 ext. 264; e-mail: jk141n@nih.gov

Pneumocystis carinii is an important life-threatening opportunistic pathogen of immuno-compromised patients, especially for those with human immunodeficiency virus (HIV) infection and acquired immunodeficiency syndrome (AIDS).

The present invention provides for methods and kits for detecting *Pneumocystis carinii* infection in humans. More specifically, nucleic acid amplification (for example, polymerase chain reaction (PCR) amplification of human *Pneumocystis carinii* MSG-encoding genes (approximately 100 copies of which are present per genome), may provide a particularly sensitive and specific technique for the detection of *Pneumocystis carinii* and the diagnosis of *Pneumocystis carinii* pneumonia (PNP).

Ratio-Based Decisions and the Quantitative Analysis of cDNA Microarray Images

Y Chen (NHGRI)
Serial No. 60/102,365 filed 29 Sep 98
Licensing Contact: John Fahner-Vihtelic; 301/496–7735 ext. 270; e-mail: jf36z@nih.gov

The present invention relates to the quantitative analysis of gene expression by hybridizing fluor-tagged mRNA to targets on a cDNA microarray. A method and system of image segmentation is provided to identify cDNA target sites. The comparison of gene expression levels arising from cohybridized samples is achieved by taking ratios of average expression levels for individual genes. A confidence interval is developed to quantify the significance of observed differences in expression ratios. This technology has been implemented into a computer program called ArraySuite and provides a user-friendly display for the operator to view and analyze the results of the experiment.

Pressure Mediated Selective Delivery of Therapeutic Substances

SM Wiener, RF Hoyt, JR DeLeonardis, RR Clevenger, RJ Lutz, B Safer (NHLBI)
Serial No. 60/086,565 filed 21 May 98
Licensing Contact: John Fahner-Vihtelic; 301/496–7735 ext. 270; e-mail: jf35z@nih.gov

The present application describes a system and method for improved regional, organ, tissue, tissue-compartment, and celltype-specific delivery of therapeutic agents via infusion of those agents into body lumens under controlled pressure and volume conditions. Methods of varying the pressure and flow rates for given body targets and depths are also disclosed along with methods of determining the proper protocol for a given target tissue. This application also includes designs for access cannulas, catheters, access ports, and other devices for controlled, targeted delivery of therapeutic agents, including drugs and gene therapy vectors. Local administration of drugs, gene therapy vectors, and other therapeutic agents in accordance with this invention can permit organ, tissue, tissue-compartment, and celltype-specific delivery, thereby maximizing administration to intended tissue targets using therapeutically effective dosages while simultaneously reducing the risk of systemic delivery and toxicity.

Dated: February 18, 1999.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 99–4662 Filed 2–24–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Innovative Technologies for the Molecular Analysis of Cancer: SBIR/STTR Initiative.

Date: March 22–23, 1999.

Time: 7:00 pm to 12:00 pm.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Hilton, 620 Perry Parkway, Gaithersburg, MD 20877.

Contact Person: Sherwood Githens, Ph.D., Scientific Review Administrator, National Institutes of Health, National Cancer Institute, Special Review, Referral and Resources Branch, Executive Plaza North, 6130 Executive Boulevard, Bethesda, MD 20892, 301/435–9050.

Name of Committee: National Cancer Institute Special Emphasis Panel, Innovative Technologies for the Molecular Analysis of Cancer: Phased Innovation Award.

Date: March 23–24, 1999.

Time: 1:00 pm to 2:00 pm.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Hilton, 620 Perry Parkway, Gaithersburg, MD 20877.

Contact Person: Sherwood Githens, Ph.D., Scientific Review Administrator, National Institutes of Health, National Cancer Institute, Special Review, Referral and Resources Branch, Executive Plaza North, 6130 Executive Boulevard, Bethesda, MD 20892, 301/435–9050.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 18, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–4653 Filed 2–24–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the meeting of the Board of Scientific Counselors, National Cancer Institute.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with provision set forth in sections 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Cancer Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Cancer Institute, Subcommittee B—Basic Sciences.

Date: March 8, 1999.

Open: March 8, 1999, 8:00 am to 10:15 am.

Agenda: Joint Session with Board of Scientific Advisors, National Cancer Institute, Report of the Director, NCL.

Place: National Cancer Institute, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.

Closed: March 8, 1999, 10:30 am to 11:30 am, Joint Meeting of the Board of Scientific Counselors, National Cancer, Institute, Subcommittee A—Clinical Sciences and Epidemiology and Subcommittee B—Basic Sciences.

Agenda: To Review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Cancer Institute, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.

Closed: March 8, 1999, 12:00 pm to 5: pm, Board of Scientific Counselors, National Cancer Institute, Subcommittee B—Basic Sciences.

Agenda: To Review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: The Hyatt Regency, Chesapeake Suites, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Florence E. Farber, Ph.D., Executive Secretary, Office of Advisory Activities, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard, EPN 609, Rockville, MD 20892, (301) 496–2378.

Name of Committee: Board of Scientific Counselors, National Cancer Institute, Subcommittee A—Clinical Sciences and Epidemiology.

Date: March 8–9, 1999.

Closed: March 8, 1999, 10:30 am to 11:30 am, Joint Meeting of the Board of Scientific Counselors, National Cancer Institute, Subcommittee A—Clinical Sciences and Epidemiology and Subcommittee B—Basic Sciences.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Cancer Institute, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 6, Bethesda, MD 20892.

Closed: March 8, 1999, 11:30 am to 5:00 pm.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Building 31, C Wing, 6th Floor, Conference Room 6, National Institutes of Health, 3100 Center Drive, Bethesda, MD 20892.

Closed: March 9, 1999, 8:30 am to 12:30 pm, Board of Scientific Counselors, National Cancer Institute, Subcommittee A—Clinical Sciences and Epidemiology.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Cancer Institute, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 6, Bethesda, MD 20892.

Contact Person: Judy Meitz, Ph.D., Executive Secretary, Office of Advisory Activities, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard, EPN 609, Rockville, MD 20892–7410, (301) 496–2378.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the intramural research review cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 18, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–4654 Filed 2–24–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Xenotransplantation in the Swine to Baboon Model.

Date: March 30, 1999.

Time: 1:00 pm to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: 6003 Executive Blvd, Solar Bldg., Conf Rm 4A31, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Edward W Schroder, PHD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Solar Building, Room 4C38, 6003 Executive Boulevard MSC 7610, Bethesda, MD 20892–7610, 301–435–8537.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 19, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–4651 Filed 2–24–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The 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 of Allergy and Infectious Diseases Special Emphasis Panel Tuberculosis Drug Development: Tuberculosis Anti-microbial Acquisition and Coordinating Facility.

Date: March 23, 1999.

Time: 11:00 AM to 1:00 PM.

Agenda: To review and evaluate contract proposals.

Place: Solar Building, Room 4C–05, 6003 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Allen C. Stoolmiller, PHD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Solar Building, Room 4C05, 6003 Executive Boulevard MSC 7610, Bethesda, MD 20892–7610, 301–496–7966.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.956, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 19, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–4652 Filed 2–24–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed 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 542b(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 of Neurological Disorders and Stroke Special Emphasis Panel.

Date: March 3, 1999.

Time: 11:00 AM to 12:00 PM.

Agenda: To review and evaluate contract proposals.

Place: 7550 Wisconsin Avenue, Federal Building, Room 9C10, Bethesda, MD 20814–9692, (Telephone Conference Call).

Contact Person: Phillip F. Wiethorn, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, NINDS, National Institutes of Health, PHS, DHHS, Federal Building Room 9C10, 7550 Wisconsin Avenue, Bethesda, MD 20892, 301–496–9223.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: March 4, 1999.
Time: 2:00 PM to 3:00 PM.
Agenda: To review and evaluate contract proposals.
Place: 7550 Wisconsin Avenue, Federal Building, Room 9C10, Bethesda, MD 20814–9692, (Telephone Conference Call).
Contact Person: Phillip F. Wiethorn, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, NINDS, National Institutes of Health, PHS, DHHS, Federal Building room 9C10, 7550 Wisconsin Avenue, Bethesda, MD 20892, 301–496–9223.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.
Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.
Date: March 8–9, 1999.
Time: 8:30 AM to 3:00 PM.
Agenda: To review and evaluate contract proposals.
Place: Doubletree Hotel, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Phillip F. Wiethorn, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, NINDS, National Institutes of Health, PHS, DHHS, Federal Building room 9C10, 7550 Wisconsin Avenue, Bethesda, MD 20892, 301–496–9223.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.
(Catalogue of Federal Domestic Assistance Program Nos. 93–853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: February 18, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–4655 Filed 2–24–99; 8:45 am]
BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.
The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 21, 1999.
Time: 6 pm to 7:30 pm.
Agenda: To review and evaluate grant applications.
Place: Chevy Chase Holiday Inn, Chevy Chase, MD 20815.
Contact Person: Priscilla B. Chen, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435–1787.
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: Biobehavioral and Social Sciences Initial Review Group Social Sciences and Population Study Section.
Date: February 25–26, 1999.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Governor's House Hotel, Washington, DC 20036.
Contact Person: Robert Weller, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7848, Bethesda, MD 20892, (301) 435–1259.
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: Cell Development and Function Initial Review Group, International and Cooperative Projects Study Section.
Date: February 25–26, 1999.
Time: 8 am to 6 pm.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Sandy Warren, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5134, MDC 7840, Bethesda, MD 20892, (301) 435–1019.
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: Endocrinology and Reproductive Sciences Initial Review Group, Human Embryology and Development Subcommittee 1.
Date: February 25–26, 1999.
Time: 8 am to 12 pm.
Agenda: To review and evaluate grant applications.
Place: Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852.
Contact Person: Michael Knecht, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, (301) 435–1046.
This notice is being published less than 15 days to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Musculoskeletal and Dental Sciences Initial Review Group, Geriatrics and Rehabilitation Medicine.
Date: February 25–26, 1999.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Latham Hotel Georgetown, 3000 M Street, NW, Washington, DC 20007.
Contact Person: Jo Pelham, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892, (301) 435–1786.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 25–26, 1999.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: George Washington University Inn, 824 New Hampshire Ave, NW, Washington, DC 20037.
Contact Person: Jay Joshi, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7846, Bethesda, MD 20892, (301) 435–1184.
This notice is being published less than 15 days prior to the meeting due the timing limitations imposed by the review and funding cycle.

Name of Committee: Immunological Sciences Initial Review Group, Immunological Sciences Study Section.
Date: February 25–26, 1999.
Time: 8:30 am to 4 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Ave, Washington, DC 20007.
Contact Person: Alexander D. Politis, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, (301) 435–1225.
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: Nutritional and Metabolic Sciences Initial Review Group, Metabolism Study Section.
Date: February 25–26, 1999.
Time: 8:30 am to 2 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Krish Krishnan, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, (301) 435–1041.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–MDCN–3.

Date: February 25–26, 1999.

Time: 8:30 am to 4:30 pm.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Michael Lang, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7850, Bethesda, MD 20892, (301) 435–1265.

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: Immunological Sciences Initial Review Group Allergy and Immunology Study Section.

Date: February 25–26, 1999.

Time: 8:30 am to 2:30 pm.

Agenda: To review and evaluate grant applications.

Place: Georgetown Inn, 1310 Wisconsin Ave., NW., Washington, DC 20007.

Contact Person: Eugene M. Zimmerman, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4202, MSC 7812, Bethesda, MD 20892, (301) 435–1220.

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: Biophysical and Chemical Sciences Initial Review Group, Metallobiochemistry Study Section.

Date: February 25–26, 1999.

Time: 8:30 am to 3 pm.

Agenda: To review and evaluate grant applications.

Place: St. James Hotel, 950 24th Street, NW., Washington, DC 20037.

Contact Person: John L. Bowers, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 20892, (301) 435–1725.

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: Biobehavioral and Social Sciences Initial Review Group, Human Development and Aging Subcommittee 3.

Date: February 25–26, 1999.

Time: 9 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Chevy Chase Pavilion, 4300 Military Board, NW., Washington, DC 20015.

Contact Person: Anita Miller Sostek, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7848, Bethesda, MD 20892, (301) 435–1260.

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: Biophysical and Chemical Sciences Initial Review Group, Bio-Organic and Natural Products Chemistry Study Section.

Date: February 25–26, 1999.

Time: 9 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn-Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Mike Radtke, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7806, Bethesda, MD 20892, (301) 435–1728.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: February 26, 1999.

Time: 8:30 am to 6 pm.

Agenda: To review and evaluate grant applications.

Place: Omni Shoreham, 25000 Calvert Street, NW., Washington, DC 20008.

Contact Person: Betty Hayden, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206, MSC 7812, Bethesda, MD 20892. (301) 435–1223.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: February 26, 1999.

Time: 8:30 am to 3 pm.

Agenda: To review and evaluate grant applications.

Place: Radisson Hotel, Albuquerque, NM 87106.

Contact Person: Paul K. Strudler, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4100, MSC 7804, Bethesda, MD 20892, (301) 435–1716.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: February 26, 1999.

Time: 10:30 am to 1 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Daniel B. Berch, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7848, Bethesda, MD 20892, (301) 435–0902.

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. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 18, 1999.

Anna Snouffer,

Acting Committee Management Officer, National Institutes of Health.

[FR Doc. 99–4713 Filed 2–24–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Request for Public Comments on Proposed Information Collection to be Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act.

The proposal for the collection of information described below will be submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made within 60 days directly to the Bureau clearance officer, U.S. Geological Survey, 807 National Center, 12201 Sunrise Valley Drive., Reston, Virginia, 20192, telephone (703) 648–7313.

Specific public comments are requested as to:

1. Whether the collection of information is necessary for the proper performance of the functions on the bureaus, including whether the information will have practical utility;

2. The accuracy of the bureau's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used:

3. The quality, utility, and clarity of the information to be collected; and

4. How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

Title: Earthquake Report.

OMB approval number: 1028–0048.

Abstract: Respondents supply information on the effects of the shaking from an earthquake—on themselves personally, buildings and their effects, other man-made structures, and ground effects such as faulting or landslides. This information will be used in the study of the hazards from earthquakes and used to compile and publish the annual USGS publication ''United States Earthquakes''.

Bureau form number: 9–3013.

Frequency: After each earthquake.

Description of respondents: State and local employees; and, the general public.

Estimated completion time: 0.1 hours.

Annual responses: 750.

Annual burden hours: 75 hours.

Bureau clearance officer: John Cordyack 703–648–7313.

Dated: February 17, 1999.

John R. Filson,

Earthquake Hazards Program Coordinator.

[FR Doc. 99–4639 Filed 2–24–99; 8:45 am]

BILLING CODE 4310–7Y–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–010–1430–01; MTM 88157]

Notice of Closure of Public Land in Yellowstone County, Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary closure of approximately 765 acres of public land to public use.

SUMMARY: Notice is served that the public land located approximately one mile directly east of downtown Billings, Montana, known as the Four Dances Natural Area (formerly known as Sacrifice Cliff), is closed to public use, unless otherwise approved by the authorized officer, until further notice. The closure will be in effect immediately on February 16, 1999. This closure is necessary to protect the public land, adjacent private property, and for public safety. The public land protected by this closure is known as the Four Dances Natural Area. More detailed information and the legal land description are on file at the Billings Field Office.

DATES: This notice is effective immediately on February 16, 1999.

FOR FURTHER INFORMATION CONTACT: Sandra S. Brooks, Field Manager, BLM, Billings Field Office, 810 E. Main, Billings, Montana 59105 or call 406–238–1540.

SUPPLEMENTARY INFORMATION: Authority for this action is outlined in sections 302, 303 and 310 of the Federal Land Policy and Management Act of October 21, 1976, (43 U.S.C. 1716) and Title 43 Code of Federal Regulations, Subpart 8364 (43 CFR 8364.1). Any person who fails to comply with this closure is subject to arrest and a fine up to $1000 or imprisonment not to exceed 12 months or both. This closure applies to all persons, except persons authorized by the Bureau of Land Management.

Dated: February 19, 1999.

Sandra S. Brooks,

Field Manager, Billings Field Office.

[FR Doc. 99–4650 Filed 2–24–99; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–01; N–62599]

Notice of Realty Action; Nevada

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The following land in Elko County, Nevada has been examined and identified as suitable for disposal by direct sale, including the mineral estate of no more than nominal value, excluding oil and gas, under Section 203 and Section 209 of the Federal Land Policy and Management Act (FLPMA) of October 21, 1976 (43 U.S.C. 1713 and 1719) at no less than fair market value:

Mount Diablo Meridian, Nevada

T. 33 N., R. 52 E.,

Sec. 22, SW¼SW¼, W½SE¼SW¼.

Comprising 60.00 acres, more or less.

The above described land is being offered as a direct sale to the City of Carlin, Nevada. The land will not be offered for sale until at least 60 days after the date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this action is available for review at the Bureau of Land Management, Elko Field Office, 3900 E. Idaho Street, Elko, Nevada.

SUPPLEMENTARY INFORMATION: The land has been identified as suitable for disposal by the Elko Resource Management Plan. The land is not needed for any resource program and is not suitable for management by the Bureau or another Federal department or agency. The land is prospectively valuable for oil and gas. Therefore, the mineral estate, excluding oil and gas, will be conveyed simultaneously with the sale of the surface estate. Acceptance of the sale offer will constitute an application to purchase the mineral estate having no more than nominal value, excluding oil and gas. A non-refundable fee of $50.00 will be required with the purchase money. Failure to submit the purchase money and the non-refundable filing fee for the mineral estate within the time frame specified by the authorized officer will result in cancellation of the sale.

Upon publication of this Notice of Realty Action in the **Federal Register**, the lands will be segregated from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws or disposals pursuant to Sections 203 and 209 of FLPMA. The segregation shall terminate upon issuance of a patent or other document of conveyance, upon publication in the **Federal Register** of a Notice of Termination of Segregation, or 270 days from date of this publication, which ever occurs first.

The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, (43 U.S.C. 945).

2. Oil and gas. A more detailed description of this reservation, which will be included in the patent document, is available for review at the Elko Field Office.

The patent will also be subject to: those rights granted to Wells Rural Electric Company, its successors, or assigns, as a holder of a right-of-way grant for a power line and substation, those rights granted to Citizens Telecommunications Company of Nevada, its successors, or assigns, as a holder of a right-of-way grant for a telephone line, and those rights granted to Sierra Pacific Power Company, its successors, or assigns, as a holder of a right-of-way grant for an power line.

For a period of 45 days from the date of publication in the **Federal Register**, interested parties may submit comments to the Bureau of Land Management, Elko Field Office, 3900 E. Idaho Street, Elko, Nevada 89801. Any adverse comments will be evaluated by the State Director, who may sustain, vacate or modify this realty action and issue a final determination. In the absence of timely filed objections, this realty action will become a final determination of the Department of the Interior.

Dated: February 18, 1999

David L. Stout,

Acting Field Manager.

[FR Doc. 99–4701 Filed 2–24–99; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–030–09–1220–04:GP9–0996]

Wallowa/Grande Ronde River Special Recreation Permit Requirements

AGENCY: Bureau of Land Management, Interior, Vale District Baker Resource Area.

ACTION: Special recreation permit requirements, Wallowa/Grande Ronde Rivers.

SUMMARY: Pursuant to 43 CFR 8372.1, the following act is prohibited: Entering or being on the waters of the Wallowa and Grande Ronde Rivers between Minam, OR (River Mile 10—Wallowa River) and the confluence of the Grande Ronde and Snake Rivers (River Mile 0—Grande Ronde River).

Pursuant to 43 CFR 8372.1–3, the following are exempt from the above prohibition:

1. A person with an authorized watercraft as described in Exhibit A and who also has a special use authorization as described in Exhibit B allowing the otherwise prohibited act, or anyone travelling with that person.

2. A. person who has entered the area and is not using any type of watercraft.

3. Any Federal, State, or local officer or member of an organized rescue or firefighting force in the performance of an official duty.

Nothing in the above authorizes the use of Power boats between the Umatilla National Forest Boundary (1.5 miles below the confluence with the Wallowa River at approximately river mile 80) downstream to the Oregon/Washington state line (approximately river Mile 38.5) on the Grande Ronde River.

* Umatilla N.F. Order No. 91–3

* Oregon State Marine Board OAR 250–20–340 (3)

Penalties: Violators are subject to imprisonment for not more than 12 months, or a fine in accordance with the applicable provisions of Title 18 U.S.C. 3571, or both.

SUPPLEMENTARY INFORMATION:

Exhibit A

Types of Authorized Watercraft

Authorized watercraft on the Wallowa and Grande Ronde rivers include those types of float boats and powerboats traditionally and commonly being used for recreational purposes on this section of the Wallowa and Grande Ronde rivers in 1993 when the Final Management Plan for the Wallowa and Grande Ronde rivers was approved.

Authorized Float Boats Include: cat-a-rafts, inflatable rafts, rigid hull and inflatable kayaks, canoes, drift boats, inner tubes. They may be propelled by paddles, oars, motors, or other devices, in accordance with pre-existing restrictions of the river corridor.

Authorized Powerboats Include: Motorized, rigid hull watercraft with water cooled exhaust that are driven by propeller(s) or jet pump(s), are capable of upstream and downstream travel, and usually require trailering to enter and exit the water.

Types of Non-authorized Watercraft

Non-valid Water craft on the Wallowa/Grande Ronde Rivers include those types of equipment that were not traditionally and commonly being used for recreational purposes on this section of the river in 1993 when the Final River Management Plan for the Wallowa and Grande Ronde Rivers was approved.

Non-valid Types of Water craft: Personal water vehicles such as jet skis, air boats, motorized surf boards, wind surf boards, sailboats, hover craft, winged water craft, any powerboats equipped with an over-the-transon exhaust system, amphibious craft, mini-submarines, powerboats under 8 feet in length and designed to carry a maximum of two passengers, Water craft that must be straddled when ridden by the operator and/or passengers, and devices towed behind a powerboat for recreational purposes such as water skis, knee-boards, and various types of tubes.

Exhibit B

Types of Special Use Authorizations

A. Required Year-long:

1. A special Use Permit issued by an Authorized Officer to an individual or any type of business entity allowing a service to be conducted. This permit allows use by float boat and powerboat businesses.

2. A properly executed self-issue permit and those required stipulations of the permit allowing private power boating or private floating. A permit is required for each powerboat and for each float party for day use and overnight trips.

Authorization

This Order meets requirements of the Wallowa/Grande Ronde Rivers Final Management Plan. Non-valid Water craft as defined in Exhibit A of the Closure Order pose safety hazards to authorized power and float boat user and those using the non-valid craft. These types of craft are unexpected in this setting and some are difficult to see. Most are erratic in travel patterns and can suddenly and unpredictably change course. Some require long ropes for towing behind other boats, resulting in the rope becoming a safety hazard for other users on the water.

The Final Management Plan provides for the issuance of permits. Use of the Wallowa and Grande Ronde Rivers has increased in recent years. Planning for future river recreation emphasized monitoring of both social and environmental effects of river use. This will require detailed information on the amount and type of river use. Permits contain information and education for boaters that address social and environmental issues when using the resources on the Wallowa and Grande Ronde Rivers. Permits also provide accountability for user's actions when recreating within the river corridor as well as information for managing emergencies and search and rescue. Permit stations provide a point of contact to distribute information to boaters to address these issues.

DATES AND ADDRESSES: This Order shall go into effect April 30, 1999.

FOR FURTHER INFORMATION CONTACT: Baker Resource Area, 3165 10th St. Baker City, Oregon 97814, Telephone (541)523–1256.

Edwin J. Singleton,

Vale District Manager.

[FR Doc. 99–4702 Filed 2–24–99; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Partial Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on January 29, 1999, a proposed Partial Consent Decree in *United States* v. *Jack L. Aronowitz, et. al.*, Civil Action number 98–6201 Civ-Dimitrouleas, was lodged with the United States District Court for the Southern District of Florida Fort Lauderdale Division.

In this action the United States seeks to recover past response costs as well future response costs incurred and to be incurred by the United States at the Lauderdale Chemical Warehouse Site (''Site''), located in the Ft. Lauderdale Industrial Air Park at 4987 Northwest 23rd Avenue, Ft. Lauderdale, Broward County, Florida. The Partial Consent Decree resolves certain claims pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9607, against defendants Kenton Wood (''Wood'') and D. H. Blair & Co., Inc., a Delaware corporation (''Blair''). In the proposed Partial Consent Decree, defendants Wood and Blair agree to pay to the United States $80,000 for past response costs.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Partial Consent Decree. Comments should be addressed to the Assistant Attorney General of the

Environment and Natural Resources Division, Department of Justice, Washington, DC, 20530, and should refer to *United States* v. *Jack L. Aronowitz, et. el.*, D.J. Ref. 90–11–3–1757.

The Partial Consent Decree may be examined at the Office of the United States Attorney, Southern District of Florida, 500 East Broward Boulevard, Suite 700, Ft. Lauderdale, FL 33394, at U.S. EPA Region 4, Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, GA 30303, and at the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, DC 20005, (202) 624–0892. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $5.25 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–4637 Filed 2–24–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

Notice is hereby given that on February 1, 1999, a proposed consent decree in *United States of America* v. *AZS Corporation, et al.*, Civil Action No. 99–464 (DRD), was lodged with the United States District Court for the District of New Jersey. The United States' underlying complaint sought recovery of response costs under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601, et seq., from AZS Corporation and four of its corporate relatives (Toyo Soda (America), Inc., Tosoh Corporation, Tosoh America, Inc., and Tosoh USA, Inc.) for the cleanup of hazardous substances found at the White Chemical Corporation Superfund Site located at 660 Frelinghuysen Avenue, Newark, New Jersey.

The consent decree provides that AZS Corporation, which formerly owned the Site, and the other four settling defendants will reimburse the Environmental Protection Agency (EPA) for response costs at the Site totaling $5.9 million, plus applicable interest. In addition, the decree provides settling defendants with covenants not to use for EPA's past and future CERCLA response costs at the Site, as well as protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4).

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *AZS Corporation, et al.*, D.J. Ref. 90–11–2–642B.

The proposed consent decree may be examined at the office of the United States Attorney, 970 Broad St., Room 502, Newark, N.J. 07102 and at the Region II office of the Environmental Protection Agency, 290 Broadway, New York, New York 10007. The proposed consent decree may also be examined at the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005 (202–624–0892). A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $5.25 (25 cents per page reproduction cost) payable to the ''Consent Decree Library.''

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–4638 Filed 2–24–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: Notice of information collection under review; petition for approval of school for attendance by nonimmigrant students.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until April 26, 1999.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) Type of Information Collection: *Reinstatement without change of previously approved collection.*

(2) Title of the Form/Collection: Petition for Approval of School for Attendance by Nonimmigrant Students.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form I–17. Adjudications Division, Immigration and Naturalization Service.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Business or other for-profit. The form will be used by learning institutions to determine acceptance of nonimmigrant students, as well as the INS to establish a list of names and locations of schools or campuses within school systems or districts with multiple locations, which schools are bona fide institutions of learning.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 322 responses at 1 hour per response.

(6) An estimate of the total public burden (in hours) associated with the collection: 322 annual burden hours.

If you additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW.,

Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: February 17, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–4608 Filed 2–24–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; Freedom of Information/ Privacy Act request.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until April 26, 1999.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) Type of Information Collection: *Revision of a currently approved collection.*

(2) Title of the Form/Collection: Freedom of Information/Privacy Act Request.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form G–639, FOIA/PA Section, Immigration and Naturalization Service.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or Households. This form is provided as a convenient means for persons to provide data necessary for identification of a particular record desired under FOIA/PA.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 100,000 responses at 15 Minutes per response.

(6) An estimate of the total public burden (in hours) associated with the collection: 25,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: February 18, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–4609 Filed 2–24–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: Notice of information collection under review; Affidavit of financial support and intent to petition for legal custody for Public Law 97–359 Amerasian.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until April 26, 1999.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) Type of Information Collection: *Reinstatement without change of previously approved collection.*

(2) Title of the Form/Collection: Affidavit of Financial Support and Intent to Petition for legal Custody for Public Law 97–359 Amerasian.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form I–361. Examinations Division, Immigration and Naturalization Service.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or

households. This form will be used in support of Form I–360 to assure financial support for the Public Law 97–359 Amerasian.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 50 responses at 30 minutes (0.5) per response.

(6) An estimate of the total public burden (in hours) associated with the collection: 25 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: February 18, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–4610 Filed 2–24–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on November 18, 1998 at 63 FR 64102, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until March 29, 1999. This process is conducted in accordance with 5 CFR 1320.10. Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Stuart Shapiro, Department of Justice Desk Officer, Room 10235, Washington, DC 20530; 202–395–7316. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) Type of Information Collection: Extension of currently approved collection.

(2) Title of the Form/Collection: Petition for Nonimmigrant Filing Fee Exemption.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Forms I–129W. Office of Adjudications Division, Immigration and Naturalization Service.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Business or other for-profit. This addendum to Form I–129 will be used by the INS to determine if an H–1B petitioner is exempt from the additional filing fee of $500, as provided by the American Competitiveness and Workforce Improvement Act of 1998.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 154,000 respondents 15 minutes (.25 hours) per response.

(6) An estimate of the total public burden (in hours) associated with the collection: 38,500 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: February 18, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–4605 Filed 2–24–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review: Notice of appeal of decision under section 210 or 245A of the Immigration and Nationality Act.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on August 27, 1998 at 63 FR 45863, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged

and will be accepted until March 29, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Stuart Shapiro, Department of Justice Desk Officer, Room 10235, Washington, DC 20530; 202–395–7316.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) Type of Information Collection: Extension of a currently approved collection.

(2) Title of the Form/Collection: Notice of Appeal of Decision under Section 210 or 245A of the Immigration and Nationality Act.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form I–694, Adjudications Division, Immigration and Naturalization Service.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or Households. This information collection will be used by the INS in considering appeals of denials of temporary and permanent residence status by legalization applicants and special agricultural workers, under sections 210 and 245A of the Immigration and Nationality Act.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 1,192 responses at 30 minutes (.5) hours per response.

(6) An estimate of the total public burden (in hours) associated with the collection: 596 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: February 17, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–4606 Filed 2–24–99; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review: Application for waiver of grounds of excludability.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request of the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on August 13, 1998 at 63 FR 43421, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until March 29, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Stuart Shapiro, Department of Justice Desk Officer, Room 10235, Washington, DC 20530; 202–395–7316.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic, submission of response.

Overview of this information collection:

(1) Type of Information Collection: Extension of a currently approved collection.

(2) Title of the Farm/Collection: Application for Waiver of Grounds of Excludability.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form I–690, Adjudications Division, Immigration and Naturalization Service.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or Households. This information on the application will be used by the Service in considering eligibility for legalization under sections 210 and 245A of the Immigration and Nationality Act.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 85 responses at 15 minutes (.25) hours per response.

(6) An estimate of the total public burden (in hours) associated with the collection: 21 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: February 17, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–4607 Filed 2–24–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJJDP)–1214]

RIN 1121–ZB48

Meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of meeting.

SUPPLEMENTARY INFORMATION: A meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention will take place in the District of Columbia, beginning at 1 p.m. (EST) on Monday, March 29, 1999, and ending at 3 p.m. (EST) on Monday, March 29, 1999. This advisory committee, chartered as the Coordinating Council on Juvenile Justice and Delinquency Prevention, will meet in the third floor auditorium at the Office of Justice Programs, located at 810 Seventh St. NW., Washington, DC 20531.

The Coordinating Council, established pursuant to section 3(2)A of the Federal Advisory Committee Act (5 U.S.C. App. 2), will meet to carry out its advisory functions under section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. This meeting will be open to the public. For security reasons, members of the public who are attending the meeting must contact the Juvenile Justice Resource Center by close of business March 12, 1999. The point of contact is Jan Shaffer, who can be reached at 301–519–5670. The public is further advised that a picture identification is required to enter the building.

Dated: February 22, 1999.

Shay Bilchik,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 99–4723 Filed 2–24–99; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of February, 1999.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–34,948; DuPont Corp., Goose Creek, SC.

TA–W–35,259; Pittsfield Woolen Yarns Co., Inc., Pittsfield, ME.

TA–W–35,163; Ametek, Inc., Cambridge, OH.

TA–W–35,141; Gilbert & Bennett Manufacturing Co., Carney Wood Div., Carney, MI.

TA–W–35,177; ELG Metals, Inc., McKeesport, PA.

TA–W–34,968; FirstMiss Steel, Inc., Hollsopple, PA.

TA–W–35,222; Arrow Ace Die Cutting Co., Inc., Bronx, NY.

TA–W–35,172; National Oilwell, McAlister, OK.

TA–W–35,421; Plynetics Express, Beaverton, OR.

TA–W–35,510; Borden Yarn Co. LLC, Goldsboro, NC.

TA–W–35,306; Tennford Weaving, Wartburg, TN.

TA–W–35,201; Quebecor Printing Federated, Inc., Providence, RI.

TA–W–35,334; Dresser Rand/Energy Systems, Pattern Shop, Wellsville, NY.

TA–W–35,180; Tyk America, Inc., Irvona, PA.

TA–35,042; Western Iron Works, Inc., San Angelo, TX.

TA–W–35,410; A. Schulman, Inc., Dispersions Div., Orange, TX.

TA–W–35,071; Viskase Corp., Chicago, IL.

TA–W–35,469; Bliss-Salem, Inc., Salem, OH.

TA–W–35,479; Bend Wood Products, Inc., Bend, OR.

TA–W–35,485; Quebecor Printing, Providence, Inc., Providence, RI.

TA–W–35,127; Coltec Industries, Fairbanks Morse Engine Div., Beloit, WI

TA–W–35,314; Crown Cork & Seal Co., Inc., Olympia, WA.

TA–W–35,427; Santa's Best, Tinsel Div., Manitowoc.

TA–W–35,413; Connor Sales Co., Inc., Williston, ND.

TA–W–35,333: The Coastal Oil and Gas Corp., Denver, CO.

TA–W–35,476; Boise Cascade, Medford Plywood, Medford, OR.

TA–W–35,194; Aplex Industries, Inc., Midland, TX.

TA–W–35,082; Gibeck, Inc., Indianapolis, IN.

TA–W–35,346; Union Tools, Inc., Frankfort, NY.

TA–W–35,193; Dealers Manufacturing Co., Portage, WI.

TA–W–35,132; Guilford Fibers, Inc., Gainesville, GA.

TA–W–35,284N; Pecten Services Co., Houston, TX.

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–35,403; Automotive Products Remanufacturing, McAllen, TX.

TA–W–35,210; Royal Brands International, Inc., Los Angeles, CA.

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–35,412; Willamette Industries, Dallas Sawmill, Dallas, OR.

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–35,159; Komatsu Silicon America, Inc., Hillsboro, OR.

The investigation revealed that criteria (1) and criteria (3) have not been met. A significant number or proportion of the workers did not become totally or partially separated from employment as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

TA–W–35,284H; Pecten Geophysical Co., Houston, TX.

The investigation revealed that criteria (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated from employment as required for certification.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–35,505; Sun Studs, Sun Veneer Div., Roseburg, OR: January 5, 1998.

TA–W–35,465; Union Pacific Fuels, Inc., A Subsidiary of Union Pacific Resources Co & Union Pacific Resource Co a Division of Union Pacific Resources Group, Inc., Headquartered in Fort Worth, TX & Operating in The Following States: A; CO, B; LA, C; OK, D; TX, E; UT, F; WY: December 14, 1997.

TA–W–34,184; Leblanc Communications, Inc., Manufacturing Div., Sioux City, IA: October 19, 1997.

TA–W–35,507; Weatherford International, Inc., (Formerly Weatherford Enterra), Odessa, TX: January 6, 1998.

TA–W–35,444; Angelica Image Apparel, Linden Facility, Linden, TN: December 12, 1997.

TA–W–35,463; Schlumberger Oilfield Services, a/k/a Dowell Schlumberger & a/k/a Andrill Schlumberger, Headquartered in Sugarland, TX: December 21, 1997.

TA–W–35,060; & A; Schlomberger Oilfield Services, a/k/a Dowell Schlumberger & a/k/a Anadrill Schlumberger, Roswell, NM & Operating in The State of New Mexico: September 15, 1997.

TA–W–35,144 & A; Schlumberger Oilfield Services, a/k/a/ Dowell Schlumberger & a/k/a Andrill Schlumberger, Youngsville, LA and Operating in The State of Louisiana: October 13, 1997.

TA–W–35,145 & A; Schlumberger Oilfield Services, a/k/a Dowell Schlumberger & a/k/a Andrill Schlumberger, Duncan, OK and Operating in The State of Oklahoma: October 1, 1997.

TA–W–35,219; Precision Fabrics Gruop, Inc., Vinton, VA: October 22, 1997.

TA–W–35,331; Hubco, Inc., Hutchinson Bag Corp., Hutchinson, KS: November 5, 1997.

TA–W–35,121; Pent Products, Ardmore, AL: October 18, 1997.

TA–W–35,204; BJ Services Co., USA Odessa, TX (Headquartered in Houston, TX) and Operating in The Following States: A; AK, B; CA, C; CO, D; IN, E; LA, F; MI, G; MS, H; NM, I; ND, J; OK, K; PA, L; TX, M; UT, N; WV, O; WY: October 29, 1997.

TA–W–35,250; Stewart Well Service, Hays, KS: November 7, 1997.

TA–W–35,103; Harmon Consumer Manufacturing, El Paso, TX: September 25, 1997.

TA–W–35,318; LTV Steel Co., Inc., Cleveland, OH: November 17, 1997.

TA–W–35,471; Microtek Medical, Inc., Wound Evac-Dept. #14, Columbus, MS: December 16, 1997.

TA–W–35,474; Critizue., Inc., El Paso, TX: December 24, 1997.; 35,359; American Fiacmaster, Midland, TX: November 3, 1997.

TA–W–35,384; Techniplast, Inc., Little Falls, NJ: December 8, 1997.

TA–W–35,311; Siebe Appliance Controls, Kendallville Plant, Kendallville, IN: November 24, 1997.

TA–W–35,198; Northern Cheyene Pine Co., Ashland, MT: October 26, 1997.

TA–W–35,353; G.S.M. Enterprises, Inc., Los Angeles, CA: December 4, 1997.

TA–W–35,491; Beulaville Garments Co., Inc., Beulaville, NC: January 5, 1998.

TA–W–35,368; Dothan Industries, Dothan, AL: November 24, 1997.

TA–W–35,283; H & H Atlas, Inc., Bronx, NY; November 13, 1997.

TA–W–35,152; Buster Brown Apparel, Inc., Chilhowie, VA: October 19, 1997.

TA–W–35,257; Georgia Pacific Corp., CNS/Softwood Lumber Div., Baileyville, ME: November 10, 1997.

TA–W–35,254; Pastar, Inc., El Paso, TX: November 11, 1997.

TA–W–35,440; Fiskars, Inc., Wheaton, MN: December 3, 1997.

TA–W–35,167; Tyolit North American, Inc., Westborough, MA: October 16, 1997.

TA–W–35,435; Swansea Manufacturing co., Swansea, SC: December 19, 1997.

TA–W–35,225; Providence Metallizing Co., Inc., Pawtucket, RI: October 30, 1997.

TA–W–35,332; Designtech Grop. (Formerly Inverness Corp), Fair Lawn, NJ: November 23, 1997.

TA–W–35,387; Zenith Electronics Corp., Consumer Electronics, Engineering Dept., Glenview, IL: December 7, 1997.

TA–W–35,248; Kinross Delamar Mining Co., Jordan Valley, OR: November 5, 1997.

TA–W–35,252; Newmont Gold Co., Carlin, NV: November 6, 1997.

TA–W–35,149; Wolverine Worldwide, Inc., Rockford, IL: October 16, 1997.

TA–W–35,265; Kentucky Apparel, LLP, Jamestown, TN: April 30, 1998.

TA–W–35,462 & A; Swaco, A Div. of M–I LLC, Casper, WY and Vernal, UT: December 29, 1997.

TA–W–35,168; Westinghouse Air Brake Co., Lokring Div., Foster City, CA: July 16, 1998.

TA–W–35,244; Olin Brass Indianapolis, Rod, Wire & Tube Dept, Indianapolis, IN: November 13, 1997.

TA–W–35,151; Carr Lowrey Glass, Baltimore, MD: October 18, 1997.

TA–W–35,418; Texfi Industries, Inc., Fayetteville, NC: December 16, 1997.

TA–W–35,284 & A; Shell Exploration & Production Co. Headquartered in Houston, TX & Operating in The State of CA; November 16, 1997.

TA–W–35,284B; Shell Exploration & Production Technology Co., Houston, TX: November 16, 1997.

TA–W–35,284C; Shell Western Exploration & Production Co., Headquartered in Houston, TX & Operating in The Following States: D; TX (Except Houston), E; MT, F; LA, G; MI: November 16, 1997.

TA–W–35,284I; Shell Co2 Co., Headquartered in Houston, TX & Operating in The Following States: J; TX (Except Houston), K; CO: November 16, 1997.

TA–W–35,284L; Shell Frontier Services, Inc., Headquartered in Houston, TX & Operating in The State of: M; CO: November 16, 1997.

TA–W–35,284O; Shell Offshore, Inc., Headquartered in New Orleans, LA & Operating in The State of: P; LA (Offshore in the Gulf of Mexico): November 16, 1997.

TA–W–35,284O; Shell Deepwater Development, Inc., Headquartered in New Orleans, LA & Operating in The States of: R; LA (Offshore in the Gulf of Mexico): November 16, 1997.

TA–W–35,284S; Shell Deepwater Development Systems, Inc., Headquartered in New Orleans, LA & Operating in The State of: T; LA (Offshore in The Gulf of Mexico) November 16, 1997.

TA–W–35,284U; Shell Deepwater Production, Inc., Headquartered in New Orleans, LA & Operating in The State of: V; LA (Offshore in the Gulf of Mexico): November 16, 1997.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchapter D, Chapter 2 Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of February, 1999.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFT–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) that imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) that there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–02760; International Paper Corp., Containerboard Div., Gardiner, Or.

NAFTA–TAA–02780; Westark Garment Manufacturing, Magazine, AR.

NAFTA–TAA–02794; A. Schulman, Inc., Dispersions Div., Orange, TX.

NAFTA–TAA–02841; Bend Wood Products, Inc., Bend, OR.

NAFTA–TAA–02714; Dealers Manufacturing Co., Portage, WI.

NAFTA–TAA–02802; Santa's Best, Tinsel Div., Manitowoc, WI.

NAFTA–TAA–02727; Kinross Delamar Mining Co., Jordan Valley, OR.

NAFTA–TAA–02690; Gilbert & Bennett Manufacturing, Carney Wood Div., Carney, MI.

NAFTA–TAA–02715; Arrow Act Die Cutting Co., Inc., Bronx, NY.

NAFTA–TAA–02777; Dresser Rnad/ Energy Systems, Pattern Shop, Wellsville, NY.

NAFTA–TAA–02850; UCAR Carbon Co., Inc., Columbia, TN.

NAFTA–TAA–02698; Coltec Industries, Fairbanks Morse Engine Div., Beloit, WI.

NAFTA–TAA–02812; Vastar Resources, Woodward, OK.

NAFTA–TAA–02787; Plynetics Express, Beaverton, OR.

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–02799; Elec-Tech, Hulett, WY.

NAFTA–TAA–02773; Royal Brands International, Inc., Los Angeles, CA.

The investigation revealed that the workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

NAFTA–TAA–02819; Triquent Semiconductor, Hillsboro, OR.

The investigation revealed that criteria (1) has not been met. A significant number or proportion of the workers in such workers' firm or an appropriate subdivision (including workers in any agricultural firm or appropriate subdivision thereof) did not become totally or partially separated from employment as required for certification.

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–02860; Mountain West Colorado Aggregate (M.W.C.A.), Kamiah Plant, Kamiah, ID: January 7, 1998.

NAFTA–TAA–02862; Morganite, Inc., Dunn, NC: January 19, 1998.

NAFTA–TAA–02820; Ardney Leather & Sheepskin Coat Co., Milwaukee, WI: December 23, 1997.

NAFTA–TAA–02822; Southern Container Corp., Pre-Print Dept., Dayton, NJ: December 18, 1997.

NAFTA–TAA–02762; Tycom Corp., Minnesota Div., Arden Hills, MN: November 24, 1997.

NAFTA–TAA–02823; Fasco Motors, Fasco Motors Industries, LaGrange, GA: December 7, 1998.

NAFTA–TAA–02785; G.S.M. Enterprises, Inc., Los Angeles, CA: December 4, 1997.

NAFTA–TAA–02758; Siebe Appliance Controls, Kendallville Plant, Kendallville, IN: November 24, 1997.

NAFTA–TAA–02708; Northern Cheyenne Pine Co., Ashland, MT: October 27, 1997.

NAFTA–TAA–02734; Westinghouse Air Brake Co., Lokring Div., Foster City, CA: July 16, 1998.

NAFTA–TAA–02735; Oiln Brass Indianapolis, Rod, Wire & Tube Dept., Indianapolis, IN: November 13, 1997.

NAFTA–TAA–02781; Battle Mountain Gold Co., Battle Mountain Nevada Project, Copper Canyon, NV: November 27, 1997.

NAFTA–TAA–02736; Pastar, Inc., El Paso, TX: November 11, 1997.

NAFTA–TAA–02809; Fiskars, Inc., Wheaton, MN: December 3, 1997.

NAFTA–TAA–02837; Sun Studs, Sun Veneer Div., Roseburg, OR: January 5, 1998.

NAFTA–TAA–02838; Beulaville Garment Co., Inc., Beulaville, NC: January 7, 1998.

NAFTA–TAA–02778; LeBlanc Communications, Inc., Manufacturing Div., Sioux City, IA: November 7, 1997.

NAFTA–TAA–02868; Standard Steel Specialty Co., Beaver Falls, PA: January 3, 1998.

NAFTA–TAA–02830; Angelica Image Apparel, Linden Facility, Linden, TN: December 11, 1997.

NAFTA–TAA–02846; Emerson Electric Co., Specialty Motor, Independence, KS: January 11, 1998.

NAFTA–TAA–02798; AM–West Petroleum, Inc., Upton, WY: December 21, 1997.

I hereby certify that the aforementioned determinations were issued during the months of February, 1999. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: February 12, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–4676 Filed 2–24–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

TA–W–35,481

Computalog Wireline Services, Houma, LA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 11, 1999, in response to a worker petition dated December 21, 1998, filed on behalf of workers at Computalog, Houma, Louisiana (TA–W–35,481).

The petitioning group of workers are covered under an existing Trade Adjustment Assistance certification (TA–W–35,135C). Consequently, further investigation in this case would service no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 16th day of February 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–4671 Filed 2–24–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

TA–W–35,482

Computalog Wireline Services Hobbs, NM; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 11, 1999, in response to a worker petition dated December 21, 1998, filed on behalf of workers at Computalog, Hobbs, New Mexico (TA–W–35,482).

The petitioning group of workers are covered under an existing Trade Adjustment Assistance certification (TA–W–35,135D). Consequently, further investigation in this case would service no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 16th day of February 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–4672 Filed 2–24–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,135; TA–W–35,135A; TA–W–35,135B; TA–W–35,135C; TA–W–35,135D; and TA–W–35,135E]

Computalog Wireline Services, Hays, KS; and Operating at Various Locations in the Following States: Texas, Oklahoma, Louisiana, New Mexico, Utah; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 14, 1998, applicable to workers of Computalog Wireline Services located in Hays, Kansas. The notice was published in the **Federal Register** on December 23, 1998 (63 FR 71166).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The company reports that there have been additional worker separations at computalog wireline Services operations at various locations in Texas, Oklahoma, Louisiana, New Mexico and Utah. Workers at these locations provide services related to the exploration and production of crude oil and natural gas.

The intent of the Department's certification is to provide coverage to all workers of the subject firm adversely affected by increased imports. Accordingly, the Department is amending the certification to expand coverage to workers of computalog Wireline Services in Texas, Oklahoma, Louisiana, New Mexico and Utah.

The amended notice applicable to TA–W–35,135 is hereby issued as follows:

All workers of Computalog Wireline Services, Hays, Kansas (TA–W–35,135) and operating at various locations in Texas (TA–W–35,135A), Oklahoma (TA–W–35,135B), Louisiana (TA–W–35,135C), New Mexico (TR–W–35,135D) and Utah (TA–W–35,135E), who became totally or partially separated from employment on or after October 9,1997 through December 14, 2000, are eligible to apply for worker adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of February 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–4673 Filed 2–24–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,486]

Fruit of the Loom Contract Business Department, Bowling Green, KY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Revised Determination on Reopening on September 22, 1998, applicable to workers of Fruit of the Loom's Contract Business Department located in Bowling Green, Kentucky. The notice was published in the **Federal Register** on October 9, 1998 (63 FR 54498).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The certification limited the coverage to workers separated from employment on or after January 1, 1998 and before June 30, 1998. Company officials report that a threat of worker separations exists for the Contract Business Department in Bowling Green. Therefore, the Department is amending the certification to extend coverage to workers to the subject firm workers who may become separated from employment through the life of the certification which expires September 22, 2000.

The amended notice applicable to TA–W–34,486 is hereby issued as follows:

All workers of Fruit of the Loom, Inc., Contract Business Unit, Bowling Green, Kentucky, who became totally or partially separated from employment on or after January 1, 1998 through September 22, 2000, are eligible to apply for worker adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 4th day of February 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–4666 Filed 2–24–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35, 354; TA–W–35, 354A]

Inland Production Company, Myton, UT; Inland Resources, Denver, CO; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on January 12, 1999, applicable to workers of Inland Production Company, Myton, Utah. The notice was published in the **Federal Register** on January 29, 1999 (64 FR 4712).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The company reports that Inland Resources is the parent firm of Inland Production Company, Myton, Utah. The company also reports that worker separations occurred at the Denver, Colorado location of Inland Resources. The Denver, Colorado workers provide administrative services to support the production of crude oil and natural gas at Inland Production in Myton, Utah.

Based on these findings, the Department is amending the certification to include workers of Inland Resources, Denver, Colorado.

The intent of the Department's certification is to include all workers of Inland Production Company who were adversely affected by increased imports of crude oil and natural gas.

The amended notice applicable to TA–W–35,354 is hereby issued as follows:

All workers of Inland Production Company, Myton, Utah (TA–W–35, 354) and Inland Resources, Denver, Colorado (TA–W–35, 354A) who became totally or partially separated from employment on or after December 3, 1997 through January 12, 2001 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 10th day of February, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–4667 Filed 2–24–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,585]

Inland Resources, Denver, CO; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 1, 1999, in response to a petition filed on the same date by a company official on behalf of workers at Inland Resources, Denver, Colorado. The workers are engaged in administrative support of oil production workers at an affiliated facility.

A certification applicable to workers at Inland Production Company, Myton, Utah, a subsidiary of the subject firm, was issued on January 12, 1999, and is currently in effect (TA–W–35,354). That certification is being amended to cover the petitioning group of workers in Denver. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 8th day of February, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–4668 Filed 2–24–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,148]

Martin-Decker/Totco, Williston, ND; Notice of Revised Determination on Reopening

In response to a letter of February 5, 1999, from a petitioner requesting administrative reconsideration of the Department's denial of TAA for workers of the subject firm, the Department reopened its investigation for the former workers of Martin-Decker/Totco, Williston, North Dakota.

The initial investigation resulted in a negative determination issued on December 29, 1998, because the workers did not produce an article as required for certification under Section 222 of the Trade Act. The denial notice was published in the **Federal Register** on January 25, 1999 (64 FR 3721).

By letter of February 5, 1999, a petitioner provided additional information to demonstrate that the workers were engaged in employment related to oil field drilling services and that revenues and employment declined at the subject firm during the relevant time period. Aggregate U.S. imports of crude oil and natural gas increased in the period January through October, 1998, compared to the same time period one year earlier. The declines in revenues and employment resulted from a decreased demand for exploration and drilling activities from oil industry clients due to the increase in U.S. oil and gas imports.

Conclusion

After careful consideration of the new facts obtained on reopening, it is concluded that increased imports of articles like or directly competitive with greige goods produced by the subject firm contributed importantly to the decline in revenues and to the total or partial separation of workers of the subject firm. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All workers of Martin-Decker/Totco, Williston, North Dakota who became totally or partially separated from employment on or after October 20, 1997, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, D.C. this 11th day of February 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–4675 Filed 2–24–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,347]

National Fruit Products Company, Inc., Kent City, MI; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of January 14, 1999, petitioners requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance applicable to workers of the subject firm. The denial notice was

signed on December 28, 1998, and published in the **Federal Register** on January 25, 1999 (64 FR 3721).

The petitioners present evidence that the Department's customer survey was incomplete.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 16th day of February, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–4664 Filed 2–24–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,713]

NCC Industries, Incorporated, Cortland, NY; Notice of Revised Determination on Reopening

On October 13, 1998 the Department issued a Negative Determination Regarding Eligibility to apply for worker adjustment assistance, applicable to workers and former workers of NCC Industries, Inc., Cortland, New York. The notice was published in the **Federal Register** on October 23, 1998 (63 FR 56942).

By letter of November 10, 1998, the petitioners requested administrative reconsideration regarding the Department's denial. New information provided by the petitioners and the company indicate that the workers would have been covered under a previous certification (TA–W–32,428) except that the layoffs occurred after that petition expired on August 9, 1998. Information from the company states that the original layoff schedule for workers at the subject facility occurred over a longer period of time than originally anticipated due to unanticipated exigencies resulting from a shift in production to an off-shore location. It is the Department's intent to cover all of the affected workers impacted by increased imports at the subject firm.

Conclusion

After careful review of the additional facts obtained on reopening, I conclude that increased imports of articles like or directly competitive with women's intimate apparel contributed importantly to the declines in sales or production and to the total or partial separation of workers of NCC Industries, Incorporated, Cortland, New York. In accordance with the provisions of the Act, I make the following certification:

All workers of NCC Industries, Incorporated, Cortland, New York, who became totally or partially separated from employment on or after August 10, 1998 through two years of the date of certification are eligible to apply for worker adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 2nd day of February 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–4674 Filed 2–24–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,761]

The Oldham Saw Company, Burt, NY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on September 3, 1998, applicable to workers of Oldham Saw Company located in Burt, New York. The notice was published in the **Federal Register** on September 28, 1998 (63 FR 51605).

At the request of petitioners, the Department reviewed the certification for workers of the subject firm. The workers produced circular saw blades. New information obtained from the company reveal that after the closure of the Burt plant, some of the workers continued temporary employment conducting worker training on the equipment for a new Oldham Saw Company plan in West Jefferson, North Carolina. At the completion of the worker training in North Carolina, the Burt, New York workers were terminated. These workers wages were being reported to the Unemployment Insurance tax account for The Oldham Saw Company in West Jefferson, North Carolina. The intent of the Department's certification is to include all workers of The Oldham Saw Company, Burt, New York, who were affected by increased imports. Accordingly, the Department is amending the worker certification to reflect this matter.

The amended notice applicable to TA–W–34,761 is hereby issued as follows:

All workers of The Oldham Saw Company, Burt, New York, including workers whose wages were paid by The Oldham Saw Company, West Jefferson, North Carolina, who became totally or partially separated from employment on or after July 8, 1997 through September 3, 2000, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 16th day of February, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–4665 Filed 2–24–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34, 861, et al.]

ORYX Energy Company Headquartered in Dallas, Texas and Operating in the Following States; Michigan, Oklahoma, Louisiana; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 5, 1999, applicable to all workers of Oryx Energy Company, Headquartered in Dallas, Texas and operating in various locations throughout Texas. The notice was published in the **Federal Register** on January 29, 1999 (64 FR 4712).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations occurred at Oryx Energy Company operating at various locations in Michigan, Oklahoma and Louisiana. The workers are engaged in activities related to the exploration, production, and marketing of crude oil and natural gas.

The intent of the Department's certification is to include all workers of Oryx Energy Company adversely affected by increased imports. Accordingly, the Department is amending the certification to cover workers of Oryx Energy Company operating at various locations in Michigan, Oklahoma and Louisiana.

The amended notice applicable to TA–W–34,861 is hereby issued as follows:

All workers of Oryx Energy Company, headquarted in Dallas, Texas (TA–W–34,861), operating at various locations in Michigan (TA–W–34,861A), Oklahoma (TA–W–34,861B) and Louisiana (TA–W–34,861C) who became totally or partially separated from employment on or after August 5, 1997 through January 5, 2001 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 8th day of February, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–4670 Filed 2–24–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,460 and TA–W–34,460D]

Westark Garment Manufacturing; Waldron and Ratcliff, AR; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 18, 1998 applicable to all workers of Westark Garment Manufacturing, Waldron, Arkansas. The notice was published in the **Federal Register** on June 22, 1998 (63 FR 33958).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. New information from the company shows that worker separations occurred at Westark Garment Manufacturing's Ratcliff, Arkansas production facility when it closed in July, 1998. The workers are engaged in employment related to the production of jackets used for decoration and recognition.

Accordingly, the Department is amending the certification to cover workers at Westark Garment Manufacturing, Ratcliff, Arkansas.

The intent of the Department's certification is to include all workers of Westark Garment Manufacturing adversely affected by increased imports.

The amended notice applicable to TA–W–34,460 is hereby issued as follows:

All workers of Westark Garment Manufacturing, Waldron, Arkansas (TA–W–34,460), and Ratcliff, Arkansas (TA–W–34,460D) who became totally or partially separated from employment on or after March 25, 1997 through May 18, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 5th day of February, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–4669 Filed 2–24–99; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Nancy E. Weiss, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* March 15, 1999.
Time: 9:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review applications for Humanities Projects in Libraries and Archives, submitted to the Division of Public Programs at the February 1, 1999 deadline.

2. *Date:* March 19, 1999.
Time: 9:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review applications for Humanities Projects in Media, submitted to the Division of Pubic Programs at the February 1, 1999 deadline.

3. *Date:* March 26, 1999.
Time: 9:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review applications for Humanities Projects in Media, submitted to the Division of Public Programs at the February 1, 1999 deadline.

4. *Date:* March 29, 1999.
Time: 9:00 a.m. to 5:30 p.m.
Room: 426.
Program: This meeting will review applications for Humanities Projects in Museums and Historical Organizations, submitted to the Division of Public Programs at the February 1, 1999 deadline.

Nancy E. Weiss,

Advisory Committee Management Officer.

[FR Doc. 99–4642 Filed 2–24–99; 8:45 am]

BILLING CODE 7356–01–M

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATES: Weeks of February 22, March 1, 8, and 15, 1999.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of February 22

There are no meetings scheduled for the Week of February 22.

Week of March 1—Tentative

Tuesday, March 2

9:30 a.m.—Meeting with Commonwealth Edison (Public Meeting).

11:30 a.m.—Affirmation Session (Public Meeting).

* (Please Note: These items will be affirmed immediately following the conclusion of the preceding meeting.)

a. Commonwealth Edison Company—

Commission Review of Atomic Safety and Licensing Board Order LBP 98–27 (Nov. 5, 1998).

2:00 p.m.—Briefing on Status of 10 CFR 50.59 Issues (Public Meeting).

Wednesday, March 3

9:00 a.m.—Briefing by Executive Branch (Closed—Ex. 1).

Week of March 8—Tentative

Wednesday, March 10

11:00 a.m.—Affirmation Session (Public Meeting) (if needed).

Week of March 15—Tentative

Tuesday, March 16

1:00 p.m.—Briefing on Status of DOE High Level Waste Viability Assessment (Public Meeting).

Wednesday, March 17

9:00 a.m.—Meeting with Advisory Committee on Nuclear Waste and Nuclear Waste Technical Review Board (Public Meeting).

11:00 a.m.—Affirmation Session (Public Meeting) (If needed).

1:30 p.m.—Briefing on Part 50 Decommissioning Issues (Public Meeting).

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Bill Hill (301) 415–1661.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send and electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: February 22, 1999.

William M. Hill, Jr.,

SECY, Tracking Officer, Office of the Secretary.

[FR Doc. 99–4802 Filed 2–23–99; 10:51 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271]

Vermont Yankee Nuclear Power Corporation, Vermont Yankee Nuclear Power Station; Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has acted on a Petition for action under 10 CFR 2.206 received from Michael J. Daley on April 9, 1998, concerning the Vermont Yankee Nuclear Power Station (VYNPS).

The Petition requests that the U.S. Nuclear Regulatory Commission (NRC) issue an order requiring that the licensee's administrative limits, which were in effect at the time and precluded VYNPS from operating with a torus water temperature above 80 °F or with a service water injection temperature greater than 50 °F, shall remain in force until certain conditions are met. The conditions listed include a complete reconstitution of the licensing basis for the maximum torus water temperature, submittal to the NRC of a technical specifications (TSs) amendment request establishing the correct maximum torus water temperature, and completion of NRC's review of the amendment request.

As a basis for the request, the Petitioner raised concerns about the licensee being unable to demonstrate an ability to either justify the operational limits for the maximum torus water temperature or to maintain operations within existing administrative limits (torus water temperature is critical to the proper functioning of the containment). The Petitioner asserted that since 1994, events have caused the licensee to question VYNPS's maximum torus water temperature limits four times, leading to the self-imposed administrative limits previously noted. The Petitioner stated that the NRC must move from a ''wait and see'' posture to active intervention, with immediate imposition of the order recommended by the Petitioner as a first step.

On May 13, 1998, the Director of the Office of Nuclear Reactor Regulation concluded that issuing an immediate order imposing the licensee's administrative limits which were in effect at the time was unnecessary. This aspect of the Petition was denied since the licensee took appropriate actions to determine the proper limit on torus water temperature, sought a TS amendment to impose the correct torus water temperature, and administratively implemented the limit while the NRC reviewed the analysis in support of the TS amendment. The additional conditions associated with the request have been completed including establishing the correct licensing basis for the maximum torus temperature, submittal of a TS amendment request establishing the correct maximum torus water temperature limit, and completion of the NRC review of the amendment request. The NRC has concluded that the appropriate limit for maximum torus temperature is 90 °F, making the limits requested in the Petition unnecessary. Accordingly, the staff has addressed the issues raised by the Petitioner and has completed its actions relating to the Petition. Additional information is included in the ''Director's Decision Pursuant to 10 CFR 2.206'' (DD–99–04), the complete text of which follows this notice and which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555–0001, and at the Local Public Document Room located at the Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

As provided in 10 CFR 2.206(c), a copy of this Decision will be filed with the Secretary of the Commission for the Commission's review. This Decision will constitute the final action of the Commission 25 days after issuance unless the Commission, on its own motion, institutes review of the Decision within that time.

Dated at Rockville, Maryland, this 10th day of February 1999.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 99–4686 Filed 2–24–99; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for 1999 Presidential Management Intern Program Application

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit a request to the Office of Management and Budget (OMB) for renewal of authority to publish the 1999 Presidential Management Intern (PMI) Program Application. The information contained

in the PMI application is used by OPM's Employment Service to obtain nominations, and to screen and establish a nationwide competitive selection process. Applications are mailed to educational institutions at the beginning of each academic year. Students are nominated by their deans and chairpersons to compete in the PMI Program. The application is completed by the student (nominee) and submitted to the school official for review and nomination. After the initial review process, nominees are invited to participate in a structured assessment center process. Selection as a PMI finalist is based on their participation in the assessment center process. For the 1999 PMI application, we are proposing the elimination of Section C which included 97 behavioral consistency questions.

It is anticipated that 2000 applications will be received and processed in 1999. Number of hours required for completing PMI application forms by graduate program deans or chairpersons is 1 hour per application = 2000. Number of hours required per graduate student for completing application form is 1 hour = 2000.

Comments are particularly invited on:

—The elimination of Section C of the 1999 PMI application;

—Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility;

—Whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; and

—Ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

For copies of the clearance package, call Mary Beth Smith-Toomey on (202) 606–8358, or email to mbtoomey @opm.gov.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—Kathleen A. Keeney, U.S. Office of Personnel Management, Presidential Management Intern Program, William J. Green, Jr., Federal Building, Room 3400, 600 Arch Street, Philadelphia, PA 19106.

FOR FURTHER INFORMATION CONTACT: Kathleen A. Keeney (215) 861–3027 U.S. Office of Personnel Management.

Janice R. Lachance,

Director, U.S. Office of Personnel Management.

[FR Doc. 99–4690 Filed 2–24–99; 8:45 am]

BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23 701; File No. 812–11396]

Hartford Life and Annuity Insurance Company, et al.; Notice of Amended Application

February 19, 1999.

AGENCY: The Securities and Exchange Commission (''Commission'').

ACTION: Notice of amended and restated application for an order pursuant to Section 26(b) of the Investment Company Act of 1940 (the ''Act'') approving certain substitutions of securities and pursuant to Section 17(b) of the Act exempting related transactions from Section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered unit investment trusts to substitute shares of Bond Portfolio of One Group Investment Trust (''One Group Trust'') for shares of Pegasus Variable Fund (''Pegasus Trust'') Bond Fund, shares of One Group Trust's Diversified Equity Portfolio for shares of Pegasus Variable Fund's Growth and Value Fund, shares of One Group Trust's Diversified Mid Cap Portfolio for shares of Pegasus Trust's Mid Cap Opportunity Fund, shares of One Group Trust's Large Cap Growth Portfolio for shares of Pegasus Trust's Growth Fund and shares of One Group Trust's Mid Cap Value Portfolio for shares of Pegasus Trust's Intrinsic Value Fund currently held by those unit investment trusts, and to permit certain in-kind redemptions of portfolio securities in connection with the substitutions.

APPLICANTS: Hartford Life and Annuity Insurance Company (''Hartford''), ICMG Registered Variable Life Separate Account One (''ICMG Account'') and Hartford Life and Annuity Insurance Company Separate Account Six (''Annuity Account,'' together with the ICMG Account, the ''Accounts'').

FILING DATE: The application was filed on November 10, 1998,[1] and amended and restated on February 12, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 16, 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 may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o Marianne O'Doherty, Esq., Counsel, Hartford Life and Annuity Insurance Company, 200 Hopmeadow Street, Simsbury, Connecticut 06089, Copies to Stephen E. Roth, Esq. and David S. Goldstein, Esq., Sutherland Asbill & Brennan LLP, 1275 Pennsylvania Avenue, N.W., Washington, D.C. 20004–2415.

FOR FURTHER INFORMATION CONTACT: Ethan D. Corey, Senior Counsel, at (202) 942–0675, or Kevin M. Kirchoff, Branch Chief, at (202) 942–0672, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application may be obtained for a fee from the Public Reference Branch of the Commission, 450 5th Street, N.W., Washington, D.C. 20549 (tel. (202) 942–8090).

Applicant's Representations

1. Hartford is a stock life insurance company incorporated in Connecticut. Hartford is engaged in the business of writing individual and group life insurance and annuity contracts in the District of Columbia and all states but New York. Hartford is the depositor and sponsor of the Accounts.

2. The ICMG Account, a segregated investment account established under Connecticut law, is registered with the Commission as a unit investment trust. The ICMG Account is currently divided into fourteen subaccounts, each of which invests exclusively in shares representing an interest in a separate corresponding investment portfolio (''Fund'') of one of the three

[1] The Commission previously published a notice of the application. Investment Company Act Release No. 23652 (January 13, 1999) [64 FR 3322 (January 21, 1999)] (''Rel. IC–23652''). Applicants subsequently amended and restated the application. This release publishes notice of the application as amended and restated, and supersedes Rel. IC–23652.

management investment companies of the series type (''Management Companies''), including Pegasus Trust. The assets of the ICMG Account support flexible premium group variable life insurance contracts (''ICMG Contracts''), and interests in the Account offered through the ICMG Contracts have been registered under the Securities Act of 1933 (the ''1933 Act'') on Form S–6.

3. The Annuity Account is currently divided into thirteen subaccounts. Each subaccount invests exclusively in a corresponding Fund of one of the same three Management Companies in which the ICMG Account invests. The assets of the Annuity Account support individual and group flexible premium deferred variable annuity contracts (''Annuity Contracts,'' together with the ICMG Contracts, ''Contracts''), and interests in the Account offered through the Annuity Contracts have been registered under the 1933 Act on Form N–4 (File No. 33–86330).

4. Pegasus Trust, a Delaware business trust, is registered under the Act as an open-end management investment company (File No. 811–8854). Pegasus Trust currently comprises five Funds, all of which would be involved in the proposed substitutions. Pegasus Trust issues a separate series of shares of beneficial interest in connection with each Fund. Those shares are registered under the 1933 Act on Form N–1A (File No. 33–86186). First Chicago NBD Investment Management Company serves as the investment adviser to Pegasus Trust.

5. One Group Trust, a Massachusetts business trust, is registered under the Act as an open-end management investment company (File No. 811–7874). One Group Trust currently comprises nine Funds. One Group Trust issues a separate series of shares of beneficial interest in connection with each Fund and has registered these shares under the 1933 Act on Form N–1A (File No. 33–66080). Banc One Investment Advisors Corporation serves as investment adviser to One Group Trust.

6. Pegasus Trust's Bond Fund (''Pegasus Bond Fund'') seeks to maximize its total rate of return by investing predominantly in intermediate and long-term debt securities denominated in U.S. dollars. During normal market conditions, the Fund's average weighted portfolio maturity is generally 6 to 12 years. Debt securities in which the Pegasus Bond Fund normally invests include: (a) obligations issued or guaranteed by the U.S. Government, its agencies or instrumentalities; (b) corporate, bank and commercial obligations; (c) securities issued or guaranteed by foreign governments and their agencies or instrumentalities; (d) securities issued by supranational banks; (e) mortgage-backed and other asset-backed securities; and (f) variable rate bonds, zero coupon bonds, debentures and various types of demand instruments. Up to 15% of the Pegasus Bond Fund's total assets may be invested in dollar-denominated debt securities of foreign issuers.

7. One Group Trust's Bond Portfolio (''One Group Bond Portfolio'') seeks to maximize total return by investing primarily in a diversified portfolio of intermediate and long-term debt securities. At least 65% of the One Group Bond Portfolio's total assets is invested in bonds and at least 65% in debt securities of all types with intermediate to long maturities. The One Group Bond Portfolio mainly invests in investment grade bonds and debt securities, which may include mortgage-backed and other types of asset-backed securities. It also may invest in convertible securities, preferred stock and loan participations. The One Group Bond Portfolio normally maintains a weighted average maturity of between four and twelve years, although it may shorten this maturity for temporary defensive purposes.

8. Pegasus Trust's Growth and Value Fund (''Pegasus Growth and Value Fund'') seeks long-term capital growth, with income a secondary consideration. It invests primarily in equity securities of larger companies believed by its investment adviser to represent a value of potential worth that is not fully recognized by prevailing market prices. It invests in equity securities of companies that its investment adviser believes have earnings growth expectations that exceed those implied by the market's current valuation or whose earnings it expects to increase at a rate in excess of those within the general equity market.

9. One Group Trust's Diversified Equity Portfolio (''One Group Diversified Equity Portfolio'') seeks long-term capital growth and growth of income and secondarily, a moderate level of current income. It invests primarily in common stocks of overlooked or undervalued companies that have the potential for earnings growth over time. It follows a multi-style strategy in that it may invest in securities of both value and growth-oriented companies of varying levels of capitalization.

10. Pegasus Trust's Mid Cap Opportunity Fund (''Pegasus Mid Cap Opportunity Fund'') seeks long-term capital appreciation. It seeks to achieve its objective by investing primarily in equity securities of companies with market capitalizations of $500 million to $3 billion.

11. One Group Trust's Diversified Mid Cap Portfolio (''One Group Diversified Mid Cap Portolio'') seeks long term capital growth by investing primarily in equity securities of companies with market capitalizations of between $500 million and $5 billion. The One Group Diversified Mid Cap Portfolio invests in companies with strong growth potential, stable market share, and an ability to respond quickly to new business opportunities. Normally the One Group Diversified Mid Cap Portfolio invests at least 65% of its total assets in common and preferred stock, rights, warrants, securities convertible into common stock, and other equity securities. The One Group Diversified Mid Cap Portfolio may invest up to 25% of its total assets in foreign securities and up to 20% of its total assets in investment grade debt securities, U.S. government securities, cash and cash equivalents.

12. Pegasus Trust's Growth Fund (''Pegasus Growth Fund'') seeks long-term capital appreciation. It seeks to achieve its objective by investing primarily in equity securities of domestic issuers believed by its investment adviser to have above-average growth characteristics. The investment adviser often considers the following factors in evaluating growth characteristics: development of new or improved products, a favorable growth outlook for the issuer's industry, patterns of increasing sales and earnings, the probability of increased operating efficiencies, and cyclical conditions.

13. One Group Trust's Large Cap Growth Portfolio (''One Group Large Cap Growth Portfolio'') seeks long-term capital appreciation and growth of income by investing primarily in equity securities of large well-established companies. The weighted average market capitalization of such companies normally exceeds the median market capitalization of the Standard & Poor's 500 Composite Stock Price Index. The One Group Large Cap Growth Portfolio normally invests at least 65% of its total assets in those types of equity securities.

14. Pegasus Trust's Intrinsic Value Fund (''Pegasus Intrinsic Value Fund'') seeks long-term capital appreciation. It seeks to achieve its objective by investing primarily in equity securities of companies that its investment adviser believes represent a value or potential worth that it not recognized by prevailing market prices. In selecting securities, the Fund's investment adviser employs screening techniques to

isolate issues that it believes are attractively priced and then evaluates the underlying earning power and dividend paying ability of the issuer. The Fund's holdings are usually characterized by lower price/earnings, price/cash flow and price/book value ratios and by above-average current dividend yields relative to the equity market.

15. One Group Trust's Mid Cap Value Portolio (''One Group Mid Cap Value Portfolio'') seeks capital appreciation with a secondary goal of achieving current income by investing primarily in equity securities. At least 80% of the One Group Mid Cap Value Portfolio's total assets are invested in equity securities, including common stock, debt securities and preferred stock convertible into common stock. Generally, the One Group Mid Cap Value Portfolio invests in equity securities of companies with below-average price/earnings and price/book value ratios and having market capitalizations of $500 million to $5 billion. The One Group Mid Cap Value Portfolio also considers a company's financial soundness and earnings prospects. It generally will sell a security if its investment adviser believes that the issuer's fundamental business prospects are declining or its ability to pay dividends is impaired.

16. Banc One Investment Advisors Corporation, investment adviser to One Group Trust, is an indirect wholly-owned subsidiary of Bank One Corporation. Until recently, First Chicago NBD Investment Management, investment adviser to Pegasus Trust, was an indirect wholly-owned subsidiary of First Chicago NBD Corporation. As of October 2, 1998, Bank One Corporation and First Chicago NBD Corporation underwent a merger and have decided to consolidate the mutual fund operations of First Chicago NBD Investment Management with those of Banc One Investment Advisors. Applicants assert that in connection with this consolidation, it has been determined that the organization needs only one Management Company as an investment vehicle for variable life insurance and variable annuity contracts and that One Group Trust rather than Pegasus Trust should be that vehicle. As a result, Pegasus Trust will be closed down and will therefore be unable to continue to offer its shares to the Accounts.

17. Under the Contracts, Hartford reserves the right to substitute shares of one Fund for shares of another, including a Fund of a different Management Company.

18. Hartford proposes to substitute shares of the One Group Bond Portfolio for shares of the Pegasus Bond Fund, shares of the One Group Diversified Equity Portfolio for shares of the Pegasus Growth and Value Fund, shares of the One Group Diversified Mid Cap Portfolio for shares of the Pegasus Mid Cap Opportunity Fund, shares of the One Group Large Cap Growth Portfolio for shares of the Pegasus Growth Fund and shares of the One Group Mid Cap Value Portfolio for shares of the Pegasus Intrinsic Value Fund (collectively, ''Substitutions''). Hartford proposes to carry out certain substitutions by redeeming shares issued by Pegasus Trust in kind and using the redemption proceeds to purchase shares issued by One Group Trust.

19. With respect to the proposed substitution of shares of One Group Bond Portfolio for shares of Pegasus Bond Fund, shares of One Group Diversified Mid Cap Portfolio for shares of Pegasus Mid Cap Opportunity Fund, shares of One Group Diversified Equity Portfolio for shares of Pegasus Growth and Value Fund and shares of One Group Mid Cap Value Portfolio for shares of Pegasus Intrinsic Value Fund, Applicants assert that in anticipation of Pegasus Trust's discontinuation, One Group Trust is in the process of creating new investment portfolios including the Bond Fund, Diversified Mid Cap Portfolio, Diversified Equity Portfolio and Mid Cap Value Portfolio. Each of these funds has been designed as a replacement for its Pegasus Trust counterpart. As such, each has an investment objective (or objectives) that is virtually or substantially identical to that of its Pegasus Trust counterpart and pursues such objective(s) using similar investment polices. The effect of the foregoing four proposed substitutions would be to ''transfer'' these Pegasus Trust Funds intact to the One Group Trust. Banc One Investment Advisors has indicated to Hartford that it has undertaken to waive the management fee of these four One Group Trust Funds during their first year of operation to the extent necessary to limit each Fund's expense ratio as follows: Bond Fund, 0.7%; Diversified Mid Cap Portfolio, 0.95%; Diversified Equity Portfolio, 0.95%; and Mid Cap Value Portfolio, 0.95%.

20. With respect to the proposed substitution of shares of One Group Large Cap Growth Portfolio for shares of Pegasus Growth Fund, Applicants assert that One Group Large Cap Growth Portfolio has substantially the same investment objective as the Pegasus Growth Fund. If the proposed substitutions of One Group Large Cap Growth Portfolio shares for those of Pegasus Growth Fund occurs, Large Cap Growth Portfolio would increase in size by approximately 15% and be more than seven times the size of the Growth Fund. This proposed substitution would move Contract owners currently invested in Pegasus Trust Growth Fund to a much larger fund with substantially the same risk and reward characteristics. Applicants assert that although Pegasus Growth Fund has had somewhat lower expense ratios than One Group Trust Large Cap Growth Portfolio during the last three years, the immediate increase in size of the later after the proposed substitution would result in a lower ratio in fiscal 1999 and that One Group Large Cap Growth Portfolio has had better cumulative performance over the past thee fiscal years than has Pegasus Growth Fund.

21. The following charts show the approximate year-end net asset level, ratio of operating expenses as a percentage of average net assets, and annual total returns for each of the past three years for the Pegasus Growth Fund and the One Group Large Cap Growth Portfolio:

Pegasus growth fund	Net assets at year-end	Expense ratio	Total return
1995	$6,434,936	.85% (annualized)	18.82% (annualized)
1996	11,542,021	.85%	17.52%
1997	15,839,911	.91%	24.48%

One group large cap growth portfolio	Net assets at year-end	Expense ratio[2] (percent)	Total return (percent)
1995	$16,119,036	.90%	24.13
1996	42,893,346	.98%	16.67

One group large cap growth portfolio	Net assets at year-end	Expense ratio[2] (percent)	Total return (percent)
1997	99,627,641	1.00	31.93

[2] The One Group Trust Large Cap Growth Portfolio's investment adviser voluntarily waived part of its investment management fee during 1995 and 1996 in order to limit the Fund's expense ratios to the amounts shown for those years. Absent such waivers, the expense ratios for 1995 and 1996 would have been. 1.64% and 1.16%, respectively

22. By supplements to the various prospectuses for the Contracts and the Accounts, Hartford will notify all owners of the Contracts of its intention to effect the Substitutions. The supplements for the Accounts advise Contract owners that from the date of the supplement until the date of the Substitutions, owners are permitted to make one transfer of all amounts under a Contract invested in any one of the affected subaccounts on the date of the supplement to another subaccount available under a Contract other than one of the other affected subaccounts without that transfer counting as a ''free'' transfer permitted under a Contact. The supplements also inform Contract owners that Hartford will not exercise any rights reserved under any Contracts to impose additional restrictions on transfers until at least 30 days after the proposed substitution.

23. The Substitutions will take place at relative net asset value with no change in the amount of any Contract owner's Contract value, cash value or death benefit or in the dollar value of his or her investment in either of the Accounts. Contract owners will not incur any fees or charges as a result of the Substitutions, nor will their rights or Hartford's obligations under the Contracts be altered in any way. All expenses incurred in connection with the substitutions, including legal, accounting and other fees and expenses, will be paid by Hartford. In addition, the Substitutions will not impose any tax liability on contract owners. The Substitutions will not cause the contract fees and charges currently being paid by existing Contract owners to be greater after the Substitutions than before the Substitutions. The Substitutions will not be treated as a transfer for the purpose of assessing transfer charges or for determining the number of remaining permissible transfers in a Contract year. Hartford will not exercise any right it may have under the Contracts to impose additional restrictions on transfers under any of the Contracts for a period of at least 30 days following the Substitutions.

24. In addition to the prospectus supplements distributed to owners of Contracts, within five days after the Substitutions, any Contract owners who were affected by the Substitutions will be sent a written notice informing them that the Substitutions were carried out and that they may make one transfer of all Contract value or cash value under a Contract invested in any one of the affected subaccounts on the date of the notice to another subaccount or separate account available under their Contract without that transfer counting as one of any limited number of transfers permitted in a Contract year or as one of a limited number transfers permitted in a Contract year free of charge. The notice will also reiterate the fact that Hartford will not exercise any rights reserved by it under the Contracts to impose additional restrictions on transfers until at least 30 days after the Substitutions. The notice as delivered in certain states also may explain that, under the insurance regulations in those states, Contract owners who are affected by the substitutions may exchange their Contracts for fixed-benefit life insurance contracts or annuity contracts, as applicable, issued by Hartford (or one of its affiliates) during the 60 days following the Substitutions. The notices will be accompanied by current prospectuses for One Group Trust.

Applicants' Legal Analysis

1. Section 26(b) of the Act requires the depositor of a registered unit investment trust holding the securities of a single issuer to obtain Commission approval before substituting the securities held by the trust. Specifically, Section 26(b) states:

> It shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved such substitution. The Commission shall issue an order approving such substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this title.

2. Applicants state that the Substitutions appear to involve substitutions of securities within the meaning of Section 26(b) of the Act and request that the Commission issue an order pursuant to Section 26(b) of the Act approving the Substitutions.

3. The Contracts expressly reserve for Hartford the right, subject to Commission approval, to substitute shares of another Management Company for shares of a Management Company held by a subaccount of the Accounts. Applicants assert that the prospectuses for the Contracts and the Accounts contain appropriate disclosure of this right.

4. Applicants request an order of the Commission pursuant to Section 26(b) of the Act approving the proposed substitutions by Hartford. Applicants assert that the Substitutions are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

5. Applicants assert that in the cases of the proposed substitution of shares of One Group Bond Portfolio for shares of Pegasus Mid Cap Opportunity Fund, shares of One Group Diversified Equity Portfolio for shares of Pegasus Growth and Value Fund and shares of One Group Mid Cap Value Portfolio for shares of Pegasus Intrinsic Value Fund, the Pegasus Trust Funds would be replaced by essentially the same Fund under a different name. Although these Funds, in their One Group Trust incarnation, may not be managed by the same individuals as managed them for Pegasus Trust, each Fund will maintain its essential character along with its investment objective(s) and policies. Moreover, applicants assert that these Funds' prospects for significant future growth are greater as part of the One Group Trust than they would have been as part of Pegasus Trust.

6. Applicants assert that in the case of the proposed substitution of shares of One Group Trust Large Cap Growth Portfolio for shares of Pegasus Trust Growth Fund, Pegasus Trust Growth Fund would be replaced by a Fund with very similar investment objectives and policies, but of much larger size. Although expense ratios over the most recent three fiscal years have been somewhat lower for Pegasus Growth Fund that for One Group Trust Large Growth Portfolio, cumulative investment performance for the later has been better than for the former over the same periods and investors in Large Cap Growth Portfolio can reasonably expect a decline in expense ratios as result of the increase in assets following the proposed substitution. For these reasons, Applicants assert that Contract

owners would benefit from the proposed substitution.

7. Applicants assert that they anticipate that Contract owners will be at least as well off with the array of subaccounts offered after the proposed substitutions as they have been with the array of subaccounts offered prior to the substitutions. Applicants assert that the Substitutions retain for Contract owners the investment flexibility which is a central feature of the Contracts. If the Substitutions are carried out, all Contract owners will be permitted to allocate purchase payments and transfer Contract values and cash values between and among the same number of subaccounts as they could before the Substitutions.

8. Applicants assert that each of the Substitutions is not the type of substitution which Section 26(b) was designed to prevent. Unlike traditional unit investment trusts where a depositor could only substitute an investment security in a manner which permanently affected all the investors in the trust, the Contracts provide each Contract owner with the right to exercise his or her own judgment and transfer Contract or cash values into other subaccounts. Moreover, the Contracts will offer Contract owners the opportunity to transfer amounts out of the affected subaccounts into any of the remaining subaccounts without cost or other disadvantage. Applicants assert that the Substitutions, therefore, will not result in the type of costly forced redemption which Section 26(b) was designed to prevent.

9. Section 17(a)(1) of the Act prohibits any affiliated person or an affiliate of an affiliated person, of a registered investment company, from selling any security or other property to such registered investment company. Section 17(a)(2) of the Act prohibits such affiliated persons from purchasing any security or other property from such registered investment company.

10. Section 17(b) of the Act authorizes the Commission to issue an order exempting a proposed transaction from Section 17(a) if: (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policy of each registered investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the Act.

11. Applicants request an order pursuant to Section 17(b) of the Act exempting them, Pegasus Trust and One Group from the provisions of Section 17(a) to the extent necessary to permit Hartford to carry out the Substitutions.

12. Applicants assert that the terms of the Substitutions, including the consideration to be paid and received, are reasonable and fair and do not involve overreaching on the part of any person concerned. Applicants also assert that the proposed substitutions by Hartford are consistent with the policies of: (a) Pegasus Trust and its Bond Fund, Growth and Value Fund, Mid Cap Opportunity Fund, Growth Fund and Intrinsic Value Fund; and (b) One Group Trust and of its Bond Fund, Diversified Equity Portfolio, Diversified Mid Cap Portfolio, Large Cap Growth Portfolio and Mid Cap Value Portfolio, as recited in the current registration statement and reports filed by each under the Act. Finally, Applicants assert that the proposed substitutions are consistent with the general purposes of the Act.

13. The proposed transactions will be effected at the respective net asset value. The proposed transactions will not change the amount of any Contract owner's Contract or cash value or death benefit or in the dollar value of his or her investment in either of the Accounts. Applicants also state that the transactions will conform substantially with the conditions enumerated in Rule 17a–7. Applicants assert that to the extent that the proposed transactions do not comply fully with the all of the conditions of Rule 17a-7 and each Trust's procedures thereunder, the circumstances surrounding the proposed substitutions will be such as to offer the same degree of protection to each Fund of Pegasus Trust and the affected Funds of One Group Trust from overreaching that Rule 17a-7 provides to them generally in connection with their purchase and sale of securities under that Rule in the ordinary course of their business.

14. Applicants assert that because of the circumstances surrounding the proposed Hartford substitutions, Pegasus Trust could not ''dump'' undesirable securities on One Group Trust or have their desirable securities transferred to other advisory clients of Banc One Investment Advisors or to Funds other than those in One Group Trust supporting the Accounts. Nor can Hartford (or any of its affiliates) effect the proposed transactions at a price that is disadvantageous to any Pegasus Trust Fund or One Group Trust Fund. Although the transactions may not be entirely for cash, each will be effected based upon; (a) the independent market price of the portfolio securities valued as specified in paragraph (b) of Rule 17a–7; and (b) the net asset value per share of each Fund involved valued in accordance with the procedures disclosed in the respective Trust's registration statement and as required by Rule 22c–1 under the Act. Applicants assert that no brokerage commission, fee, or other remuneration will be paid to any party in connection with the proposed transactions. In addition, Applicants assert that the boards of trustees of each Trust will subsequently review the Substitutions and make the determinations required by paragraph (e)(3) of Rule 17a–7.

15. Applicants assert that the proposed transactions are consistent with the general purposes of the Act and that the proposed transactions do not present any of the conditions or abuses that the Act was designed to prevent.

Conclusion

Applicants assert that, for the reasons summarized above, the substitutions are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–4631 Filed 2–24–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23699; File No. 812–11428]

Morgan Stanley Dean Witter Variable Investment Series; Notice of Application

February 18, 1999.

AGENCY: Securities and Exchange Commission (the ''Commission'').

ACTION: Notice of application for an order under Section 17(b) of the Investment Company Act of 1940 (''1940 Act'').

SUMMARY OF APPLICATION: Applicant seeks an order exempting it from the provisions of Section 17(a) of the 1940 Act to the extent necessary to permit the reorganization of Applicant's Capital Appreciation Portfolio (''Capital Appreciation'') into Applicant's Equity Portfolio (''Equity'') the ''Reorganization'').

APPLICANT: Morgan Stanley Dean Witter Variable Investment Series (the ''Trust'').

FILING DATE: The application was filed on December 9, 1998, and amended and restated on February 12, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicant with a copy of the request, in person or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 12, 1999, and should be accompanied by proof of service on Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, c/o Barry Fink, Esq., Morgan Stanley Dean Witter Variable Investment Series, Two World Trade Center, New York, New York 10048.

FOR FURTHER INFORMATION CONTACT: Keith E. Carpenter, Senior Counsel, or Kevin M. Kirchoff, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the Commission, 450 Fifth St., N.W., Washington, D.C. 20549 (tel. (202) 942–8090).

Applicant's Representations

1. The Trust, an open-end diversified management investment company, is a Massachusetts business trust. It is a series investment company currently comprised of fifteen separate series (the ''Portfolios''), two of which are Capital Appreciation and Equity. The Trust issues a separate series of shares of beneficial interest in connection with each Portfolio and has registered these shares under the Securities Act of 1933 on Form N–1A (File Nos. 2–82510; 811–3692).

2. The shares of Capital Appreciation and Equity are currently sold exclusively to four insurance companies (the ''Insurance Companies''), each of which allocates such shares to separate accounts (''Separate Accounts'') established to fund the benefits provided under certain variable annuity contracts and/or variable life insurance contracts (''Contracts'') issued by such Insurance Company. Owners of the Contracts (''Owners'') may choose to have their Contract premiums allocated among the sub-accounts (''Sub-Accounts'') of the Separate Accounts, which Sub-Accounts correspond to the fifteen Portfolios of the Trust. As a result, Owners participate in the performance of the Sub-Accounts and, consequently, in the performance of the applicable Portfolio of the Trust.

3. Although the Insurance Companies, through the Separate Accounts, are, as a technical matter, the shareholders of the Trust, Owners, through their premium allocations to the Sub-Accounts, are the true investors in the Trust, albeit indirectly. On all matters requiring the vote of shareholders of a Portfolio, the Insurance Companies are required to vote their Portfolio shares pursuant to instructions received by those Owners whose Contracts are indirectly invested in the Portfolio (through the applicable Sub-Account). Shares for which no instructions are received in time to be voted are voted by the Insurance Companies in the same proportion as shares for which instructions have been received in time to be voted.

4. Morgan Stanley Dean Witter Advisors Inc. (''MSDW Advisors'' or the ''Investment Manager''), a wholly owned subsidiary of Morgan Stanley Dean Witter & Co., serves as the investment manager to each of the Portfolios. MSDW Advisors, as full compensation for the investment management services furnished to the Portfolios, accrues its investment management fee as a percentage of each Portfolio's average daily net assets. Morgan Stanley Dean Witter Trust FSB (''MSDW Trust'') is the transfer agent of the Trust's Portfolio shares and dividend disbursing agent for payment of dividends and distributions on the shares. MSDW Trust is an affiliate of MSDW Advisors. Morgan Stanley Dean Witter Distributors Inc., also an affiliate of MSDW Advisors, acts without remuneration from the Portfolios as the exclusive distributor of their respective shares.

5. At its meeting held on October 28, 1998 (the ''Meeting''), the Board of Trustees of the Trust (the ''Board''), including all of the Trustees who are not ''interested persons'' (as defined in the 1940 Act) of the Trust, MSDW Advisors and their affiliates (''Independent Trustees''), unanimously approved an Agreement and Plan of Reorganization (the ''Reorganization Agreement'').

6. The Reorganization Agreement provides that on the closing date, Capital Appreciation will transfer all of its assets (other than any cash reserve (as defined in the Reorganization Agreement)) to Equity in exchange for the assumption by Equity of Capital Appreciation's stated liabilities and the delivery of shares of Equity (''Equity Shares''). The number of Equity Shares to be delivered to Capital Appreciation will be determined by dividing the value of Capital Appreciation assets acquired by Equity (net of stated liabilities assumed by Equity) by the net asset value of an Equity Share. Such Equity Shares would be distributed to the shareholders of Capital Appreciation on the closing date, and Capital Appreciation would be liquidated.

7. The Reorganization Agreement provides that any consents and orders of other parties that are deemed necessary by the Portfolios to permit consummation of the Reorganization, which would include the order requested in the application, are required to be obtained as a condition precedent to implementation of the Reorganization.

8. Applicant states that, at the Meeting, the Board, including all the Independent Trustees, on behalf of each of Capital Appreciation and Equity, determined to recommend that shareholders of Capital Appreciation and, in particular, those Owners who indirectly own shares of Capital Appreciation, approve the Reorganization Agreement. In making such determination, the Board determined that the Reorganization is in the best interests of shareholders of each of Capital Appreciation and Equity and those Owners who indirectly own shares of such Portfolios, and that the interests of such shareholders and Owners would not be diluted as a result of the Reorganization. The Board made an extensive inquiry into a number of factors, particularly, the comparative expenses incurred in the operations of Capital Appreciation and Equity. The Board also considered other factors, including, but not limited to: the compatibility of the investment objectives, policies, restrictions and portfolios of Capital Appreciation and Equity; the terms and conditions of the Reorganization which would affect the price of shares to be issued pursuant to the Reorganization; the tax-free nature of the Reorganization; and any direct or indirect costs to be incurred by Capital Appreciation and Equity in connection with the Reorganization.

9. Shareholders of Capital Appreciation will be asked to approve the Reorganization Agreement at a special meeting of shareholders of Capital Appreciation to be held February 24, 1999. Approval of the Reorganization Agreement by the Capital Appreciation shareholders requires the affirmative vote of a majority of the outstanding shares of

Capital Appreciation. The Insurance Companies will vote the shares of Capital Appreciation held in each Separate Account based on instructions received from Owners having in interest in the corresponding Capital Appreciation Sub-Account of the Separate Account. Shares of Capital Appreciation for which no instructions are received in time to be voted will be voted by the Insurance Companies in the same proportion as shares for which instructions have been received in time to be voted.

10. Applicant asserts that Capital Appreciation and Equity have similar investment objectives. Capital Appreciation has an investment objective of long-term capital appreciation and seeks to achieve its objective by investing principally in the common stocks of U.S. companies that, in the opinion of MSDW Advisors, offer the potential for either superior earnings growth and/or appear to be undervalued. Similarly, Equity has a primary investment objective of capital growth through investments, primarily in the common stock of companies believed by MSDW Advisors to have potential for superior growth. Equity has a secondary objective of income, but only when consistent with its primary objective. Capital Appreciation and Equity seek to achieve their respective investment objectives by investing, under normal circumstances, at least 65% of their total assets in common stocks and, in the case of Equity, securities convertible into common stock. Applicant states that both Portfolios have similar investment policies. The material difference in investment policies between Capital Appreciation and Equity include that the former invests significantly in ''lower priced stocks'' which may include smaller capitalized companies, whereas, the latter does not have a stated policy of investing in ''lower priced stocks.'' Further, Capital Appreciation may invest up to 10% of its total assets in foreign securities, whereas Equity has a fundamental investment restriction that it may not invest in foreign securities. Capital Appreciation may invest up to 35% of its total assets in debt securities rated Baa by Moody's Investors Service, Inc. (''Moody's'') or BBB by Standard & Poor's Corporation (''S&P''), whereas, Equity only invests in corporate debt securities rated as low as AA by S&P or Aa by Moody's.

11. Applicant states that once the Reorganization is consummated, the expenses which would be borne by shareholders of the combined Portfolio (Equity) should be substantially lower on a percentage basis than the expenses per share of Capital Appreciation. This is primarily because the management fee rate for the surviving Portfolio (Equity) is 0.25% lower than the contractual management fee rate for Capital Appreciation. Applicant also stated that Capital Appreciation's expense ratio, for its fiscal year ended December 31, 1997, was 0.97% (absent fee waivers and expense assumptions), whereas, the expense ratio for Equity Portfolio was 0.52% during the same period. There are no fee waivers or expense assumptions in effect for Equity.

12. Applicant asserts that, apart from the fact that the future cash value of the Contracts that are indirectly invested in Capital Appreciation would reflect the investment performance and expenses of Equity (instead of Capital Appreciation), the proposed Reorganization would have no economic impact on Contract values, fees or charges under these Contracts. The proposed Reorganization would also have no effect on the rights or interests of Owners, other than reducing by one the number of Trust investment options available to them through the Contracts. The proposed transaction will also not have adverse tax consequences for the Owners because any income or capital gains earned by the respective separate accounts has no effect on the taxation of the Contracts or the Owners.

Applicant's Legal Analysis

1. Applicant requests that the Commission issue an order pursuant to Section 17(b) of the 1940 Act exempting the proposed Reorganization from the provisions of Section 17(a) of the 1940 Act, to the extent necessary to permit Equity to acquire substantially all of the assets of Capital Appreciation in exchange for the Equity Shares, as described above.

2. Section 17(a)(1) of the 1940 Act, in relevant part, prohibits any affiliated person of an investment company, or any affiliated person of such a person, acting as principal, from knowingly selling any security or other property to that company. Section 17(a)(2) of the 1940 Act generally prohibits the persons described above, acting as principal, from knowingly purchasing any security or other property from the investment company.

3. Section 2(a)(3) of the 1940 Act defines the term ''affiliated person,'' in relevant part, as: (a) any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum of more of the outstanding voting securities of such other person; and (b) any person 5 per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote, by such person.

4. Applicant states that because Northbrook Life Insurance Company (''Northbrook''), one of the Insurance Companies, technically owns, through its Separate Accounts, more than 5% of the outstanding shares of Capital Appreciation and Equity, such Insurance Company is arguably a 5% affiliate of both Portfolios. Specifically, Northbrook technically owned more than 95% of the outstanding shares of each of Capital Appreciation and Equity as of November 30, 1998. If such technical ownership is of the type contemplated by Section 2(a)(3) of the 1940 Act, then such Insurance Company, through its Separate Accounts, would be an affiliated person of each of Capital Appreciation and Equity (as a result of that Insurance Company's ''ownership'' of more than 5% of each such Portfolio's shares). As a result, each Portfolio may be an affiliated person (of an affiliated person) of one another. As such, transactions between the two Portfolios may be subject to the prohibitions of Section 17(a) of the 1940 Act. Without conceding that the two Portfolios are affiliated persons of one another (or affiliated persons of affiliated persons), Applicant requests that the Commission grant an exemption from Section 17(a) in connection with the proposed transaction.

5. Section 17(b) of the 1940 Act provides that the Commission may, upon application, grant an order exempting any transaction from the prohibitions of Section 17(a) if the evidence establishes that: (a) the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in the registration statement and reports filed under the 1940 Act; and (c) the proposed transaction is consistent with the general purposes of the 1940 Act.

6. Applicant represents that the terms of the proposed Reorganization, including the consideration to be paid and received, are reasonable and fair and do not involve overreaching on the part of any person concerned. Applicant also represents that the proposed Reorganization is consistent with the policies of the two Portfolios as recited in the Trust's current registration statement and reports filed under the

1940 Act and with the general purposes of the 1940 Act. Based on the foregoing and as more fully analyzed below, the Applicant asserts that the Commission would have an appropriate basis from which to grant Applicant an exemptive order pursuant to Section 17(b). In fact, the Commission has exempted substantially similar transactions.

7. Applicant states that the board, including a majority of the Independent Trustees, has reviewed and approved the terms of the Reorganization as set forth in the Reorganization Agreement, including the consideration to be paid or received by all parties. Applicant also states that the Board has independently determined that the proposed Reorganization, as set forth in the Reorganization Agreement and as contemplated by Rule 17a–8 under the 1940 Act, will be in the best interests of the shareholders of each affected Portfolio and of the Owners indirectly invested in each affected Portfolio and that consummation of the Reorganization will not result in the dilution of the current interests of any shareholder or Owner.

8. Applicant states that in determining whether to recommend approval of the Reorganization Agreement to shareholders and Owners, the Board, including a majority of Independent Trustees, inquired into a number of factors, including, among others: the comparative expense ratios of the affected Portfolios; the terms and conditions of the Reorganization Agreement and whether the Reorganization would result in a dilution of shareholder (or Owner) interests; costs incurred by Capital Appreciation and Equity as a result of the proposed Reorganization; and tax consequences of the proposed Reorganization. The Trustees considered, in particular, the potential benefits of the Reorganization to shareholders and Owners, the similarity of investment objectives and policies of the affected Portfolios, the terms and conditions of the Reorganization Agreement which might affect the price of shares (or Owner interests) to be exchanged and the direct or indirect costs to be incurred by the affected Portfolios or shareholders or Owners invested in such Portfolios.

9. Applicant states that the proposed Reorganization will not in any way affect the price of outstanding shares of Equity, nor will it in any way affect the Contract values or interests of Owners indirectly invested therein. Under the Reorganization Agreement, the transfer of assets of Capital Appreciation to Equity, and the issuance of shares of Equity in exchange therefor, will be made on the basis of the relative net asset values of the two Portfolios on the closing date (as described more fully in the Reorganization Agreement). In addition, the aggregate value of Equity Shares to be issued to each Capital Appreciation Sub-Account under the Reorganization will exactly equal the aggregate value of Capital Appreciation shares held by that Sub-Account immediately prior to the proposed Reorganization. As a result, the aggregate value of all Owners' outstanding units of interest of each Capital Appreciation Sub-Account will not change on the closing date as a result of the share exchange phase of the proposed Reorganization. In addition, the Reorganization will have no impact on the value of the Owners' outstanding units of interest in any Equity Sub-Account. The proposed Reorganization will impose no tax liability upon Owners. Applicant asserts that as a result of all of the above, the Reorganization would not dilute the interests of shareholders or Owners currently invested (directly or indirectly) in Capital Appreciation or Equity.

10. Rule 17a–8 under the 1940 Act exempts from Section 17(a) mergers, consolidations or purchases or sales of substantially all of the assets involving registered investment companies which may be affiliated persons, or affiliated persons of affiliated persons, solely by reason of having a common investment adviser, common directors and/or common officers. Because of the potential affiliations noted above, neither the Portfolios nor the Sub-Accounts may be able to rely on Rule 17a–8. Applicant asserts, however, that: (i) the Reorganization closely resembles transactions intended to be exempted by Rule 17a–8; and (ii) as a condition to the granting of the requested order, the Board has complied with the conditions that Rule 17a–8 requires respecting approval of the Reorganization.

Conclusion

Applicant requests an order of the Commission pursuant to Section 17(b) of the 1940 Act exempting the proposed Reorganization from the provisions of Section 17(a) of the 1940 Act. Applicant submits that, for all of the reasons summarized above, the terms of the proposed Reorganization as set forth in the Reorganization Agreement, including the consideration to be paid and received, are reasonable and fair to the Trust, to the affected Portfolios and the shareholders and Owners invested therein and do not involve overreaching on the part of any person concerned. Furthermore, the proposed Reorganization will be consistent with the policies of each of the affected Portfolios as recited in the Trust's registration statement and reports filed under the 1940 Act and with the general purposes of the 1940 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–4635 Filed 2–24–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41067; File No. SR–DTC–98–13]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving a Proposed Rule Change Relating to the Frequency of Collection of the Difference Between a Participant's Required Fund Deposit and Its Actual Fund Deposit

February 18, 1999.

On June 11, 1998, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–DTC–98–13) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on October 28, 1998.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

DTC requires each of its participants to make a deposit to the participants fund. Currently, DTC calculates daily the amount a participant is required to deposit to the participant's fund (''required fund deposit''). If a participant's required fund deposit exceeds the amount a participant has deposited in the participants fund (''actual fund deposit''), DTC requires the participant to deposit the difference into the participants fund on a monthly basis.

The rule change amends this practice to enable DTC to require a participant to deposit the difference into the participants fund within two business days of the day on which the difference is calculated when two conditions are met. First, the amount of the difference must equal or exceed $500,000. Second,

[1] 15 U.S.C. 78s(b) (1).

[2] Securities Exchange Act Release No. 40588 (October 22, 1998), 63 FR 57716.

the difference must represent twenty-five percent or more of the newly calculated required fund deposit. DTC will continue to calculate each participant's required fund deposit each day and will collect any deficiency between the required fund deposit and the actual fund deposit that does not satisfy both of these conditions on a monthly basis.

II. Discussion

Section 17A(b) (3) (F) of the Act [3] requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds that are in the custody and control of the clearing agency or for which it is responsible. The Commission believes that the rule change is consistent with DTC's obligations under Section 17A(b)(3)(F) because it allows DTC to correct significant differences between a participant's required fund deposit and actual fund deposit sooner. As a result, DTC's potential exposure to a defaulting participant should be reduced.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act [4] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[5] that the proposed rule change (File No. SR–DTC–98–13) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Jonathan G. Katz,

Secretary.

[FR Doc. 99–4632 Filed 2–24–99; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. 78q–1 (b)(3)(F).

[4] 15 U.S.C. 78q–1.

[5] 15 U.S.C. 78s(b) (2).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41054; File No. SR–NYSE–98–48]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the New York Stock Exchange, Inc. Permanently Approving a Pilot Program Amending Paragraph 902.02 of the Exchange's Listed Company Manual to Reduce Listing Fees for Amalgamations

February 16, 1999.

I. Introduction

On December 28, 1998, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b-4 thereunder,[2] a proposed rule change establishing a pilot program to amend paragraph 902.02 of the Exchange's Listed Company Manual (''Manual'') and seeking permanent approval of the pilot program. Paragraph 902.02 of the Manual contains the schedule of current listing fees for companies listing securities on the Exchange.

The proposed rule change was published for comment in the **Federal Register** on January 15, 1999.[3] The Commission received no comments on the proposal. This order approves the proposal.

II. Description of Proposal

The proposed rule change amends the listed company fee schedule, set forth in Paragraph 902.02 of the Manual, as it applies to certain business combinations. Specifically, the Exchange is codifying its long-standing interpretation of the term ''amalgamation,'' and deleting language inconsistent with the application of that definition. Further, the Exchange is making non-substantive clarifications to the provision of the Manual that states that the fee for a company listing as a result of an amalgamation is 25% of the basic initial fee.

The Exchange's long-standing interpretation of the term ''amalgamation'' is the consolidation of two or more NYSE-listed companies into a new company. The Exchange is proposing to codify this definition into Paragraph 902.02 of the Manual. While language to that effect currently exists in the Manual, a ''housekeeping'' change is required to clarify that (1) an amalgamation is defend as the consolidation of two or more NYSE-listed companies into a new listed company, and (2) a reduced initial fee will be applied to listing resulting from an amalgamation.

A further housekeeping change is required as the result of a recent change to Paragraph 902.02 of the Manual, currently in effect as a pilot, which implemented a reduced listing fee for mergers between an NYSE-listed company and a non-NYSE listed company.[4] Specifically, current language is being deleted from the rule that refers to the merger of listed companies into an unlisted company which becomes listed.[5] This language is no longer necessary in light of the recent amendments.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act [6] and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the provisions of Section 6 of the Act.[7] More specifically, the Commission believes that the proposed rule change is consistent with Section 6(b)(4) of the Act, which requires that the rules of an exchange assure the equitable allocation of reasonable dues, fees, and other charges among members, issuers, and other persons using its facilities.[8] The Commission believes that the proposal enhances the clarity of the Manual with respect to initial listing fees. As a result, the Commission finds that the proposal is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 40887 (January 6, 1999), 64 FR 2693 (Notice of filing and order granting partial accelerated approval to the proposed rule change establishing a pilot program to reduce initial listing fees for amalgamations. The pilot expires on April 5, 1999.)

[4] *See* Securities Exchange Act Release No. 40698 (November 20, 1998), 63 FR 65833 (November 30, 1998).

[5] When an NYSE-listed company merges with another NYSE-listed company that becomes unlisted and then lists on the NYSE, the full fee shall apply. Telephone conversation between Daniel Beyda, Associate General Counsel, NYSE; David Sieradzki, Special counsel, Division of Market Regulation (''Division''), Commission; and Robert Long, Attorney, Division, Commission on January 4, 1999.

[6] In permanently approving the pilot, the Commission considered the pilot's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(B)(4).

[9] 15 U.S.C. 78s(b)(2).

proposed rule change (SR–NYSE–98–48) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Jonathan G. Katz,

Secretary.

[FR Doc. 99–4633 Filed 2–24–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41055; File No. SR–NYSE–98–40]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the New York Stock Exchange, Inc. Permanently Approving a Pilot Program Amending Paragraph 902.02 of the Exchange's Listed Company Manual to Reduce Initial Listing Fees Under Certain Circumstances

February 16, 1999.

I. Introduction

On November 20, 1998, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b-4 thereunder,[2] a proposed rule change establishing a pilot program to amend paragraph 902.02 of the Exchange's Listed Company Manual (''Manual'') and seeking permanent approval of the pilot program. Paragraph 902.02 of the Manual contains the schedule of current listing fees for companies listing securities on the Exchange.

The proposed rule change was published for comment in the **Federal Register** on November 30, 1998.[3] The Commission received no comments on the proposal. This order approves the proposal.

II. Description of Proposal

The proposed rule change amends the listed company fee schedule, set forth in Paragraph 902.02 of the Manual, as it applies to certain business combinations. Specifically, the Exchange seeks to adopt a reduced fee structure for mergers between an NYSE-listed company and a non-NYSE listed company (not including ''back door listings'' pursuant to paragraph 703.08(E) of the Manual).

The Exchange proposes to reduce the basic initial listing fee such that the fee is 25% of the applicable basic initial listing fee for the above specified listings that occur within 12 months of the merger. However, if the merger and subsequent listing occur within 12 months of the initial listing of the NYSE-listed company, the Exchange proposes to reduce the basic initial listing fee for the merged entity to the lesser of (a) 25% of the applicable basic initial listing fee for the merged entity; or (b) the full applicable basic initial listing fee for the merged entity less the fee already paid by the NYSE-listed company at the time of its initial listing.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act[4] and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the provisions of Sections 6[5] and 11A of the Act.[6] More specifically, the Commission believes that the proposed rule change is consistent with Sections 6(b)(4)[7] and 11A(a)(1)(C)(ii) of the Act.[8] Section 6(b)(4) requires that the rules of an exchange assure the equitable allocation of reasonable dues, fees, and other charges among members, issuers, and other persons using its facilities. In Section 11A(a)(1)(C)(ii) of the Act, Congress found that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure fair competition among exchange markets, and between exchange markets and markets other than exchange markets.

The Commission believes that, by reducing initial listing fees under certain circumstances, the proposal may ease the financial burdens of merger transactions with Exchange-listed issuers, thus facilitating capital formation. The Commission also believes that the proposed reduction in listing fees, which applies to all similarly situated issuers, may increase competition for listings between market centers. For the foregoing reasons, the Commissions finds that the NYSE's proposal is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR–NYSE–98–40) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Jonathan G. Katz,

Secretary.

[FR Doc. 99–4634 Filed 2–24–99; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice No. 2983]

Advisory Committee on International Law; Notice of Committee Meeting

A meeting of the Advisory Committee on International Law will take place on Monday, March 15, 1999 from 10:00 a.m. to approximately 5:00 p.m., as necessary, in Room 6417 of the United States Department of State, 2201 C Street, N.W., Washington, D.C. The meeting will be chaired by the Legal Adviser of the Department of State, David R. Andrews, and will be open to the public up to the capacity of the meeting room. The meeting will discuss the International Law Commission's 1998 report, residual head of state immunity, the new Executive Order on implementation of human rights treaties, the proposed convention on the enforcement of judgments, developments involving the International Criminal Court and the International Court of Justice, and other current topics.

Entry to the building is controlled and will be facilitated by advance arrangements. Members of the public desiring access to the session should, by Wednesday, March 3, 1999, notify the Office of the Assistant Legal Adviser for United Nations Affairs (telephone (202) 647–2767) of their name, Social Security number, date of birth, professional affiliation, address and telephone number in order to arrange admittance. This includes both government and non-government admittance. All attendees must use the ''C'' Street entrance. One of the following valid IDs will be required for admittance: any U.S. driver's license with photo, a passport, or a U.S. Government agency ID.

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[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 40698 (November 20, 1998), 63 FR 65833 (Notice of filing and order granting partial accelerated approval to the proposed rule change establishing a pilot program to reduce initial listings fees under certain circumstances. The pilot program expires on February 19, 1999.).

[4] In permanently approving the pilot, the Commission considered the pilot's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78k–1.

[7] 15 U.S.C. 78F(b)(4)

[8] 15 U.S.C. 78k–1(a)(1)(C)(ii).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

Date: February 16, 1999.

John R. Crook,

Assistant Legal Adviser for United Nations Affairs; Executive Director, Advisory Committee of International Law.

[FR Doc. 99–4728 Filed 2–24–99; 8:45 am]

BILLING CODE 4710–08–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1999–5126]

Agency Information Collection Activities Under OMB Review

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: The U.S. Coast Guard has submitted an information collection request (ICR) to the Office of Management and Budget (OMB) for emergency processing, review and clearance under the Paperwork Reduction Act. The ICR concerns a national recreational boating survey. OMB approval of the ICR has been requested by February 26, 1999.

DATES: Comments must be reach the Coast Guard on or before April 26, 1999.

ADDRESSES: You may mail comments to the Docket Management Facility, (USCG–1999–5126), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001, or deliver them to room PL–401, located 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. The telephone number is 202–366–9329.

The Docket Management Facility maintains the public docket for this document. Comments will become part of this docket and will be available for inspection or copying at room PL–401, located on the Plaza Level of the Nassif Building at the same addressbetween 9 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. Copies of the complete Information Collection Request are available through this docket Internet at http://dms.dot.gov and also from Commandant (G–SII–2), U.S. Coast Guard Headquarters, room 6106, (Attn: Barbara Davis), 2100 Second Street SW., Washington, DC 20593–0001. The telephone number is 202–267–2326.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Office of Information Management, 202–267–2326, for questions on this document. Should there be questions on the docket, contact Dorothy Walker, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–9330.

Request for Comments

The Coast Guard encourages interested persons to submit written comments. Persons submitting comments should include their names and addresses, identify this document (USCG–1999–5126) and the specific Information Collection (ICR) to which each comment applies, and give the reason(s) 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. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

Information Collection Requests

1. *Title:* National Recreational Boating Survey.

OMB Control Number: 2115–new.

Summary: The goal of the National Recreational Boating Survey is to obtain information on boating practices, safety, and exposure. This information will enable boating safety officials to assess boating risks and implement appropriate safety intervention strategies. It will also provide means to measure program effectiveness in reducing the number of fatalities, injuries and the amount of property damage associated with the use of recreational boats.

Need: In compliance with the Government Performance and Results Act (GPRA) of 1993, the National Recreation Boating Survey will provided data needed to: (a) link the effectiveness of Recreational Boating Safety (RBS) Program activities (awareness, education, standards and regulations) to reductions in a person's risk of experiencing a boating incident resulting in facilities, injuries or property damages; (b) enhance the Coast Guard's ability to identify and satisfy vital customer needs; (c) improve program effectiveness by implementing well-defined program goals; and (d) enhance administration and congressional policymaking, spending decisions, and program oversight using the best performance measures and safety indicators.

Respondents: Owners and operators of recreational boats in 1998.

Frequency: Every two—three years.

Burden Estimate: The estimated burden is 3,926 hours annually.

Dated: February 19, 1999.

G.N. Naccara,

Rear Admiral, U.S. Coast Guard, Director of Information and Technology.

[FR Doc. 99–4720 Filed 2–24–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33706]

Illinois Railnet, Inc.—Acquisition and Operation Exemption—The Burlington Northern and Santa Fe Railway Company

On January 8, 1999, Illinois Railnet, Inc. (IR), a Class III rail carrier,[1] filed a verified notice of exemption under 49 CFR 1150.41 to acquire and operate approximately 23.5-miles of rail line that is currently owned and operated by The Burlington Northern and Santa Fe Railway Company (BNSF). The line, known as the ''Rockford Subdivision,'' runs between milepost 0.29 north of Flag Center, IL, and milepost 23.79 at Rockford, IL.[2]

The transaction was scheduled to be consummated on or after January 15, 1999.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.[3]

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33706, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, one copy of each pleading must be served on counsel for IR: Robert A. Wimbish, REA, CROSS & AUCHINCLOSS, Suite 420, 1920 N Street, NW, Washington, DC 20036.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: February 18, 1999.

[1] IR certifies that its annual revenues, including those expected to be derived from the line that is the subject of this notice, will not exceed $5 million.

[2] Pursuant to a pre-existing agreement with BNSF, I&M Rail Link (IMRL) possesses trackage rights over a portion of the line between milepost 11.69 at Davis Junction, IL, and milepost 23.79 at Rockford, IL. As a result of the instant transaction, IR will assume BNSF's rights and obligations under its trackage rights agreement with IMRL, and IMRL will retain its trackage rights.

[3] By decision served on January 14, 1999, the Board denied a petition to stay the effectiveness of the notice in this proceeding.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–4714 Filed 2–24–99; 8:45 am]

BILLING CODE 4915–00–P

UNITED STATES INFORMATION AGENCY

Curriculum Development Project: Secondary School Civic Education for Moldova; Notice: Request for Proposals

SUMMARY: The Advising, Teaching, and Specialized Programs Division of the Office of Academic Programs of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for a Curriculum Development Project: Secondary School Civic Education for Moldova. Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501© may submit proposals to cooperate with USIA in the administration of a two-year project to support the development and implementation of new curriculum units for tenth through twelfth grade civic education courses in Moldova. The grant awards up to $300,000 to facilitate the project. The grantee will work with the Independent Society for Education and Human Rights (SIEDO), a Moldovan non-profit organization concerned with training secondary school teachers in civic education issues. SIEDO works closely with the Ministry of Education of Moldova on curriculum and teacher training. The program will comprise three phases: (1) preliminary consultations in Chisinau with a curriculum development team of Moldovan educators; (2) a three-month U.S.-based curriculum development workshop in which the team will produce draft curriculum units; (3) follow-up consultation in Moldova to assist with the training of a larger group of Moldovan practitioners in the review and field-testing of the draft curriculum units. Upon the successful completion of Phases I–III, additional funds may be available to the grantee organization for a fourth phase of activity to cooperate with the Independent Society for Education and Human Rights and the curriculum development team in further reviewing and revising the draft materials and to provide broader training for implementation of the revised curriculum units with the Moldovan teachers and administrators.

USIA solicits detailed proposals from U.S. educational institutions and public and private non-profit organizations to develop and administer this project. Grantee organizations will consult regularly with USIA and with USIA's office in Moldova (the U.S. Information Service in Chisinau) with regard to participant selection, program implementation, direction, and assessment. Proposals should demonstrate an understanding of the issues confronting education in Moldova as well as expertise in civic education and curriculum development.

The funding authority for the program cited above is provided through the Freedom Support Act. Programs and projects must conform with Agency requirements and guidelines outlined in the Solicitation Package. USIA projects and programs are subject to the availability of funds.

Program Information

Overview: The goal of the project is to assist the Independent Society for Education and Human Rights (SIEDO) in Chisinau, Moldova, to develop up-to-date curriculum units to be taught at the tenth through twelfth grade levels and to assist in training teachers for the implementation of these units. The rationale for this project is that improving citizenship education at the secondary school level will better prepare Moldovan students to participate actively in building a pluralistic, democratic society, and will promote democratic relations among members of the school community, including students, teachers, school administrators, and parents. Applicants may suggest topics to be developed by the curriculum team in their proposals; however, final determination of appropriate topics will be made by the curriculum development team and SIEDO in cooperation with the grantee organization during the first phase of the project.

Guidelines

Program Planning and Implementation

Grants should begin on or around August 1, 1999, with Phase I of the project, in which a curriculum development team of six practitioners (e.g., classroom teachers, curriculum specialists, and Ministry officials) will be selected by the grantee organization in consultation with the Independent Society for Education and Human Rights (SIEDO) and the U.S. Information Service (USIS) Chisinau. In Phase I, the team will undertake preliminary work in Chisinau over a period of 3–6 months. Members of the curriculum development team, in consultation with a specialist from the grantee organization, will familiarize themselves with civics curricula and teaching materials used in the U.S. and will select the topics to be explored in the draft curriculum units.

In Phase II, members of the curriculum development team will spend approximately three months in a highly structured U.S.-based workshop sponsored and organized by the U.S. grantee organization, attending focused curriculum seminars, observing relevant aspects of the U.S. educational system, and drafting teacher and student materials for the curriculum units in consultation with U.S. specialists. The grantee organization will be responsible for introducing the Moldovan team to leading U.S. civic educators and to a broad range of relevant resources. The workshop schedule should incorporate time for individual and group work on materials as well as intensive training on specific approaches to the teaching of civics topics. In addition, the workshop should include field experiences which are relevant to the materials being produced (such as visits to schools and professional association meetings).

In Phase III, the curriculum development team will work in Moldova with Moldovan teacher trainers and U.S. specialists from the grantee organization to provide introductory training for a larger group of practitioners in methods for implementing and reviewing the draft curriculum units in the civics classroom.

Visa/Insurance/Tax Requirements

U.S. lecturers and consultants participating in the project must be U.S. citizens. Programs must comply with J–1 visa regulations. Please refer to Program Specific Guidelines (POGI) in the Solicitation Package for further information. Administration of the program must be in compliance with reporting and withholding regulations for federal, state, and local taxes as applicable. Recipient organizations should demonstrate tax regulation adherence in the proposal narrative and budget.

Budget Guidelines

Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000.

Applicants must submit a comprehensive budget for the entire program. Awards may not exceed $300,000. There must be a summary budget as well as breakdowns reflecting both administrative and program

budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification. The total administrative costs funded by USIA must be limited and reasonable.

Allowable costs for the program include the following:

(1) Administrative Costs, including salaries and benefits of grantee organization.

(2) Program Costs, including general program costs and program costs for each Moldovan participant in the U.S.-based curriculum development seminar. Also include program costs associated with the field-testing of materials in Moldova and with the initial training of Moldovan teachers.

Please refer to the Solicitation Package (POGI) for complete budget guidelines and formatting instructions.

Announcement Title and Number: All correspondence with USIA concerning this RFP should reference the above title and number E/ASU–99–12.

FOR FURTHER INFORMATION CONTACT: The Office of Academic Programs, Advising, Teaching and Specialized Programs Division, Specialized Programs Branch, E/ASU, Room 349, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547, telephone number 202–619–4568 and fax number 202–401–1433, e-mail address jceriale@usia.gov to request a Solicitation Package. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify USIA Program Officer Jennifer K. Ceriale on all other inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Agency staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download a Solicitation Package via Internet: The entire Solicitation Package may be downloaded from USIA's website at http://e.usia.gov/education/rfps. Please read all information before downloading.

To Receive a Solicitation Package via Fax on Demand: The entire Solicitation Package may be requested from the Bureau's Grants Information Fax on Demand System, which is accessed by calling 202/401–7616. The Table of Contents listing available documents and order numbers should be the first order when entering the system.

Deadline for Proposals: All proposal copies must be received at the U.S. Information Agency by 5 p.m. Washington, D.C. time on Monday, April 19, 1999. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and 10 copies of the application should be sent to: U.S. Information Agency, Ref.: *E/ASU–99–12*, Office of Grants Management, E/XE, Room 326, 301 4th Street, S.W., Washington, D.C. 20547.

Applicants must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal on a 3.5'' diskette, formatted for DOS. These documents must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. USIA will transmit these files electronically to USIS posts overseas for their review, with the goal of reducing the time it takes to get posts' comments for the Agency's grants review process.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' USIA ''shall take appropriate steps to provide opportunities for participation in such programs to human righs and democracy leaders of such countries.'' Proposals should reflect advancement of this goal in their program contents, to the full extent deemed feasible.

Year 2000 Compliance Requirement (Y2K Requirement)

The Year 2000 (Y2K) issue is a broad operational and accounting problem that could potentially prohibit organizations from processing information in accordance with Federal management and program specific requirements including data exchange with USIA. The inability to process information in accordance with Fedeal requirements could result in grantees' being required to return funds that have not been accounted for properly.

USIA therefore requires all organizations use Y2K complaint systems including hardware, software, and firmware. Systems must accurately process data and dates (calculating, comparing and sequencing) both before and after the beginning of the year 2000 and correctly adjust for leap years.

Additional information addressing the Y2K issue may be found at the General Services Administration's Office of Information Technology website at http://www.itpolicy.gsa.gov.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the USIA Office of East European and NIS Affairs and the USIA post(s) overseas, where appropriate. Eligible proposals will be forwarded to panels of USIA officers for advisory review. Proposals may also be reviewed by the Office of the General Counsel or by other Agency elements. Final funding decisions are at the discretion of USIA's Associate Director for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the USIA Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of the program idea:* Proposals should exhibit originality, substance, precision, relevance to the Agency's mission, and responsiveness to the objectives and guidelines stated in this solicitation. Proposals should demonstrate substantive expertise in civic education.

2. *Program planning:* Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

3. *Ability to achieve program objectives:* Objectives should be

reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

4. Multiplier effect/impact: Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

5. Support of Diversity: Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

6. Institutional Capacity: Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals.

7. Institution's Record/Ability: Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts. The Agency will consider the past performance of prior recipients and the demonstrated potential of new applicants.

8. Follow-on Activities: Proposals should provide a plan for continued follow-on activity (without USIA support) to ensure ongoing involvement with Moldovan curriculum development projects.

9. Project Evaluation: Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives is recommended. Successful applicants will be expected to submit intermediate reports after each project component is concluded or quarterly, whichever is less frequent.

10. Cost-effectiveness: The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate.

11. Cost-sharing: Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

12.*Value to U.S.-Partner Country Relations:* Proposed projects should receive positive assessments by USIA's geographic area desk and overseas officers of program need, potential impact, and significance in the partner country.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1993 (Freedom Support Act). Programs and projects must conform with Agency requirements and guidelines outlined in the Solicitation Package. USIA projects and programs are subject to the availability of funds.

Notice

The terms and conditions published in the RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Dated: February 16, 1999.

William B. Bader,

Associate Director for Educational and Cultural Affairs.

[FR Doc. 99–4566 Filed 2–24–99; 8:45 am]

BILLING CODE 8230–01–M

Corrections

Federal Register
Vol. 64, No. 37
Thursday, February 25, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990115017-9017-01; I.D. 011199A]

RIN 0648-AM08

Fisheries of the Exclusive Economic Zone off Alaska; Steller Sea Lion Protection Measures for the Pollock Fisheries off Alaska

Correction

In rule document 99–1378 beginning on page 3437 in the issue of Friday, January 22, 1999, make the following corrections:

1. On pages 3439 and 3440 **Table 2.—BSAI Seasonal Apportionments of Pollock TAC** should appear as set forth below:

TABLE 2.—BSAI SEASONAL APPORTIONMENTS OF POLLOCK TAC

Fishing Season	Industry Sector (in percent)		
	Inshore and Catcher/processor	Mothership	CDQ
A1 Season	27.5	40	45
A2 Season	12.5		
B Season	30	30	55
C Season	30	30	

2. On page 3440, **Table 3.—TAC Limits Within the CH/CVOA Conservation Zone** should appear as set forth below:

TABLE 3.—TAC LIMITS WITHIN THE CH/CVOA CONSERVATION ZONE

Fishing season	Industry sector (in percent)			
	Inshore	Catcher/processor	Mothership	CDQ
A1 Season	70	40	50	100
A2 Season	70	40		
B Season	[reserved]			
C Season				

§ 679.22 [Corrected]

3. On page 3443, in § 679.22(C)(*1*) the table should read as follows:

Fishing season	Industry component (in percent)		
	Inshore	Catcher/ processor	Mothership
A1 Season	70	40	50
A2 Season	70	40	
B Season	[reserved]		
C Season			

[FR Doc. C9–1378 Filed 2–22–99; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Thursday
February 25, 1999

Part II

Department of Health and Human Services

Health Care Financing Administration

42 CFR Part 412

Medicare Program; Changes to the FY 1999 Hospital Inpatient Prospective Payment Wage Index and Standardized Amounts Resulting From Approved Requests for Wage Data Revisions; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 412

[HCFA–1049–F]

RIN 0938–AJ26

Medicare Program; Changes to the FY 1999 Hospital Inpatient Prospective Payment Wage Index and Standardized Amounts Resulting From Approved Requests for Wage Data Revisions

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule implements revised wage index values, geographic adjustment factors, operating standardized amounts, and capital Federal rates for hospitals subject to the inpatient prospective payment system. These changes result from requests made by hospitals in response to a final rule with comment period published in the **Federal Register** on November 19, 1998. These revisions will be implemented on a prospective basis.

DATES: *Effective date:* The provisions of this final rule are effective March 1, 1999.

FOR FURTHER INFORMATION CONTACT: Stephen Phillips, (410) 786–4531.

SUPPLEMENTARY INFORMATION:

Availability of Copies and Electronic Access

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1800 or by faxing to (202) 512–2250. The cost for each copy is $8. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

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I. Background

Section 1886(d)(3)(E) of the Social Security Act (the Act) requires that, as part of the methodology for determining prospective payments to hospitals for inpatient operating costs, the Secretary must adjust standardized amounts ''for area differences in hospital wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage level.'' In addition, section 1886(d)(3)(E) of the Act requires that the hospital wage index be updated annually and that updates or adjustments to the hospital wage index be budget neutral.

In the July 31, 1998 **Federal Register** (63 FR 40966), we published hospital inpatient prospective payment rates and policies for Federal fiscal year (FY) 1999, including the hospital wage index. The FY 1999 wage index is based on data from Medicare cost reports for cost reporting periods beginning in FY 1995. These cost report data are submitted by hospitals and certified by hospitals. Before the calculation of the FY 1999 hospital wage index was published on July 31, 1998, we provided opportunities to hospitals to request wage data revisions and to verify wage data in HCFA's files. We established deadlines for requesting wage data revisions.

Notwithstanding these deadlines, numerous hospitals contacted us to request revisions to the data reflected in the FY 1999 hospital wage index. Many of these requests related to issues arising from hospitals' failure to properly report costs in the first place and failure to request revisions, or from hospitals' failure to verify the final wage data. However, it came to our attention that certain aspects of the development of the FY 1999 wage index may have led to some confusion among the hospital community.

In light of the totality of the circumstances, in the November 19, 1998 **Federal Register** (63 FR 64191), we provided hospitals with an additional opportunity to request limited types of revisions to the wage data used to calculate the FY 1999 hospital wage index.

II. Provisions of the November 19, 1998 Final Rule With Comment Period

A. Criteria for Requesting Revisions and Explanation of the Types of Revisions

We provided a window of opportunity, from November 19, 1998 until December 3, 1998, for hospitals to request revisions to their FY 1995 wage data, if they met one of the following criteria:

- The hospital's data on the May 1998 public use file is recorded as zero on Line 28 of Worksheet S–3, Part III (wage-related costs).
- The hospital's data on the May 1998 public use file is recorded as zero in either column 3 or 4 (but not both), with nonzero data in the other column, for Lines 2, 4, 6, or 33 of Worksheet S–3, Part III.
- The hospital properly requested a wage data revision by March 9, 1998, the fiscal intermediary approved a revision (as reflected in a revised Worksheet S–3), but the fiscal intermediary or HCFA made a data entry or tabulation error.

B. Rationale for Accepting Limited Types of Revisions

As we stated in the November 19, 1998 final rule with comment period (63 FR 64193), we provided for these limited revisions because of the totality of the circumstances, including—

- The number of hospitals contacting us about the same types of problems;
- The hardship that might result for a number of hospitals if we did not revise the wage data;
- The changes to the Medicare cost report, reflected for the first time in the FY 1999 wage index;
- The revised statutory timetable for publishing the proposed and final hospital inpatient prospective payment system rules, effective for the first time for FY 1999 (see section 4644 of the Balanced Budget Act of 1997); and
- The revised timetable for finalizing wage data (including the revised timetable for releasing the final public use wage data file and the revised timetable for requesting corrections of data entry and tabulation errors), applied for the first time in developing the FY 1999 wage index.

None of these factors, by itself, would be sufficient grounds for making a mid-year revision. For example, we believe we should not make a wage index revision merely because a single individual hospital might receive significantly lower payments as a result of its failure to properly report costs or its failure to properly request revisions and verify data. In deciding which types of revisions we would allow, we considered the factors above not only in combination with each other, but also in light of the previous opportunities we provided to hospitals to verify data and request revisions.

We evaluated the totality of the circumstances and decided it was appropriate to make limited types of revisions. As indicated above, we believe most problems with wage data arise because hospitals fail to properly report costs on the cost report, fail to properly request revisions, or fail to verify the data that the intermediary and HCFA are using to calculate the wage index. We believed that it was only necessary or appropriate to consider requests for revisions to the FY 1995 wage data from hospitals who met certain criteria. We noted in the November 19, 1998 final rule with comment period that, if we permitted hospitals to request any and all revisions, it would take longer for hospitals to receive revised wage index values for FY 1999.

Also, we emphasize that this final rule should not be construed as an acknowledgment that the development of the FY 1999 wage index, as reflected in the July 31, 1998 **Federal Register**, was in any way unfair or unreasonable. Moreover, it should not be construed as an acknowledgment that mid-year corrections may be appropriate in other contexts or in other years. Many of our policies reflect balancing the competing considerations of finality, accuracy, and certainty, and many aspects of developing payment rates and policies require the use of the best data available *at the time.* As stated above, we provided for limited wage data revisions for FY 1999 because of the totality of the circumstances in this context.

In addition to the requests for wage data revisions, the November 19, 1998 document provided a 30-day period for public comment, which ended on December 21, 1998. We received 150 requests from hospitals for wage data revisions. We also received 12 comments. The actions we took with regard to these requests and a discussion of the comments we received follow.

III. Provisions of the Final Rule

A. Implementation of Wage Index Revisions

We reviewed each of the wage data revision requests and the supporting documentation. If necessary, we contacted the hospital's fiscal intermediary for additional verification.

Of the 150 requests, we approved full wage data revisions for 101 hospitals. An additional seven hospitals were granted a partial revision. Requests from 35 hospitals did not meet the criteria for revision as stated in the November 19 final rule with comment period and, therefore, were denied. Of the remaining seven requests, we found that five of the requested wage data revisions were already reflected in the wage index published in the July 31, 1998 final rule. Two hospitals withdrew their requests; one determined there was no error in its data, and the other determined that it would not benefit from the requested revision.

For each hospital whose wage data were revised, we calculated a revised average hourly wage following the same methodology described in the July 31, 1998 final rule (63 FR 40972). We also calculated a revised national average hourly wage of $20.7771. (The national average hourly wage in the July 31, 1998 final rule was $20.7325.) As we noted in the November 19, 1998 final rule with comment period (63 FR 64193), revising the wage data for some hospitals affects the wage index for all hospitals, including hospitals that did not request revisions. This is because the hospital wage index measures relative wage levels across geographic areas, and reflects the average hourly wage in each labor market area as well as the national average hourly wage. Thus, since the revised national average hourly wage is different from that published in the July 31, 1998 final rule, we must calculate revised wage index values for all labor market areas. The wage index values for each labor market area were recalculated by dividing the area's average hourly wage by the revised national average hourly wage of $20.7771.

Payments to hospitals under the capital prospective payment system are adjusted for local cost variation based on the hospital wage index value that is applicable to the hospital (42 FR 413.316). The adjustment factor equals the hospital wage index applicable to the hospital raised to the .6848 power, and is applied to 100 percent of the Federal rate. Therefore, because hospitals' wage index values are revised as a result of this final rule, the capital geographic adjustment factor (GAF) is also revised.

For hospitals that have received an adjustment to their wage data under this window of opportunity, the revised average hourly wages are set forth in Table 3C of this document. Tables 4A through 4C show the new wage index values and GAFs applicable for all hospitals effective for discharges occurring on or after March 1, 1999. Table 4D and 4E show the revised Metropolitan Statistical Area (MSA) average hourly wages. Table 4F shows the revised Puerto Rico specific wage index values and GAFs.

B. Comments and Responses

We received 12 comments in response to our November 19, 1998 final rule with comment period. Several comments we received concerned the treatment of the wage data for specific hospitals. These comments were submitted on behalf of hospitals located in the same labor market area as a hospital that filed a revision request and supported that hospital's request for a wage data revision. Other commenters were critical of the policy set forth in the November 19, 1998 final rule with comment.

Comment: Several commenters wrote to oppose our policy to apply the revisions to the wage indexes prospectively. These commenters believe that we are unfairly penalizing hospitals who qualified for a revision by not making the changes effective retroactively. The commenters referred to the negative financial impact upon affected hospitals from this prospective only policy.

Response: It has been our longstanding policy to make revisions to the wage index only on a prospective basis. (See, for example, 60 FR 45795 (September 1, 1995), 54 FR 36478 (September 1, 1989), 53 FR 38496 (September 30, 1988), and 49 FR 258 (January 1, 1984).) We believe it is consistent with the principles of the prospective payment system to implement these changes in such a way that they do not affect payments already made to hospitals. Applying changes to the wage index retroactively would violate the prospective nature of the system. We note that we could have decided not to permit mid-year revisions at all.

Comment: We received two comments requesting that we remove from the wage data file the wage data for two hospitals that are now closed. The commenters are concerned that because the hospitals are closed, they could not have requested wage data revisions during the usual wage index process.

Response: This comment does not address the provisions of the November 19, 1998 final rule with comment period. Nevertheless, we note that we responded to a similar comment in the September 1, 1994 **Federal Register** (59 FR 45353). As we explained in that document, we believe it is appropriate to include the data of a hospital that has closed but was in operation during the data collection period, because the hospital's data reflects conditions occurring in the labor market area during the period. However, we do remove wage data for a closed hospital if the data appear to be aberrant based on our edits and we are not able to verify the accuracy of those data because the documentation is unavailable due to the hospital's closure. Regarding the two hospitals specifically addressed by the commenters, we did not remove their data from the FY 1999 wage index because the data did not appear to be aberrant.

Comment: One commenter, writing on behalf of a hospital, believes that we should add another category of revisions to the limited types of revisions permitted under the November 19, 1998 final rule with comment period. Specifically, the commenter believes that we should allow its hospital and ''all other similarly situated hospitals'' to revise wage data ''to include compensation costs for physicians under contract.'' The commenter argues that, because we previously excluded contract physician costs as well as physician compensation costs incurred by related medical schools, it was ''futile for hospitals to report those costs on the S–3.'' The commenter also suggests that we failed to give hospitals ''timely notice'' that the cost data at issue were ''relevant.'' The commenter further argues that there is ''no rational basis'' for distinguishing the commenter's situation from those addressed in the November 19 final rule with comment period, and that it would be arbitrary and capricious for us not to permit the revision it seeks. To support these conclusions, the commenter asserts that two of the reasons for providing mid-year revisions apply equally to this situation.

Response: We do not agree that we should expand our criteria to permit mid-year revisions to address situations in which hospitals failed to report contract physician part A costs or the costs of physicians employed by the home office or a related organization. The commenter's analysis reflects a fundamental misunderstanding about the wage data reporting process and about the considerations underlying our decision to permit certain types of mid-year revisions.

The commenter argues that, because we did not include contract physician costs or physician compensation costs incurred by related medical schools in the wage index calculation for previous fiscal years, ''it was futile for hospitals to report those costs on the S–3.'' Citing statements in the September 1, 1994 final rule concerning the wage index calculation, the commenter also states it would have been ''fruitless'' to report the costs at issue.

Contrary to the reasoning of the commenter, a hospital's obligation to properly report wage costs is not limited to those costs that the hospital believes will be included in the wage index for a given fiscal year. It is inappropriate for a hospital to engage in selective reporting; that is, it is inappropriate for a hospital to report some costs properly and other costs improperly depending on whether the hospital believes that a particular cost will or will not be included in the wage index. Hospitals are *always* required to properly report *all* costs.

It is important to distinguish between wage data reporting issues and wage index methodology issues. The Medicare statute requires annual updates to the hospital wage index. Hospitals know or should know that each year we might propose and implement changes to the categories of wage costs that we include in the wage index. Thus, proper reporting of all categories of wage data is always ''relevant.''

Significantly, the commenter acknowledged that the inclusion of contract physician part A costs reflects ''good policy reasons.'' Thus, the commenter does not object to our policy of including the costs at issue in the wage index calculation; instead, the commenter complains because the hospital believed we would not implement this ''better policy'' and thus the hospital did not properly report the costs. To the extent the commenter had questions about how to report the costs at issue, we note (as we did in the July 31, 1998 final rule) that the cost report instructions at section 2806.3 of the Provider Reimbursement Manual, Part II, instruct hospitals to include the costs of physician part A services from related organizations or the home office on Line 33 of Worksheet S–3.

Thus, we believe that the commenter is wrong to the extent it argues that it is reasonable for a hospital not to properly report wage costs because we had previously excluded the costs from the wage index calculation or because the hospital believed that we would not include the costs in the future. Similarly, the hospital is wrong to the extent it suggests that it did not have ''timely notice'' that the cost at issues would be ''relevant.'' As the discussion above reflects, proper reporting of costs is always relevant and important, and hospitals are on notice that each year we might propose and implement changes to the wage index methodology. In fact, we have addressed the issue of contract physician costs in particular in several previous **Federal Register** documents, so hospitals were on notice that we might revise the wage index methodology to address these costs. Thus, we believe it was not reasonable for the hospital to improperly report the costs at issue.

Moreover, in the November 19, 1998 final rule with comment period, we emphasized that our decision to permit limited types of mid-year revisions reflected the ''totality of the circumstances,'' and reflected a number of factors in combination with each other. With respect to the situation presented by the commenter, we believe that the totality of the circumstances and consideration of all the factors does not dictate adding another category of revisions.

The commenter argues, among other things, that adding this criterion is consistent with two of the factors underlying the final rule with comment period: the hardship that a number of hospitals will incur if data is not corrected and the changes to the Medicare cost report that were reflected for the first time in the FY 1999 wage index. The commenter does not mention another important factor that we cited: the number of hospitals contacting us about the same type of problem. At the time we developed the November 19, 1998 final rule with comment period, we had no reason to believe that there might be widespread problems in the reporting of the costs at issue; even as of today, we have received very few complaints about this issue. The commenter asserts that omission of physician compensation data should have been ''apparent'' to both intermediaries and HCFA. However, something that might be ''apparent'' on close examination might not be apparent in the context of developing a wage index that takes place under extremely tight timelines and involves data for thousands of hospitals. Moreover, the absence of contract physician costs on a hospital's cost report, by itself, does not on its face necessarily indicate a problem with the data.

We decided to permit mid-year revisions because certain issues came to

our attention shortly after publication of the July 31 final rule. We considered the totality of the circumstances, and decided to permit certain types of mid-year revisions based on the information available *at the time we developed the November 19, 1998 final rule with comment period.* We believe it would be inappropriate and impractical to add another category of revisions at this point. If we added another category now, we would have to provide another window of opportunity for all other similarly situated hospitals to submit requests and supporting documentation; we would then have to evaluate the requests, calculate revised wage indexes and, if necessary, calculate revised standardized amounts (which would affect payments to all hospitals). In light of all the factors, we believe that at this point in the fiscal year the interests of finality take precedence over any increased accuracy that might result from providing another window of opportunity for revisions. Therefore, we are not adopting the commenter's suggestion to add another category of revisions.

IV. Other Related Issues

A. Budget Neutrality and Adjustment to Standardized Amounts

Under section 1886(d)(3)(E) of the Act, ''adjustments or updates'' to the hospital wage index for a fiscal year ''shall be made in a manner that assures that aggregate payments * * * in the fiscal year are not greater than or less than those that would have been made in the year without such adjustment.'' Accordingly, to the extent that changes to the hospital wage index affect aggregate payments, we are revising the budget neutrality adjustments to the standardized amounts so that aggregate payments ''are not greater than or less than those that would have been made in the year without adjustment.'' The budget neutrality factors and the adjustments to the standardized amounts described here are effective for discharges occurring on or after March 1, 1999.

The budget neutrality factor for changes to the wage index and DRG reclassification and recalibration is revised from 0.999006 in the July 31, 1998 final rule (63 FR 41007) to 0.998978. Because of the payment interaction between wage index changes and the diagnosis-related groups (DRGs), the budget neutrality factor applied to the Puerto Rico standardized amounts changes slightly, from 0.998912 to 0.998915.

Also, § 412.308(c)(4)(ii) requires that the Federal capital rate be adjusted so that any changes resulting from the annual DRG reclassification and recalibration and changes in the GAF are budget neutral. As stated in the July 31, 1998 final rule (63 FR 41014), the incremental change in the national GAF/DRG budget neutrality factor from FY 1998 to FY 1999 applied to the standard Federal capital payment rate was 1.0027. The cumulative change in the rate due to this adjustment was 1.0028. These factors are applicable for all discharges occurring on or after October 1, 1998 and before March 1, 1999. For discharges occurring on or after March 1, 1999, the incremental change applicable to the national GAF/DRG budget neutrality factor is 1.0028, and the cumulative factor is 1.0029. The factors for Puerto Rico (incremental and cumulative) are unchanged, thus the Puerto Rico rate will remain unchanged. The hospital-specific rates will also not be affected by these changes since it is not based on the GAF/DRG budget neutrality adjustment.

The revised operating standardized amounts and capital rates are set forth in Tables 1A and 1C through 1F.

B. The Relationship Between Wage Revisions and the MGCRB Process

Under section 1886(d)(10) of the Act, the Medicare Geographic Classification Review Board (MGCRB) considers applications by hospitals to be reclassified to another geographic area for purposes of the wage index. We stated in the November 19, 1998 final rule with comment period that, for purposes of evaluating a hospital's application for reclassification for FY 2000, the MGCRB will use hospitals' average hourly wages incorporating all of the revisions made at the time the MGCRB rules on the hospital's application.

V. Waiver of 30-Day Delay in the Effective Date

We ordinarily provide a delay of 30 days in the effective date of a final rule. However, if adherence to this procedure would be impracticable, unnecessary, or contrary to the public interest, we may waive the delay in the effective date. As discussed above, we provided this process for mid-year revisions because of the totality of the circumstances arising this year. These circumstances include the number of hospitals contacting us about the same types of wage data problems (reflecting apparent confusion about certain aspects of the development of the FY 1999 wage index) and the hardship that might result if we did not revise the wage data for these hospitals. If we delayed the implementation of the revised wage index in order to comply with the 30-day delay requirement, we would diminish the extent to which we address the potential hardship that might result for certain hospitals. Therefore, we find good cause to waive the 30-day delay in the effective date. Thus, the changes set forth in this final rule will be effective for discharges occurring on or after March 1, 1999. This is the earliest possible effective date given our need to revise and distribute the PRICER software reflecting these changes.

VI. Regulatory Impact Statement

We have examined the impacts of this final rule as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Public Law 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $5 million or less annually. For purposes of the RFA, all hospitals are considered to be small entities.

Section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a MSA and has fewer than 50 beds.

In the November 19, 1998 **Federal Register**, we indicated that the final rule with comment period rule was major rule as defined in Title 5, United States Code, section 804(2). However, we stated that the actual impact of that rule could not be determined prior to reviewing the revision requests. Based upon our analysis of the redistributive impacts of the revision to the wage index values and GAFs described below, we have now determined this is not a major rule under that section. That is, the total impact of payments redistributed from hospitals whose payments increased to those whose payments decreased does not exceed $100 million.

A. Impact of This Final Rule

As we noted above, we received a total of 150 requests for wage data revisions, of which 108 were approved. Table A displays the impacts of these changes on the MSAs for the hospitals receiving revisions. The first column displays the MSA number, the second the MSA name (or State name in the case of rural areas). The third column is the area wage index value published in the July 31, 1998 final rule (63 FR 41052), that is effective for discharges occurring on or after October 1, 1998 and before March 1, 1999. The fourth column is the wage index value from Table 4A of this final rule that is effective for discharges occurring on or after March 1, 1999. The fifth column is the percentage change in the area wage index value.

Despite the fact that these changes generally increased both the hospital's and its area's average hourly wage, several areas in which hospitals had data revisions will experience a decrease in their wage index value from that published in the July 31, 1998 final rule. This occurs because the resulting change in the area average hourly wage was less (in percentage terms) than the change in the national average hourly wage (which increased by 0.2 percent). In addition, one MSA, Beaumont-Port Arthur, Texas, has a decrease in its wage index value because its average hourly wage decreased as a result of the revision to its wage data.

Nonetheless, most labor market areas in Table A have increases in their wage index values as a result of the wage data revisions. The largest increases are in Yolo, California (5.6 percent increase), and Mayaguez, Puerto Rico (5.1 percent increase). The actual increase in payments for hospitals in these areas will be slightly less because only the labor-related portion of the standardized amount is adjusted by the wage index (just over 71 percent of the standardized amount).

TABLE A.—WAGE INDEX FOR MSAS WITH REVISED AREA AVERAGE HOURLY WAGES

MSA No.	MSA name	Wage index		Percent change
		October 1, 1998	March 1, 1999	
01	RURAL ALABAMA	0.7338	0.7326	−0.16
05	RURAL CALIFORNIA	0.9959	0.9979	0.20
17	RURAL KANSAS	0.7330	0.7319	−0.15
32	RURAL NEW MEXICO	0.8136	0.8269	1.64
45	RURAL TEXAS	0.7441	0.7565	1.67
49	RURAL VIRGINIA	0.7863	0.7857	−0.08
0320	AMARILLO, TX	0.8509	0.8517	0.09
0640	AUSTIN-SAN MARCOS, TX	0.8442	0.8782	4.03
0680	BAKERSFIELD, CA	0.9959	0.9979	0.20
0840	BEAUMONT-PORT ARTHUR, TX	0.9071	0.8659	−4.54
1123	BOSTON-WORCESTER-LAWRENCE-LOWELL-BROCKTON, MA-NH	1.1307	1.1288	−0.17
1145	BRAZORIA, TX	0.8925	0.8928	0.03
1320	CANTON-MASSILLON, OH	0.8827	0.8813	−0.16
1520	CHARLOTTE-GASTONIA-ROCK HILL, NC-SC	0.9562	0.9686	1.30
1600	CHICAGO, IL	1.0469	1.0461	−0.08
1920	DALLAS, TX	0.9364	0.9348	−0.17
2000	DAYTON-SPRINGFIELD, OH	0.9584	0.9605	0.22
2080	DENVER, CO	1.0059	1.0334	2.73
2340	ENID, OK	0.7969	0.7983	0.18
2520	FARGO-MOORHEAD, ND-MN	0.9537	0.9520	−0.18
2670	FORT COLLINS-LOVELAND, CO	1.0319	1.0770	4.37
2700	FORT MYERS-CAPE CORAL, FL	0.8936	0.8942	0.07
2800	FORT WORTH-ARLINGTON, TX	0.9729	0.9727	−0.02
2840	FRESNO, CA	1.0409	1.0700	2.80
2920	GALVESTON-TEXAS CITY, TX	1.0848	1.0894	0.42
2995	GRAND JUNCTION, CO	0.9099	0.9116	0.19
3360	HOUSTON, TX	0.9904	0.9889	−0.15
4080	LAREDO, TX	0.7441	0.7565	1.67
4480	LOS ANGELES-LONG BEACH, CA	1.2070	1.2116	0.38
4680	MACON, GA	0.8629	0.8980	4.07
4840	MAYAGUEZ, PR	0.4188	0.4401	5.09
4880	MCALLEN-EDINBURG-MISSION, TX	0.8506	0.8893	4.55
4920	MEMPHIS, TN-AR-MS	0.8371	0.8361	−0.12
5080	MILWAUKEE-WAUKESHA, WI	0.9135	0.9356	2.42
5380	NASSAU-SUFFOLK, NY	1.3579	1.3593	0.10
5600	NEW YORK-NEWARK, NY-NJ-PA	1.4431	1.4461	0.21
5640	NEWARK, NJ	1.0895	1.0914	0.17
5720	NORFOLK-VIRGINIA BEACH-NEWPORT NEWS, VA-NC	0.8214	0.8275	0.74
5945	ORANGE COUNTY, CA	1.1472	1.1468	−0.04
6160	PHILADELPHIA, PA-NJ	1.1382	1.1370	−0.11
6780	RIVERSIDE-SAN BERNADINO, CA	1.0141	1.0585	4.38
6920	SACRAMENTO, CA	1.1864	1.1962	0.83
7160	SALT LAKE CITY-OGDEN, UT	0.9400	0.9420	0.21
7360	SAN FRANCISCO, CA	1.3507	1.3563	0.42
7460	SAN LUIS OBISPO-ATASCADERO-PASO ROBLES, CA	1.0739	1.1264	4.89
7490	SANTA FE, NM	0.9623	0.9652	0.30
7680	SHREVEPORT-BOSSIER CITY, LA	0.9400	0.9386	−0.15
8720	VALLEJO-FARIFIELD-NAPA, CA	1.2845	1.3311	3.63
8735	VENTURA, CA	1.0715	1.0764	0.46

TABLE A.—WAGE INDEX FOR MSAS WITH REVISED AREA AVERAGE HOURLY WAGES—Continued

MSA No.	MSA name	Wage index		Percent change
		October 1, 1998	March 1, 1999	
8840	WASHINGTON, DC-MD-VA-WV	1.0812	1.0807	−0.05
9270	YOLO, CA	1.0636	1.1233	5.61

All other labor market areas' wage index values decrease slightly. This is because, as noted above, the changes slightly increase the national average hourly wage from $20.7325 to $20.7771. Therefore, for areas in which no hospital's average hourly wage was revised, the area's wage index value decreases slightly because the area's unchanged average hourly wage is compared to the higher national average hourly wage. The revision to the wage index is applied only to the labor-related portion of the standardized amount.

Table B displays the payment impacts for all hospitals. Specifically, this table compares simulated payments for hospitals using the wage index and standardized amounts effective with discharges occurring on or after October 1, 1998 (see the July 31, 1998 final rule) to simulated payments using the wage index and standardized amounts published in this final rule. The hospital categories in the table are identical to those published in the July 31, 1998 final rule (63 FR 41106). Also, the simulation methodology here is identical to the methodology described in that final rule. The overall impact is a 0.0 percent change in payments across all hospitals, even though the average payment per case changes slightly ($1 per case decrease). Because a $1 per case change in payments is less than 0.1 percent of total payments, this rounds to 0.0.

The percentage changes across hospital groups are minimal. For the most part, hospitals receiving revisions are not concentrated in any particular category; therefore, the impacts are not predictable. Approximately two-thirds of the wage data revisions approved were for urban hospitals. This is reflected in the fact that urban hospitals experience no payment change overall, while rural hospitals experience a 0.1 percent decrease. Examining urban and rural census divisions, most categories experience either no change or a 0.1 percent decrease in payments. For urban hospitals in the Pacific and Mountain census divisions, payments rise by 0.3 percent and 0.2 percent, respectively. The largest increase among all categories is for urban hospitals with fewer than 100 beds that also receive the disproportionate share adjustment. Payments for this group increase by 0.4 percent.

Because the capital geographic adjustment factors are based upon the wage indexes, similar impacts will be experienced in capital payments. In addition, to the extent the Medicare payment methodologies for other provider types (for example, skilled nursing facilities, home health agencies, and ambulatory surgical centers) use the hospital wage index, their payments will likewise be affected. Impacts to these providers will not be experienced as soon as inpatient hospitals because these providers' payment rates are updated on different schedules than inpatient hospital prospective payment rates. Skilled nursing facilities' payments will be updated using the revised FY 1999 hospital wage index beginning July 1, 1999. Other provider types' will employ the revised FY 1999 hospital wage index wage index after the end of the current fiscal year.

TABLE B.—IMPACT ANALYSIS OF WAGE DATA REVISIONS FOR FY 1999 OPERATING PROSPECTIVE PAYMENT SYSTEM (PAYMENTS PER CASE)

	Number of hospitals	Average payment per case (for FY 1999 discharges occuring before March 1,1999)	Average payment per case (for FY 1999 discharges occuring after March 1, 1999)	All changes
	(1)	(2)[1]	(3)[1]	(4)
(BY GEOGRAPHIC LOCATION):				
ALL HOSPITALS	4,975	6,707	6,706	0.0
URBAN HOSPITALS	2,810	7,246	7,246	0.0
LARGE URBAN AREAS	1,611	7,758	7,761	0.0
OTHER URBAN AREAS	1,199	6,544	6,540	−0.1
RURAL AREAS	2,165	4,517	4,514	−0.1
BED SIZE (URBAN):				
0–99 BEDS	704	4,889	4,894	0.1
100–199 BEDS	937	6,056	6,057	0.0
200–299 BEDS	568	6,851	6,851	0.0
300–499 BEDS	449	7,738	7,737	0.0
500 OR MORE BEDS	152	9,592	9,592	0.0
BED SIZE (RURAL):				
0–49 BEDS	1,137	3,701	3,700	0.0
50–99 BEDS	634	4,207	4,205	−0.1
100–149 BEDS	229	4,662	4,658	−0.1
150–199 BEDS	91	4,894	4,890	−0.1
200 OR MORE BEDS	74	5,704	5,698	−0.1
URBAN BY CENSUS DIVISION:				

TABLE B.—IMPACT ANALYSIS OF WAGE DATA REVISIONS FOR FY 1999 OPERATING PROSPECTIVE PAYMENT SYSTEM (PAYMENTS PER CASE)—Continued

	Number of hospitals	Average payment per case (for FY 1999 discharges occuring before March 1,1999)	Average payment per case (for FY 1999 discharges occuring after March 1, 1999)	All changes
	(1)	(2)[1]	(3)[1]	(4)
NEW ENGLAND	152	7,682	7,673	−0.1
MIDDLE ATLANTIC	425	8,107	8,106	0.0
SOUTH ATLANTIC	414	6,948	6,946	0.0
EAST NORTH CENTRAL	476	6,873	6,871	0.0
EAST SOUTH CENTRAL	162	6,524	6,516	−0.1
WEST NORTH CENTRAL	189	6,996	6,986	−0.1
WEST SOUTH CENTRAL	354	6,720	6,719	0.0
MOUNTAIN	129	6,971	6,982	0.2
PACIFIC	461	8,245	8,267	0.3
PUERTO RICO	48	3,056	3,058	0.1
RURAL BY CENSUS DIVISION:				
NEW ENGLAND	53	5,287	5,282	−0.1
MIDDLE ATLANTIC	80	4,881	4,876	−0.1
SOUTH ATLANTIC	286	4,694	4,690	−0.1
EAST NORTH CENTRAL	285	4,553	4,548	−0.1
EAST SOUTH CENTRAL	269	4,235	4,230	−0.1
WEST NORTH CENTRAL	500	4,236	4,232	−0.1
WEST SOUTH CENTRAL	342	4,017	4,021	0.1
MOUNTAIN	204	4,779	4,778	0.0
PACIFIC	141	5,643	5,640	−0.1
PUERTO RICO	5	2,370	2,366	−0.2
(BY PAYMENT CATEGORIES):				
URBAN HOSPITALS	2,894	7,207	7,207	0.0
LARGE URBAN AREAS	1,698	7,670	7,673	0.0
OTHER URBAN AREAS	1,196	6,530	6,526	−0.1
RURAL AREAS	2,081	4,494	4,491	−0.1
TEACHING STATUS:				
NON-TEACHING	3,880	5,450	5,450	0.0
FEWER THAN 100 RESIDENTS	854	7,145	7,144	0.0
100 OR MORE RESIDENTS	241	10,755	10,753	0.0
DISPROPORTIONATE SHARE HOSPITALS (DSH):				
NON-DSH	3,089	5,799	5,798	0.0
URBAN DSH:				
100 BEDS OR MORE	1,404	7,843	7,844	0.0
FEWER THAN 100 BEDS	88	5,007	5,028	0.4
RURAL DSH:				
SOLE COMMUNITY (SCH)	162	4,249	4,247	0.0
REFERRAL CENTERS (RRC)	53	5,428	5,422	−0.1
OTHER RURAL DSH HOSP:				
100 BEDS OR MORE	60	4,162	4,157	−0.1
FEWER THAN 100 BEDS	119	3,600	3,596	−0.1
URBAN TEACHING AND DSH:				
BOTH TEACHING AND DSH	709	8,828	8,827	0.0
TEACHING AND NO DSH	331	7,291	7,289	0.0
NO TEACHING AND DSH	783	6,271	6,275	0.1
NO TEACHING AND NO DSH	1,071	5,612	5,611	0.0
SPECIAL UPDATE HOSPITALS (UNDER SEC. 4401(b) OF PUBLIC LAW 105–33	344	5,236	5,232	−0.1
RURAL HOSPITAL TYPES:				
NONSPECIAL STATUS HOSPITALS	888	3,947	3,944	−0.1
RRC	145	5,286	5,279	−0.1
SCH	637	4,501	4,501	0.0
MDH	352	3,753	3,751	0.0
SCH AND RRC	59	5,402	5,399	−0.1
TYPE OF OWNERSHIP:				
VOLUNTARY	2,858	6,884	6,883	0.0
PROPRIETARY	671	6,096	6,097	0.0
GOVERNMENT	1,331	6,209	6,209	0.0
UNKNOWN	115	7,811	7,819	0.1
MEDICARE UTILIZATION AS A PERCENT OF INPATIENT DAYS:				
0–25	247	8,754	8,772	0.2
25–50	1,264	8,127	8,130	0.0
50–65	1,978	6,134	6,130	−0.1

TABLE B.—IMPACT ANALYSIS OF WAGE DATA REVISIONS FOR FY 1999 OPERATING PROSPECTIVE PAYMENT SYSTEM (PAYMENTS PER CASE)—Continued

	Number of hospitals (1)	Average payment per case (for FY 1999 discharges occuring before March 1,1999) (2)[1]	Average payment per case (for FY 1999 discharges occuring after March 1, 1999) (3)[1]	All changes (4)
OVER 65	1,371	5,241	5,238	−0.1
UNKNOWN	115	7,811	7,819	0.1
HOSPITALS RECLASSIFIED BY THE MEDICARE GEOGRAPHIC REVIEW BOARD:				
RECLASSIFICATION STATUS DURING FY98 AND FY99:				
RECLASSIFIED DURING:				
BOTH FY98 AND FY99	315	5,944	5,942	0.0
URBAN	72	7,302	7,306	0.0
RURAL	243	5,254	5,250	−0.1
RECLASSIFIED DURING:				
FY99 ONLY	170	5,427	5,422	−0.1
URBAN	15	8,207	8,203	0.0
RURAL	155	4,960	4,955	−0.1
RECLASSIFIED DURING:				
FY98 ONLY	126	6,084	6,079	−0.1
URBAN	53	7,011	7,005	−0.1
RURAL	73	4,188	4,186	−0.1
FY 99 RECLASSIFICATIONS:				
ALL RECLASSIFIED HOSP	485	5,763	5,760	−0.1
STAND. AMT. ONLY	94	5,899	5,893	−0.1
WAGE INDEX ONLY	281	5,935	5,935	0.0
BOTH	47	6,264	6,259	−0.1
NONRECLASS.	4,526	6,786	6,786	0.0
ALL URBAN RECLASSIFIED	87	7,472	7,474	0.0
STAND. AMT. ONLY	26	5,635	5,628	−0.1
WAGE INDEX ONLY	40	8,872	8,884	0.1
BOTH	21	6,725	6,718	−0.1
NONRECLASSIFIED	2,696	7,249	7,249	0.0
ALL RURAL RECLASSIFIED	398	5,134	5,129	−0.1
STAND. AMT. ONLY	55	4,494	4,491	−0.1
WAGE INDEX ONLY	314	5,194	5,188	−0.1
BOTH	29	5,231	5,230	0.0
NONRECLASSIFIED	1,767	4,127	4,124	−0.1
OTHER RECLASSIFIED HOSPITALS (SECTION 1886(d)(8)(B))	27	4,714	4,716	0.0

[1] These payment amounts per case do not reflect any estimates of annual case-mix increase.

VII. Tables

This section contains the tables referred to in the preamble to this final rule. These tables, which apply to discharges occurring on or after March 1, 1999 replace or update those published in the July 31, 1998 final rule that are effective for discharges occurring on or after October 1, 1998 and before March 1, 1999.

TABLE 1A.—NATIONAL ADJUSTED OPERATING STANDARDIZED AMOUNTS, LABOR/NONLABOR

Large urban areas		other areas	
Labor-related	Nonlabor-related	Labor-related	Nonlabor-related
2,783.34	1,131.34	2,739.28	1,113.44

TABLE 1C.—ADJUSTED OPERATING STANDARDIZED AMOUNTS FOR PUERTO RICO, LABOR/NONLABOR

	Large urban areas		Other areas	
	Labor	Nonlabor	Labor	Nonlabor
National	2,759.94	1,121.83	2,759.94	1,121.83
Puerto Rico	1,327.81	534.48	1,306.79	526.02

TABLE 1D.—CAPITAL STANDARD FEDERAL PAYMENT RATE

	Rate
National	378.10
Puerto Rico	181.10

TABLE 1E.—NATIONAL ADJUSTED OPERATING STANDARDIZED AMOUNTS FOR ''TEMPORARY RELIEF'' HOSPITALS, LABOR/NONLABOR

Large urban areas		Other areas	
Labor-related	Nonlabor-related	Labor-related	Nonlabor-related
2,791.65	1,134.72	2,747.46	1,116.76

TABLE 1F.—ADJUSTED OPERATING STANDARDIZED AMOUNTS FOR ''TEMPORARY RELIEF'' HOSPITALS, IN PUERTO RICO, LABOR/NONLABOR

	Large urban areas		Other areas	
	Labor	Nonlabor	Labor	Nonlabor
National	2,768.18	1,125.18	2,768.18	1,125.18
Puerto Rico	1,331.77	536.08	1,310.69	527.59

TABLE 3C.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 1999: WAGE INDEX FOR HOSPITALS WITH WAGE DATA REVISIONS

Provider	Average hourly wage
010120	16.27
050060	21.10
050088	25.57
050129	15.62
050152	28.62
050177	20.30
050299	23.85
050327	22.33
050352	23.58
050382	28.37
050390	19.91
050410	15.01
050419	19.93
050421	25.00
050438	21.35
050455	20.80
050485	23.81
050537	22.00
050578	30.66
050590	24.48
050592	21.53
050667	28.01
050684	20.34
050694	20.81
060011	22.10
060030	22.48
060063	14.88
100012	16.74
100124	18.02
110107	18.54
140103	15.98
140208	24.68
170019	16.42
170045	16.16
170049	18.45
190041	20.28
220049	21.15
250044	15.41
310063	21.57
320002	19.62
320003	15.94

TABLE 3C.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 1999: WAGE INDEX FOR HOSPITALS WITH WAGE DATA REVISIONS—Continued

Provider	Average hourly wage
320004	17.43
320035	27.42
330043	26.81
330121	15.35
330158	26.25
330162	27.00
330221	29.07
330259	23.47
330270	31.95
330309	24.40
330316	28.86
330338	20.97
330395	33.45
340001	21.44
340068	16.62
350004	18.34
360051	23.40
360100	17.85
370026	16.66
390083	21.74
390136	15.10
400014	9.30
410009	23.51
440147	17.64
440183	20.71
440208	17.90
450055	14.45
450078	12.49
450085	16.22
450092	14.96
450096	16.91
450124	21.71
450128	15.63
450144	16.52
450148	22.61
450151	15.21
450155	17.86
450157	15.26
450176	16.13
450181	14.80
450190	27.69
450200	18.00
450236	14.92
450243	12.16
450246	20.36
450264	17.74
450369	14.48
450370	11.23
450399	13.77
450424	16.39
450475	16.42
450534	18.86
450654	12.84
450723	18.89
450807	12.89
460042	17.45
460047	19.91
490017	16.47
490019	16.46
490043	23.23
490079	16.03
500001	21.87
520102	20.07
520138	19.07
520140	19.69

TABLE 4A.—Wage Index and Capital Geographic Adjustment Factor (GAF) for Urban Areas

	Urban area (constituent counties)	Wage index	GAF
0040 ..	Abilene, TX, Taylor, TX	0.8066	0.8631
0060 ..	Aguadilla, PR, Aguada, PR, Aguadilla, PR Moca, PR	0.4727	0.5986
0080 ..	Akron, OH, Portage, OH, Summit, OH	0.9933	0.9954
0120 ..	Albany, GA, Dougherty, GA, Lee, GA	0.7975	0.8565
0160 ..	Albany-Schenectady-Troy, NY, Albany, NY, Montgomery, NY, Rensselaer, NY, Saratoga, NY, Schenectady, NY Schoharie, NY.	0.8610	0.9026
0200 ..	Albuquerque, NM, Bernalillo, NM, Sandoval, NM, Valencia, NM	0.8613	0.9028
0220 ..	Alexandria, LA Rapides, LA	0.8526	0.8966
0240 ..	Allentown-Bethlehem-Easton, PA, Carbon, PA, Lehigh, PA, Northampton, PA	1.0204	1.0139
0280 ..	Altoona, PA, Blair, PA	0.9335	0.9540
0320 ..	Amarillo, TX, Potter, TX, Randall, TX	0.8517	0.8959
0380 ..	Anchorage, AK, Anchorage, AK	1.2979	1.1955
0440 ..	Ann Arbor, MI, Lenawee, MI, Livingston, MI, Washtenaw, MI	1.1033	1.0696
0450 ..	Anniston, AL, Calhoun, AL	0.8658	0.9060
0460 ..	Appleton-Oshkosh-Neenah, WI, Calumet, WI, Outagamie, WI, Winnebago, WI	0.8825	0.9180
0470 ..	Arecibo, PR, Arecibo, PR, Camuy, PR, Hatillo, PR	0.4867	0.6107
0480 ..	Asheville, NC, Buncombe, NC, Madison, NC	0.8940	0.9261
0500 ..	Athens, GA, Clarke, GA, Madison, GA, Oconee, GA	0.8673	0.9071
0520 ..	Atlanta, GA,[1] Barrow, GA, Bartow, GA, Carroll, GA, Cherokee, GA, Clayton, GA, Cobb, GA, Coweta, GA, DeKalb, GA, Douglas, GA, Fayette, GA, Forsyth, GA, Fulton, GA, Gwinnett, GA, Henry, GA, Newton, GA, Paulding, GA, Pickens, GA, Rockdale, GA, Spalding, GA, Walton, GA.	0.9915	0.9942
0560 ..	Atlantic-Cape May, NJ, Atlantic, NJ, Cape May, NJ	1.0355	1.0242
0600 ..	Augusta-Aiken, GA-SC, Columbia, GA, McDuffie, GA, Richmond, GA, Aiken, SC, Edgefield, SC	0.9233	0.9468
0640 ..	Austin-San Marcos, TX,[1] Bastrop, TX, Caldwell, TX, Hays, TX, Travis, TX, Williamson, TX	0.8782	0.9149
0680 ..	Bakersfield,[2] CA, Kern, CA	0.9979	0.9986
0720 ..	Baltimore, MD,[1] Anne Arundel, MD, Baltimore, MD, Baltimore City, MD, Carroll, MD, Harford, MD, Howard, MD, Queen Anne's, MD.	0.9642	0.9753
0733 ..	Bangor, ME, Penobscot, ME	0.9474	0.9637
0743 ..	Barnstable-Yarmouth, MA, Barnstable, MA	1.5382	1.3430
0760 ..	Baton Rouge, LA, Ascension, LA, East Baton Rouge, LA, Livingston, LA, West Baton Rouge, LA	0.8872	0.9213
0840 ..	Beaumont-Port Arthur, TX, Hardin, TX, Jefferson, TX, Orange, TX	0.8659	0.9061
0860 ..	Bellingham, WA, Whatcom, WA	1.1434	1.0961
0870 ..	Benton Harbor, MI,[2] Berrien, MI	0.8884	0.9222
0875 ..	Bergen-Passaic, NJ,[1] Bergen, NJ, Passaic, NJ	1.1749	1.1167
0880 ..	Billings, MT, Yellowstone, MT	0.9143	0.9405
0920 ..	Biloxi-Gulfport-Pascagoula, MS, Hancock, MS, Harrison, MS, Jackson, MS	0.8276	0.8785
0960 ..	Binghamton, NY, Broome, NY, Tioga, NY	0.9059	0.9346
1000 ..	Birmingham, AL, Blount, AL, Jefferson, AL, St. Clair, AL, Shelby, AL	0.9073	0.9356
1010 ..	Bismarck, ND, Burleigh, ND, Morton, ND	0.8025	0.8601
1020 ..	Bloomington, IN, Monroe, IN	0.8965	0.9279
1040 ..	Bloomington-Normal, IL, McLean, IL	0.8851	0.9198
1080 ..	Boise City, ID, Ada, ID, Canyon, ID	0.9190	0.9438
1123 ..	Boston-Worcester-Lawrence-Lowell-Brockton, MA-NH,[1] Bristol, MA Essex, MA, Middlesex, MA, Norfolk, MA, Plymouth, MA, Suffolk, MA, Worcester, MA, Hillsborough, NH, Merrimack, NH, Rockingham, NH, Strafford, NH.	1.1288	1.0865
1125 ..	Boulder-Longmont, CO, Boulder, CO	1.0038	1.0026
1145 ..	Brazoria, TX, Brazoria, TX	0.8928	0.9253
1150 ..	Bremerton, WA, Kitsap, WA	1.1055	1.0711
1240 ..	Brownsville-Harlingen-San Benito, TX, Cameron, TX	0.8237	0.8756
1260 ..	Bryan-College Station, TX, Brazos, TX	0.8066	0.8631
1280 ..	Buffalo-Niagara Falls, NY, Erie, NY,[1] Niagara, NY	0.9587	0.9715
1303 ..	Burlington, VT, Chittenden, VT, Franklin, VT, Grand Isle, VT	0.9596	0.9722
1310 ..	Caguas, PR, Caguas, PR, Cayey, PR, Cidra, PR, Gurabo, PR, San Lorenzo, PR	0.4410	0.5708
1320 ..	Canton-Massillon, OH, Carroll, OH, Stark, OH	0.8813	0.9171
1350 ..	Casper, WY, Natrona, WY	0.9150	0.9410
1360 ..	Cedar Rapids, IA, Linn, IA	0.8814	0.9172
1400 ..	Champaign-Urbana, IL, Champaign, IL	0.8770	0.9140
1440 ..	Charleston-North Charleston, SC, Berkeley, SC, Charleston, SC, Dorchester, SC	0.9114	0.9384
1480 ..	Charleston, WV, Kanawha, WV, Putnam, WV	0.8990	0.9297
1520 ..	Charlotte-Gastonia-Rock Hill, NC-SC,[1] Cabarrus, NC, Gaston, NC, Lincoln, NC, Mecklenburg, NC, Rowan, NC, Stanly, NC, Union, NC, York, SC.	0.9686	0.9784
1540 ..	Charlottesville, VA, Albemarle, VA, Charlottesville City, VA, Fluvanna, VA, Greene, VA	1.0272	1.0185
1560 ..	Chattanooga, TN-GA, Catoosa, GA, Dade, GA, Walker, GA, Hamilton, TN, Marion, TN	0.9074	0.9356
1580 ..	Cheyenne, WY,[2] Laramie, WY	0.8768	0.9139
1600 ..	Chicago, IL,[1] Cook, IL, DeKalb, IL, DuPage, IL, Grundy, IL, Kane, IL, Kendall, IL, Lake, IL, McHenry, IL, Will, IL	1.0461	1.0313
1620 ..	Chico-Paradise, CA, Butte, CA	1.0145	1.0099
1640 ..	Cincinnati, OH-KY-IN,[1] Dearborn, IN, Ohio, IN, Boone, KY, Campbell, KY, Gallatin, KY, Grant, KY, Kenton, KY, Pendleton, KY, Brown, OH, Clermont, OH, Hamilton, OH, Warren, OH.	0.9595	0.9721
1660 ..	Clarksville-Hopkinsville, TN-KY, Christian, KY, Montgomery, TN	0.8213	0.8739
1680 ..	Cleveland-Lorain-Elyria, OH,[1] Ashtabula, OH, Cuyahoga, OH, Geauga, OH, Lake, OH, Lorain, OH, Medina, OH	0.9886	0.9922
1720 ..	Colorado Springs, CO, El Paso, CO	0.9390	0.9578
1740 ..	Columbia, MO, Boone, MO	0.8942	0.9263

TABLE 4A.—Wage Index and Capital Geographic Adjustment Factor (GAF) for Urban Areas—Continued

	Urban area (constituent counties)	Wage index	GAF
1760 ..	Columbia, SC, Lexington, SC, Richland, SC	0.9290	0.9508
1800 ..	Columbus, GA-AL Russell, AL, Chattahoochee, GA, Harris, GA, Muscogee, GA	0.8511	0.8955
1840 ..	Columbus, OH,[1] Delaware, OH, Fairfield, OH, Franklin, OH, Licking, OH, Madison, OH, Pickaway, OH	0.9781	0.9850
1880 ..	Corpus Christi, TX, Nueces, TX, San Patricio, TX	0.8531	0.8969
1900 ..	Cumberland, MD-WV (Maryland Hospitals),[2] Allegany, MD, Mineral, WV	0.8555	0.8986
1900 ..	Cumberland, MD-WV (West Virginia Hospital), Allegany, MD, Mineral, WV	0.8242	0.8760
1920 ..	Dallas, TX,[1] Collin, TX, Dallas, TX, Denton, TX, Ellis, TX, Henderson, TX, Hunt, TX, Kaufman, TX, Rockwall, TX	0.9348	0.9549
1950 ..	Danville, VA, Danville City, VA, Pittsylvania, VA	0.9045	0.9336
1960 ..	Davenport-Moline-Rock Island, IA-IL, Scott, IA, Henry, IL, Rock Island, IL	0.8413	0.8884
2000 ..	Dayton-Springfield, OH, Clark, OH, Greene, OH, Miami, OH, Montgomery, OH	0.9605	0.9728
2020 ..	Daytona Beach, FL, Flagler, FL, Volusia, FL	0.9134	0.9399
2030 ..	Decatur, AL, Lawrence, AL, Morgan, AL	0.8233	0.8753
2040 ..	Decatur, IL, Macon, IL	0.8035	0.8609
2080 ..	Denver, CO,[1] Adams, CO, Arapahoe, CO, Denver, CO, Douglas, CO, Jefferson, CO	1.0334	1.0228
2120 ..	Des Moines, IA, Dallas, IA, Polk, IA, Warren, IA	0.8475	0.8929
2160 ..	Detroit, MI,[1] Lapeer, MI, Macomb, MI, Monroe, MI, Oakland, MI, St. Clair, MI, Wayne, MI	1.0544	1.0369
2180 ..	Dothan, AL, Dale, AL, Houston, AL	0.7892	0.8503
2190 ..	Dover, DE, Kent, DE	0.9363	0.9559
2200 ..	Dubuque, IA, Dubuque, IA	0.8222	0.8745
2240 ..	Duluth-Superior, MN-WI, St. Louis, MN, Douglas, WI	1.0009	1.0006
2281 ..	Dutchess County, NY, Dutchess, NY	0.9883	0.9920
2290 ..	Eau Claire, WI,[2] Chippewa, WI, Eau Claire, WI	0.8711	0.9098
2320 ..	El Paso, TX, El Paso, TX	0.9215	0.9456
2330 ..	Elkhart-Goshen, IN, Elkhart, IN	0.9368	0.9563
2335 ..	Elmira, NY,[2] Chemung, NY	0.8588	0.9010
2340 ..	Enid, OK, Garfield, OK	0.7983	0.8570
2360 ..	Erie, PA, Erie, PA	0.9271	0.9495
2400 ..	Eugene-Springfield, OR, Lane, OR	1.1193	1.0802
2440 ..	Evansville-Henderson, IN-KY, Posey, IN, Vanderburgh, IN, Warrick, IN, Henderson, KY	0.8528	0.8967
2520 ..	Fargo-Moorhead, ND-MN, Clay, MN, Cass, ND	0.9520	0.9669
2560 ..	Fayetteville, NC, Cumberland, NC	0.8389	0.8867
2580 ..	Fayetteville-Springdale-Rogers, AR, Benton, AR, Washington, AR	0.8614	0.9029
2620 ..	Flagstaff, AZ-UT, Coconino, AZ, Kane, UT	0.9523	0.9671
2640 ..	Flint, MI, Genesee, MI	1.1031	1.0695
2650 ..	Florence, AL, Colbert, AL, Lauderdale, AL	0.7676	0.8343
2655 ..	Florence, SC, Florence, SC	0.8501	0.8947
2670 ..	Fort Collins-Loveland, CO, Larimer, CO	1.0770	1.0521
2680 ..	Fort Lauderdale, FL,[1] Broward, FL	0.9845	0.9894
2700 ..	Fort Myers-Cape Coral, FL, Lee, FL	0.8942	0.9263
2710 ..	Fort Pierce-Port St. Lucie, FL, Martin, FL, St. Lucie, FL	1.0241	1.0164
2720 ..	Fort Smith, AR-OK, Crawford, AR, Sebastian, AR, Sequoyah, OK	0.7623	0.8304
2750 ..	Fort Walton Beach, FL,[2] Okaloosa, FL	0.8877	0.9217
2760 ..	Fort Wayne, IN, Adams, IN, Allen, IN, De Kalb, IN, Huntington, IN, Wells, IN, Whitley, IN	0.9047	0.9337
2800 ..	Fort Worth-Arlington, TX,[1] Hood, TX, Johnson, TX, Parker, TX, Tarrant, TX	0.9727	0.9812
2840 ..	Fresno, CA, Fresno, CA, Madera, CA	1.0700	1.0474
2880 ..	Gadsden, AL, Etowah, AL	0.8780	0.9148
2900 ..	Gainesville, FL, Alachua, FL	0.9462	0.9628
2920 ..	Galveston-Texas City, TX, Galveston, TX	1.0894	1.0604
2960 ..	Gary, IN, Lake, IN, Porter, IN	0.9462	0.9628
2975 ..	Glens Falls, NY,[2] Warren, NY, Washington, NY	0.8588	0.9010
2980 ..	Goldsboro, NC, Wayne, NC	0.8530	0.8968
2985 ..	Grand Forks, ND-MN, Polk, MN, Grand Forks, ND	0.8899	0.9232
2995 ..	Grand Junction, CO, Mesa, CO	0.9116	0.9386
3000 ..	Grand Rapids-Muskegon-Holland, MI,[1] Allegan, MI, Kent, MI, Muskegon, MI, Ottawa, MI	0.9971	0.9980
3040 ..	Great Falls, MT, Cascade, MT	0.9284	0.9504
3060 ..	Greeley, CO, Weld, CO	0.9457	0.9625
3080 ..	Green Bay, WI, Brown, WI	0.9248	0.9479
3120 ..	Greensboro-Winston-Salem-High Point, NC,[1] Alamance, NC, Davidson, NC, Davie, NC, Forsyth, NC Guilford, NC, Randolph, NC, Stokes, NC, Yadkin, NC.	0.9547	0.9688
3150 ..	Greenville, NC, Pitt, NC	0.9434	0.9609
3160 ..	Greenville-Spartanburg-Anderson, SC, Anderson, SC, Cherokee, SC, Greenville, SC, Pickens, SC, Spartanburg, SC.	0.9222	0.9460
3180 ..	Hagerstown, MD, Washington, MD	1.0183	1.0125
3200 ..	Hamilton-Middletown, OH, Butler, OH	0.9233	0.9468
3240 ..	Harrisburg-Lebanon-Carlisle, PA, Cumberland, PA, Dauphin, PA, Lebanon, PA, Perry, PA	1.0060	1.0041
3283 ..	Hartford, CT,[1 2] Hartford, CT, Litchfield, CT, Middlesex, CT, Tolland, CT	1.2074	1.1378
3285 ..	Hattiesburg, MS, Forrest,[2] MS, Lamar, MS	0.7312	0.8070
3290 ..	Hickory-Morganton-Lenoir, NC, Alexander, NC, Burke, NC, Caldwell, NC, Catawba, NC	0.8649	0.9054
3320 ..	Honolulu, HI, Honolulu, HI	1.1510	1.1011
3350 ..	Houma, LA, Lafourche, LA, Terrebonne, LA	0.8197	0.8727
3360 ..	Houston, TX,[1] Chambers, TX, Fort Bend, TX, Harris, TX, Liberty, TX, Montgomery, TX, Waller, TX	0.9889	0.9924

TABLE 4A.—Wage Index and Capital Geographic Adjustment Factor (GAF) for Urban Areas—Continued

	Urban area (constituent counties)	Wage index	GAF
3400 ..	Huntington-Ashland, WV-KY-OH, Boyd, KY, Carter, KY, Greenup, KY, Lawrence, OH, Cabell, WV, Wayne, WV	0.9647	0.9757
3440 ..	Huntsville, AL, Limestone, AL, Madison, AL	0.8385	0.8864
3480 ..	Indianapolis, IN,[1] Boone, IN, Hamilton, IN, Hancock, IN, Hendricks, IN, Johnson, IN, Madison, IN, Marion, IN, Morgan, IN, Shelby, IN.	0.9831	0.9884
3500 ..	Iowa City, IA, Johnson, IA	0.9481	0.9642
3520 ..	Jackson, MI, Jackson, MI	0.9224	0.9462
3560 ..	Jackson, MS, Hinds, MS, Madison, MS, Rankin, MS	0.8292	0.8796
3580 ..	Jackson, TN, Madison, TN, Chester, TN	0.8560	0.8990
3600 ..	Jacksonville, FL,[1] Clay, FL, Duval, FL, Nassau, FL, St. Johns, FL	0.8900	0.9233
3605 ..	Jacksonville, NC,[2] Onslow, NC	0.8112	0.8665
3610 ..	Jamestown, NY,[2] Chautauqua, NY	0.8588	0.9010
3620 ..	Janesville-Beloit, WI, Rock, WI	0.9051	0.9340
3640 ..	Jersey City, NJ, Hudson, NJ	1.1598	1.1069
3660 ..	Johnson City-Kingsport-Bristol, TN-VA, Carter, TN, Hawkins, TN, Sullivan, TN, Unicoi, TN, Washington, TN, Bristol City, VA, Scott, VA, Washington, VA.	0.8773	0.9143
3680 ..	Johnstown, PA,[2] Cambria, PA, Somerset, PA	0.8664	0.9065
3700 ..	Jonesboro, AR, Craighead, AR	0.7579	0.8271
3710 ..	Joplin, MO, Jasper, MO, Newton, MO	0.7873	0.8489
3720 ..	Kalamazoo-Battlecreek, MI, Calhoun, MI, Kalamazoo, MI, Van Buren, MI	1.1331	1.0893
3740 ..	Kankakee, IL, Kankakee, IL	0.9418	0.9598
3760 ..	Kansas City, KS-MO,[1] Johnson, KS, Leavenworth, KS, Miami, KS, Wyandotte, KS, Cass, MO, Clay, MO, Clinton, MO, Jackson, MO, Lafayette, MO, Platte, MO, Ray, MO.	0.9645	0.9756
3800 ..	Kenosha, WI, Kenosha, WI	0.9129	0.9395
3810 ..	Killeen-Temple, TX, Bell, TX, Coryell, TX	1.0109	1.0075
3840 ..	Knoxville, TN, Anderson, TN, Blount, TN, Knox, TN, Loudon, TN, Sevier, TN, Union, TN	0.8918	0.9246
3850 ..	Kokomo, IN, Howard, IN, Tipton, IN	0.9275	0.9498
3870 ..	La Crosse, WI-MN, Houston, MN, La Crosse, WI	0.8913	0.9242
3880 ..	Lafayette, LA, Acadia, LA, Lafayette, LA, St. Landry, LA, St. Martin, LA	0.8293	0.8797
3920 ..	Lafayette, IN, Clinton, IN, Tippecanoe, IN	0.8909	0.9239
3960 ..	Lake Charles, LA, Calcasieu, LA	0.7674	0.8342
3980 ..	Lakeland-Winter Haven, FL, Polk, FL	0.8877	0.9217
4000 ..	Lancaster, PA, Lancaster, PA	0.9561	0.9697
4040 ..	Lansing-East Lansing, MI, Clinton, MI, Eaton, MI, Ingham, MI	1.0090	1.0062
4080 ..	Laredo, TX,[2] Webb, TX	0.7565	0.8261
4100 ..	Las Cruces, NM, Dona Ana, NM	0.8970	0.9283
4120 ..	Las Vegas, NV-AZ,[1] Mohave, AZ, Clark, NV, Nye, NV	1.1413	1.0947
4150 ..	Lawrence, KS, Douglas, KS	0.8655	0.9058
4200 ..	Lawton, OK, Comanche, OK	0.8697	0.9088
4243 ..	Lewiston-Auburn, ME, Androscoggin, ME	0.9149	0.9409
4280 ..	Lexington, KY, Bourbon, KY, Clark, KY, Fayette, KY, Jessamine, KY, Madison, KY, Scott, KY, Woodford, KY	0.8506	0.8951
4320 ..	Lima, OH, Allen, OH, Auglaize, OH	0.8949	0.9268
4360 ..	Lincoln, NE, Lancaster, NE	0.9303	0.9517
4400 ..	Little Rock-North Little Rock, AR, Faulkner, AR, Lonoke, AR, Pulaski, AR, Saline, AR	0.8534	0.8971
4420 ..	Longview-Marshall, TX, Gregg, TX, Harrison, TX, Upshur, TX	0.8698	0.9089
4480 ..	Los Angeles-Long Beach, CA,[1] Los Angeles, CA	1.2116	1.1405
4520 ..	Louisville, KY-IN, Clark, IN, Floyd, IN, Harrison, IN, Scott, IN, Bullitt, KY, Jefferson, KY, Oldham, KY	0.9093	0.9370
4600 ..	Lubbock, TX, Lubbock, TX	0.8496	0.8944
4640 ..	Lynchburg, VA, Amherst, VA, Bedford, VA, Bedford City, VA, Campbell, VA, Lynchburg City, VA	0.8900	0.9233
4680 ..	Macon, GA, Bibb, GA, Houston, GA, Jones, GA, Peach, GA, Twiggs, GA	0.8980	0.9290
4720 ..	Madison, WI, Dane, WI	1.0018	1.0012
4800 ..	Mansfield, OH, Crawford, OH, Richland, OH	0.8534	0.8971
4840 ..	Mayaguez, PR, Anasco, PR, Cabo Rojo, PR, Hormigueros, PR, Mayaguez, PR, Sabana Grande, PR, San German, PR.	0.4401	0.5700
4880 ..	McAllen-Edinburg-Mission, TX, Hidalgo, TX	0.8893	0.9228
4890 ..	Medford-Ashland, OR, Jackson, OR	1.0020	1.0014
4900 ..	Melbourne-Titusville-Palm Bay, FL, Brevard, FL	0.9216	0.9456
4920 ..	Memphis, TN-AR-MS,[1] Crittenden, AR, DeSoto, MS, Fayette, TN, Shelby, TN, Tipton, TN	0.8361	0.8846
4940 ..	Merced, CA, Merced, CA	1.0218	1.0149
5000 ..	Miami, FL,[1] Dade, FL	1.0017	1.0012
5015 ..	Middlesex-Somerset-Hunterdon, NJ,[1] Hunterdon, NJ, Middlesex, NJ, Somerset, NJ	1.0762	1.0516
5080 ..	Milwaukee-Waukesha, WI,[1] Milwaukee, WI, Ozaukee, WI, Washington, WI, Waukesha, WI	0.9356	0.9554
5120 ..	Minneapolis-St. Paul, MN-WI,[1] Anoka, MN, Carver, MN, Chisago, MN, Dakota, MN, Hennepin, MN, Isanti, MN, Ramsey, MN, Scott, MN, Sherburne, MN, Washington, MN, Wright, MN, Pierce, WI, St. Croix, WI.	1.0854	1.0577
5140 ..	Missoula, MT, Missoula, MT	0.9189	0.9437
5160 ..	Mobile, AL, Baldwin, AL, Mobile, AL	0.8377	0.8858
5170 ..	Modesto, CA, Stanislaus, CA	1.0346	1.0236
5190 ..	Monmouth-Ocean, NJ,[1] Monmouth, NJ, Ocean, NJ	1.1317	1.0884
5200 ..	Monroe, LA, Quachita, LA	0.8219	0.8743
5240 ..	Montgomery, AL, Autauga, AL, Elmore, AL, Montgomery, AL	0.7860	0.8480
5280 ..	Muncie, IN, Delaware, IN	0.9414	0.9595
5330 ..	Myrtle Beach, SC, Horry, SC	0.8179	0.8714

TABLE 4A.—Wage Index and Capital Geographic Adjustment Factor (GAF) for Urban Areas—Continued

	Urban area (constituent counties)	Wage index	GAF
5345 ..	Naples, FL, Collier, FL	1.0177	1.0121
5360 ..	Nashville, TN,[1] Cheatham, TN, Davidson, TN, Dickson, TN, Robertson, TN, Rutherford, TN, Sumner, TN, Williamson, TN, Wilson, TN.	0.9480	0.9641
5380 ..	Nassau-Suffolk, NY,[1] Nassau, NY, Suffolk, NY	1.3593	1.2339
5483 ..	New Haven-Bridgeport-Stamford-Waterbury-Danbury, CT,[1] Fairfield, CT, New Haven, CT	1.2245	1.1488
5523 ..	New London-Norwich, CT,[2] New London, CT	1.2074	1.1378
5560 ..	New Orleans, LA,[1] Jefferson, LA, Orleans, LA, Plaquemines, LA, St. Bernard, LA, St. Charles, LA, St. James, LA, St. John The Baptist, LA, St. Tammany, LA.	0.9310	0.9522
5600 ..	New York, NY, Bronx, NY,[1] Kings, NY, New York, NY, Putnam, NY, Queens, NY, Richmond, NY, Rockland, NY, Westchester, NY.	1.4461	1.2874
5640 ..	Newark, NJ,[1] Essex, NJ, Morris, NJ, Sussex, NJ, Union, NJ, Warren, NJ	1.0914	1.0617
5660 ..	Newburgh, NY-PA, Orange, NY, Pike, PA	1.1223	1.0822
5720 ..	Norfolk-Virginia Beach-Newport News, VA-NC,[1] Currituck, NC, Chesapeake City, VA, Gloucester, VA, Hampton City, VA, Isle of Wight, VA, James City, VA, Mathews, VA, Newport News City, VA, Norfolk City, VA, Poquoson City, VA, Portsmouth City, VA, Suffolk City, VA, Virginia Beach City, VA, Williamsburg City, VA, York, VA.	0.8275	0.8784
5775 ..	Oakland, CA,[1] Alameda, CA, Contra Costa, CA	1.5162	1.3298
5790 ..	Ocala, FL, Marion, FL	0.9152	0.9411
5800 ..	Odessa-Midland, TX, Ector, TX, Midland, TX	0.8664	0.9065
58801	Oklahoma City, OK,[1] Canadian, OK, Cleveland, OK , Logan, OK, McClain, OK, Oklahoma, OK, Pottawatomie, OK ..	0.8708	0.9096
5910 ..	Olympia, WA, Thurston, WA	1.1522	1.1019
5920 ..	Omaha, NE-IA, Pottawattamie, IA, Cass, NE, Douglas, NE, Sarpy, NE, Washington, NE	0.9972	0.9981
5945 ..	Orange County, CA,[1] Orange, CA	1.1468	1.0983
5960 ..	Orlando, FL,[1] Lake, FL, Orange, FL, Osceola, FL, Seminole, FL	0.9813	0.9872
5990 ..	Owensboro, KY,[2] Daviess, KY	0.7844	0.8468
6015 ..	Panama City, FL,[2] Bay, FL	0.8877	0.9217
6020 ..	Parkersburg-Marietta, WV-OH (West Virginia Hospitals),[2] Washington, OH, Wood, WV	0.8016	0.8595
6020 ..	Parkersburg-Marietta, WV-OH (Ohio Hospitals),[2] Washington, OH, Wood, WV	0.8519	0.8960
6080 ..	Pensacola, FL,[2] Escambia, FL, Santa Rosa, FL	0.8877	0.9217
6120 ..	Peoria-Pekin, IL, Peoria, IL, Tazewell, IL, Woodford, IL	0.8063	0.8629
6160 ..	Philadelphia, PA-NJ,[1] Burlington, NJ, Camden, NJ, Gloucester, NJ, Salem, NJ, Bucks, PA, Chester, PA, Delaware, PA, Montgomery, PA, Philadelphia, PA.	1.1370	1.0919
6200 ..	Phoenix-Mesa, AZ,[1] Maricopa, AZ, Pinal, AZ	0.9591	0.9718
6240 ..	Pine Bluff, AR, Jefferson, AR	0.7912	0.8518
6280 ..	Pittsburgh, PA,[1] Allegheny, PA, Beaver, PA, Butler, PA, Fayette, PA, Washington, PA, Westmoreland, PA	0.9789	0.9855
6323 ..	Pittsfield, MA,[2] Berkshire, MA	1.0834	1.0564
6340 ..	Pocatello, ID, Bannock, ID	0.8792	0.9156
6360 ..	Ponce, PR, Guayanilla, PR, Juana Diaz, PR, Penuelas, PR, Ponce, PR, Villalba, PR, Yauco, PR	0.4788	0.6039
6403 ..	Portland, ME, Cumberland, ME, Sagadahoc, ME, York, ME	0.9574	0.9706
6440 ..	Portland-Vancouver, OR-WA,[1] Clackamas, OR, Columbia, OR, Multnomah, OR, Washington, OR, Yamhill, OR, Clark, WA.	1.1178	1.0792
6483 ..	Providence-Warwick-Pawtucket, RI,[1] Bristol, RI, Kent, RI, Newport, RI, Providence, RI, Washington, RI	1.0801	1.0542
6520 ..	Provo-Orem, UT, Utah, UT	0.9885	0.9921
6560 ..	Pueblo, CO, Pueblo, CO	0.8712	0.9099
6580 ..	Punta Gorda, FL, Charlotte, FL	0.9031	0.9326
6600 ..	Racine, WI, Racine, WI	0.9130	0.9396
6640 ..	Raleigh-Durham-Chapel Hill, NC,[1] Chatham, NC, Durham, NC, Franklin, NC, Johnston, NC, Orange, NC, Wake, NC.	0.9812	0.9871
6660 ..	Rapid City, SD, Pennington, SD	0.8208	0.8735
6680 ..	Reading, PA, Berks, PA	0.9234	0.9469
6690 ..	Redding, CA, Shasta, CA	1.1858	1.1238
6720 ..	Reno, NV, Washoe, NV	1.1095	1.0738
6740 ..	Richland-Kennewick-Pasco,[2] WA, Benton, WA, Franklin, WA	1.0489	1.0332
6760 ..	Richmond-Petersburg, VA, Charles City County, VA, Chesterfield, VA, Colonial Heights City, VA, Dinwiddie, VA, Goochland, VA, Hanover, VA, Henrico, VA, Hopewell City, VA, New Kent, VA, Petersburg City, VA, Powhatan, VA, Prince George, VA, Richmond City, VA.	0.9211	0.9453
6780 ..	Riverside-San Bernardino,[1] CA, Riverside, CA, San Bernardino, CA	1.0585	1.0397
6800 ..	Roanoke, VA, Botetourt, VA, Roanoke, VA, Roanoke City, VA, Salem City, VA	0.8509	0.8953
6820 ..	Rochester, MN, Olmsted, MN	1.1698	1.1134
6840 ..	Rochester, NY,[1] Genesee, NY, Livingston, NY, Monroe, NY, Ontario, NY, Orleans, NY, Wayne, NY	0.9657	0.9764
6880 ..	Rockford, IL, Boone, IL, Ogle, IL, Winnebago, IL	0.8615	0.9029
6895 ..	Rocky Mount, NC, Edgecombe, NC, Nash, NC	0.9012	0.9312
6920 ..	Sacramento, CA,[1] El Dorado, CA, Placer, CA, Sacramento, CA	1.1962	1.1305
6960 ..	Saginaw-Bay City-Midland, MI, Bay, MI, Midland, MI, Saginaw, MI	0.9487	0.9646
6980 ..	St. Cloud, MN, Benton, MN, Stearns, MN	0.9586	0.9715
7000 ..	St. Joseph, MO, Andrew, MO, Buchanan, MO	0.9889	0.9924
7040 ..	St. Louis, MO-IL,[1] Clinton, IL, Jersey, IL, Madison, IL, Monroe, IL, St. Clair, IL, Franklin, MO, Jefferson, MO, Lincoln, MO, St. Charles, MO, St. Louis, MO, St. Louis City, MO, Warren, MO.	0.9151	0.9411
7080 ..	Salem, OR,[2] Marion, OR, Polk, OR	0.9912	0.9940
7120 ..	Salinas, CA, Monterey, CA	1.5142	1.3286
7160 ..	Salt Lake City-Ogden, UT,[1] Davis, UT, Salt Lake, UT, Weber, UT	0.9420	0.9599
7200 ..	San Angelo, TX, Tom Green, TX	0.7646	0.8321

TABLE 4A.—Wage Index and Capital Geographic Adjustment Factor (GAF) for Urban Areas—Continued

	Urban area (constituent counties)	Wage index	GAF
7240 ..	San Antonio, TX,[1] Bexar, TX, Comal, TX, Guadalupe, TX, Wilson, TX	0.8100	0.8656
7320 ..	San Diego, CA,[1] San Diego, CA	1.2310	1.1529
7360 ..	San Francisco, CA,[1] Marin, CA, San Francisco, CA, San Mateo, CA	1.3563	1.2321
7400 ..	San Jose, CA,[1] Santa Clara, CA	1.3695	1.2403
7440 ..	San Juan-Bayamon, PR,[1] Aguas Buenas, PR, Barceloneta, PR, Bayamon, PR, Canovanas, PR, Carolina, PR, Catano, PR, Ceiba, PR, Comerio, PR, Corozal, PR, Dorado, PR, Fajardo, PR, Florida, PR, Guaynabo, PR, Humacao, PR, Juncos, PR, Los Piedras, PR, Loiza, PR, Luguillo, PR, Manati, PR, Morovis, PR, Naguabo, PR, Naranjito, PR, Rio Grande, PR, San Juan, PR, Toa Alta, PR, Toa Baja, PR, Trujillo Alto, PR, Vega Alta, PR, Vega Baja, PR, Yabucoa, PR.	0.4623	0.5896
7460 ..	San Luis Obispo-Atascadero-Paso Robles, CA, San Luis Obispo, CA	1.1264	1.0849
7480 ..	Santa Barbara-Santa Maria-Lompoc, CA, Santa Barbara, CA	1.1194	1.0803
7485 ..	Santa Cruz-Watsonville, CA, Santa Cruz, CA	1.3981	1.2580
7490 ..	Santa Fe, NM, Los Alamos, NM, Santa Fe, NM	0.9652	0.9760
7500 ..	Santa Rosa, CA, Sonoma, CA	1.3071	1.2013
7510 ..	Sarasota-Bradenton, FL, Manatee, FL, Sarasota, FL	0.9532	0.9677
7520 ..	Savannah, GA, Bryan, GA, Chatham, GA, Effingham, GA	1.0060	1.0041
7560 ..	Scranton-Wilkes-Barre-Hazleton, PA,[2] Columbia, PA, Lackawanna, PA, Luzerne, PA, Wyoming, PA	0.8664	0.9065
7600 ..	Seattle-Bellevue-Everett, WA,[1] Island, WA, King, WA, Sohomish, WA	1.1535	1.1027
7610 ..	Sharon, PA, Mercer, PA	0.8847	0.9195
7620 ..	Sheboygan, WI,[2] Sheboygan, WI	0.8711	0.9098
7640 ..	Sherman-Denison, TX, Grayson, TX	0.8570	0.8997
7680 ..	Shreveport-Bossier City, LA, Bossier, LA, Caddo, LA, Webster, LA	0.9386	0.9575
7720 ..	Sioux City, IA-NE, Woodbury, IA, Dakota, NE	0.8481	0.8933
7760 ..	Sioux Falls, SD, Lincoln, SD, Minnehaha, SD	0.8912	0.9242
7800 ..	South Bend, IN, St. Joseph, IN	0.9859	0.9903
7840 ..	Spokane, WA, Spokane, WA	1.0928	1.0627
7880 ..	Springfield, IL, Menard, IL, Sangamon, IL	0.8720	0.9105
7920 ..	Springfield, MO, Christian, MO, Greene, MO, Webster, MO	0.8071	0.8635
8003 ..	Springfield, MA, Hampden, MA, Hampshire, MA	1.0834	1.0564
8050 ..	State College, PA, Centre, PA	0.9449	0.9619
8080 ..	Steubenville-Weirton, OH-WV (Ohio Hospitals),[2] Jefferson, OH, Brooke, WV, Hancock, WV	0.8519	0.8960
8080 ..	Steubenville-Weirton, OH-WV (West Virginia Hospitals), Jefferson, OH, Brooke, WV, Hancock, WV	0.8428	0.8895
8120 ..	Stockton-Lodi, CA, San Joaquin, CA	1.1075	1.0724
8140 ..	Sumter, SC, Sumter, SC	0.8127	0.8676
8160 ..	Syracuse, NY, Cayuga, NY, Madison, NY, Onondaga, NY, Oswego, NY	0.9400	0.9585
8200 ..	Tacoma, WA,[2] Pierce, WA	1.0489	1.0332
8240 ..	Tallahassee, FL,[2] Gadsden, FL, Leon, FL	0.8877	0.9217
8280 ..	Tampa-St. Petersburg-Clearwater, FL,[1] Hernando, FL, Hillsborough, FL, Pasco, FL, Pinellas, FL	0.9183	0.9433
8320 ..	Terre Haute, IN, Clay, IN, Vermillion, IN, Vigo, IN	0.8991	0.9298
8360 ..	Texarkana, AR-Texarkana, TX, Miller, AR, Bowie, TX	0.8506	0.8951
8400 ..	Toledo, OH, Fulton, OH, Lucas, OH, Wood, OH	0.9991	0.9994
8440 ..	Topeka, KS, Shawnee, KS	0.9812	0.9871
8480 ..	Trenton, NJ, Mercer, NJ	1.0509	1.0346
8520 ..	Tucson, AZ, Pima, AZ	0.9028	0.9324
8560 ..	Tulsa, OK, Creek, OK, Osage, OK, Rogers, OK, Tulsa, OK, Wagoner, OK	0.8463	0.8920
8600 ..	Tuscaloosa, AL, Tuscaloosa, AL	0.7641	0.8317
8640 ..	Tyler, TX, Smith, TX	0.8818	0.9175
8680 ..	Utica-Rome, NY,[2] Herkimer, NY, Oneida, NY	0.8588	0.9010
8720 ..	Vallejo-Fairfield-Napa, CA, Napa, CA, Solano, CA	1.3311	1.2164
8735 ..	Ventura, CA, Ventura, CA	1.0764	1.0517
8750 ..	Victoria, TX, Victoria, TX	0.8382	0.8862
8760 ..	Vineland-Millville-Bridgeton, NJ, Cumberland, NJ	1.0440	1.0299
8780 ..	Visalia-Tulare-Porterville, CA, Tulare, CA	1.0083	1.0057
8800 ..	Waco, TX, McLennan, TX	0.8371	0.8854
8840 ..	Washington, DC-MD-VA-WV,[1] District of Columbia, DC,Calvert, MD, Charles, MD, Frederick, MD, Montgomery, MD, Prince Georges, MD, Alexandria City, VA, Arlington, VA, Clarke, VA, Culpeper, VA, Fairfax, VA, Fairfax City, VA, Falls Church City, VA, Fauquier, VA, Fredericksburg City, VA, King George, VA, Loudoun, VA, Manassas City, VA, Manassas Park City, VA, Prince William, VA, Spotsylvania, VA, Stafford, VA, Warren, VA, Berkeley, WV, Jefferson, WV.	1.0807	1.0546
8920 ..	Waterloo-Cedar Falls, IA, Black Hawk, IA	0.8332	0.8825
8940 ..	Wausau, WI, Marathon, WI	0.9733	0.9816
8960 ..	West Palm Beach-Boca Raton, FL,[1] Palm Beach, FL	1.0181	1.0124
9000 ..	Wheeling, WV–OH (West Virginia Hospitals),[2] Belmont, OH, Marshall, WV, Ohio, WV	0.7875	0.8491
9000 ..	Wheeling, WV-OH (Ohio Hospitals),[2] Belmont, OH, Marshall, WV, Ohio, WV	0.8519	0.8960
9040 ..	Wichita, KS, Butler, KS, Harvey, KS, Sedgwick, KS	0.8898	0.9232
9080 ..	Wichita Falls, TX, Archer, TX, Wichita, TX	0.7830	0.8458
9140 ..	Williamsport, PA,[2] Lycoming, PA	0.8664	0.9065
9160 ..	Wilmington-Newark, DE-MD, New Castle, DE, Cecil, MD	1.1868	1.1244
9200 ..	Wilmington, NC, New Hanover, NC, Brunswick, NC	0.9343	0.9545
9260 ..	Yakima, WA,[2] Yakima, WA	1.0489	1.0332
9270 ..	Yolo, CA, Yolo, CA	1.1233	1.0829

TABLE 4A.—Wage Index and Capital Geographic Adjustment Factor (GAF) for Urban Areas—Continued

	Urban area (constituent counties)	Wage index	GAF
9280 ..	York, PA, York, PA	0.9410	0.9592
9320 ..	Youngstown-Warren, OH, Columbiana, OH, Mahoning, OH, Trumbull, OH	0.9815	0.9873
9340 ..	Yuba City, CA, Sutter, CA, Yuba, CA	1.0865	1.0585
9360 ..	Yuma, AZ, Yuma, AZ	1.0058	1.0040

[1] Large Urban Area.
[2] Hospitals geographically located in the area are assigned the statewide rural wage index for FY 1999.

TABLE 4B.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR RURAL AREAS

Nonurban area	Wage index	GAF
Alabama	0.7326	0.8081
Alaska	1.2430	1.1606
Arizona	0.7989	0.8575
Arkansas	0.7250	0.8023
California	0.9979	0.9986
Colorado	0.8436	0.8901
Connecticut	1.2074	1.1378
Delaware	0.8807	0.9167
Florida	0.8877	0.9217
Georgia	0.7888	0.8500
Hawaii	1.0910	1.0615
Idaho	0.8477	0.8930
Illinois	0.7925	0.8528
Indiana	0.8380	0.8860
Iowa	0.7777	0.8418
Kansas	0.7319	0.8076
Kentucky	0.7844	0.8468
Louisiana	0.7465	0.8186
Maine	0.8467	0.8923
Maryland	0.8555	0.8986
Massachusetts	1.0834	1.0564
Michigan	0.8884	0.9222
Minnesota	0.8595	0.9015
Mississippi	0.7312	0.8070
Missouri	0.7452	0.8176
Montana	0.8578	0.9003
Nebraska	0.7674	0.8342
Nevada	0.9256	0.9484
New Hampshire	1.0240	1.0164
New Jersey [1]	.....	.....
New Mexico	0.8269	0.8780
New York	0.8588	0.9010
North Carolina	0.8112	0.8665
North Dakota	0.7497	0.8210
Ohio	0.8519	0.8960
Oklahoma	0.7124	0.7928
Oregon	0.9912	0.9940
Pennsylvania	0.8664	0.9065
Puerto Rico	0.4080	0.5412
Rhode Island	.....	.....
South Carolina	0.8046	0.8617
South Dakota	0.7508	0.8218
Tennessee	0.7492	0.8206
Texas	0.7565	0.8261
Utah	0.8859	0.9204
Vermont	0.9416	0.9596
Virginia	0.7857	0.8478
Washington	1.0489	1.0332
West Virginia	0.7875	0.8491
Wisconsin	0.8711	0.9098
Wyoming	0.8768	0.9139

[1] All counties within the State are classified as urban.

TABLE 4C.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR HOSPITALS THAT ARE RECLASSIFIED

Area	Wage index	GAF
Abilene, TX	0.8066	0.8631

TABLE 4C.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR HOSPITALS THAT ARE RECLASSIFIED—Continued

Area	Wage index	GAF
Albany, GA	0.7888	0.8500
Albuquerque, NM	0.8613	0.9028
Alexandria, LA	0.8526	0.8966
Allentown-Bethlehem-Easton, PA	1.0204	1.0139
Amarillo, TX	0.8517	0.8959
Anchorage, AK	1.2979	1.1955
Asheville, NC	0.8940	0.9261
Atlanta, GA	0.9915	0.9942
Augusta-Aiken, GA-SC	0.9233	0.9468
Baltimore, MD	0.9642	0.9753
Barnstable-Yarmouth, MA	1.4427	1.2853
Baton Rouge, LA	0.8872	0.9213
Benton Harbor, MI	0.8884	0.9222
Bergen-Passaic, NJ	1.1749	1.1167
Billings, MT	0.9143	0.9405
Binghamton, NY	0.9059	0.9346
Birmingham, AL	0.9073	0.9356
Bismarck, ND	0.7846	0.8469
Boise City, ID	0.9190	0.9438
Boston-Worcester-Lawrence-Lowell-Brockton, MA-NH	1.1288	1.0865
Brazoria, TX	0.8928	0.9253
Bryan-College Station, TX	0.8066	0.8631
Buffalo-Niagara Falls, NY	0.9587	0.9715
Burlington, VT	0.9596	0.9722
Caguas, PR	0.4410	0.5708
Canton-Massillon, OH	0.8813	0.9171
Casper, WY	0.9150	0.9410
Champaign-Urbana, IL	0.8770	0.9140
Charleston-North Charleston, SC	0.9114	0.9384
Charleston, WV	0.8763	0.9135
Charlotte-Gastonia-Rock Hill, NC-SC	0.9686	0.9784
Charlottesville, VA	0.9733	0.9816
Chattanooga, TN-GA	0.8869	0.9211
Chicago, IL	1.0461	1.0313
Cincinnati, OH-KY-IN	0.9595	0.9721
Clarksville-Hopkinsville, TN-KY	0.8213	0.8739
Cleveland-Lorain-Elyria, OH	0.9886	0.9922
Columbia, MO	0.8798	0.9160
Columbus, GA-AL	0.8511	0.8955
Columbus, OH	0.9781	0.9850
Corpus Christi, TX	0.8531	0.8969
Dallas, TX	0.9348	0.9549
Danville, VA	0.8716	0.9102
Davenport-Moline-Rock Island, IA-IL	0.8413	0.8884
Dayton-Springfield, OH	0.9605	0.9728
Denver, CO	1.0334	1.0228
Des Moines, IA	0.8475	0.8929
Duluth-Superior, MN-WI	1.0009	1.0006
Dutchess County, NY	0.9883	0.9920
Elkhart-Goshen, IN	0.9368	0.9563
Eugene-Springfield, OR	1.1048	1.0706
Evansville-Henderson, IN-KY	0.8415	0.8885
Fargo-Moorhead, ND-MN	0.9246	0.9477
Fayetteville, NC	0.8389	0.8867
Flagstaff, AZ-UT	0.9523	0.9671
Flint, MI	1.1031	1.0695
Fort Collins-Loveland, CO	1.0770	1.0521
Fort Lauderdale, FL	0.9845	0.9894
Fort Pierce-Port St. Lucie, FL	1.0241	1.0164
Fort Smith, AR-OK	0.7519	0.8226
Fort Walton Beach, FL	0.8621	0.9034
Fort Worth-Arlington, TX	0.9727	0.9812
Gadsden, AL	0.8780	0.9148
Gainesville, FL	0.9462	0.9628
Goldsboro, NC	0.8335	0.8827
Grand Forks, ND-MN	0.8899	0.9232
Grand Junction, CO	0.9116	0.9386
Grand Rapids-Muskegon-Holland, MI	0.9856	0.9901
Great Falls, MT	0.9284	0.9504
Greeley, CO	0.9356	0.9554
Green Bay, WI	0.9248	0.9479

TABLE 4C.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR HOSPITALS THAT ARE RECLASSIFIED—Continued

Area	Wage index	GAF
Greenville, NC	0.9098	0.9373
Greenville-Spartanburg-Anderson, SC	0.9222	0.9460
Harrisburg-Lebanon-Carlisle, PA	1.0060	1.0041
Hartford, CT	1.1854	1.1235
Hattiesburg, MS	0.7312	0.8070
Hickory-Morganton-Lenoir, NC	0.8649	0.9054
Honolulu, HI	1.1510	1.1011
Houston, TX	0.9889	0.9924
Huntington-Ashland, WV-KY-OH	0.9275	0.9498
Huntsville, AL	0.8223	0.8746
Indianapolis, IN	0.9727	0.9812
Iowa City, IA	0.9362	0.9559
Jackson, MS	0.8292	0.8796
Jackson, TN	0.8560	0.8990
Jacksonville, FL	0.8900	0.9233
Johnson City-Kingsport-Bristol, TN-VA	0.8773	0.9143
Jonesboro, AR	0.7579	0.8271
Joplin, MO	0.7873	0.8489
Kalamazoo-Battlecreek, MI	1.1078	1.0726
Kansas City, KS-MO	0.9645	0.9756
Knoxville, TN	0.8918	0.9246
Lafayette, LA	0.8293	0.8797
Lansing-East Lansing, MI	0.9974	0.9982
Las Cruces, NM	0.8970	0.9283
Las Vegas, NV-AZ	1.1413	1.0947
Lexington, KY	0.8506	0.8951
Lima, OH	0.8768	0.9139
Lincoln, NE	0.9032	0.9327
Little Rock-North Little Rock, AR	0.8534	0.8971
Los Angeles-Long Beach, CA	1.2116	1.1405
Louisville, KY-IN	0.9093	0.9370
Macon, GA	0.8775	0.9144
Madison, WI	1.0018	1.0012
Mansfield, OH	0.8534	0.8971
Memphis, TN-AR-MS	0.8361	0.8846
Merced, CA	1.0218	1.0149
Milwaukee-Waukesha, WI	0.9356	0.9554
Minneapolis-St. Paul, MN-WI	1.0854	1.0577
Modesto, CA	1.0346	1.0236
Monroe, LA	0.8080	0.8642
Montgomery, AL	0.7860	0.8480
Myrtle Beach, SC	0.8179	0.8714
Nashville, TN	0.9302	0.9517
New Haven-Bridgeport-Stamford-Waterbury-Danbury, CT	1.2245	1.1488
New London-Norwich, CT	1.1640	1.1096
New Orleans, LA	0.9310	0.9522
New York, NY	1.4461	1.2874
Newburgh, NY-PA	1.1223	1.0822
Oakland, CA	1.5162	1.3298
Odessa-Midland, TX	0.8664	0.9065
Oklahoma City, OK	0.8708	0.9096
Omaha, NE-IA	0.9972	0.9981
Orange County, CA	1.1468	1.0983
Orlando, FL	0.9813	0.9872
Peoria-Pekin, IL	0.8063	0.8629
Philadelphia, PA-NJ	1.1370	1.0919
Pittsburgh, PA	0.9642	0.9753
Pocatello, ID (Idaho Hospital)	0.8654	0.9057
Pocatello, ID (Wyoming Hospitals)	0.8768	0.9139
Portland, ME	0.9574	0.9706
Portland-Vancouver, OR-WA	1.1178	1.0792
Provo-Orem, UT	0.9885	0.9921
Raleigh-Durham-Chapel Hill, NC	0.9812	0.9871
Rapid City, SD	0.8208	0.8735
Reno, NV	1.1095	1.0738
Rochester, MN	1.1698	1.1134
Rockford, IL	0.8615	0.9029
Sacramento, CA	1.1962	1.1305
Saginaw-Bay City-Midland, MI	0.9487	0.9646
St. Cloud, MN	0.9586	0.9715
St. Louis, MO-IL	0.9151	0.9411

TABLE 4C.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR HOSPITALS THAT ARE RECLASSIFIED—Continued

Area	Wage index	GAF
Salt Lake City-Ogden, UT	0.9420	0.9599
San Diego, CA	1.2310	1.1529
Santa Fe, NM	0.9516	0.9666
Santa Rosa, CA	1.2907	1.1909
Seattle-Bellevue-Everett, WA	1.1535	1.1027
Sharon, PA	0.8847	0.9195
Sherman-Denison, TX	0.8249	0.8765
Sioux City, IA-NE	0.8481	0.8933
Sioux Falls, SD	0.8809	0.9168
South Bend, IN	0.9859	0.9903
Spokane, WA	1.0729	1.0494
Springfield, IL	0.8720	0.9105
Springfield, MO	0.8071	0.8635
State College, PA	0.8793	0.9157
Syracuse, NY	0.9400	0.9585
Tallahassee, FL	0.8500	0.8947
Tampa-St. Petersburg-Clearwater, FL	0.9183	0.9433
Texarkana, AR-Texarkana, TX	0.8506	0.8951
Toledo, OH	0.9991	0.9994
Topeka, KS	0.9588	0.9716
Tucson, AZ	0.9028	0.9324
Tulsa, OK	0.8359	0.8845
Tuscaloosa, AL	0.7641	0.8317
Tyler, TX	0.8818	0.9175
Vallejo-Fairfield-Napa, CA	1.3311	1.2164
Victoria, TX	0.8382	0.8862
Washington, DC-MD-VA-WV	1.0807	1.0546
Waterloo-Cedar Falls, IA	0.8332	0.8825
Wausau, WI	0.9422	0.9600
Wichita, KS	0.8770	0.9140
Wichita Falls, TX	0.7830	0.8458
Rural Alabama	0.7326	0.8081
Rural Illinois	0.7925	0.8528
Rural Louisiana	0.7465	0.8186
Rural Massachusetts	1.0399	1.0272
Rural Michigan	0.8884	0.9222
Rural Minnesota	0.8595	0.9015
Rural Missouri	0.7452	0.8176
Rural Nevada	0.8832	0.9185
Rural New Mexico	0.8269	0.8780
Rural Oregon	0.9912	0.9940
Rural Washington	1.0489	1.0332
Rural Wyoming	0.8768	0.9139

TABLE 4D.—AVERAGE HOURLY WAGE FOR URBAN AREAS

Urban area	Average hourly wage
Abilene, TX	16.5825
Aguadilla, PR	9.8222
Akron, OH	20.5687
Albany, GA	16.5708
Albany-Schenectady-Troy, NY	17.8900
Albuquerque, NM	17.8958
Alexandria, LA	17.7146
Allentown-Bethlehem-Easton, PA	21.2002
Altoona, PA	19.3951
Amarillo, TX	17.6070
Anchorage, AK	26.6324
Ann Arbor, MI	22.9238
Anniston, AL	17.9884
Appleton-Oshkosh-Neenah, WI	18.3354
Arecibo, PR	10.1129
Asheville, NC	18.5755

TABLE 4D.—AVERAGE HOURLY WAGE FOR URBAN AREAS—Continued

Urban area	Average hourly wage
Athens, GA	18.0203
Atlanta, GA	20.6008
Atlantic-Cape May, NJ	23.9678
Augusta-Aiken, GA-SC	19.1829
Austin-San Marcos, TX	18.2464
Bakersfield, CA	19.8019
Baltimore, MD	20.0332
Bangor, ME	19.6846
Barnstable-Yarmouth, MA	31.9593
Baton Rouge, LA	18.4325
Beaumont-Port Arthur, TX	17.9913
Bellingham, WA	23.7572
Benton Harbor, MI	17.7241
Bergen-Passaic, NJ	25.3184
Billings, MT	18.9960
Biloxi-Gulfport-Pascagoula, MS	17.1946
Binghamton, NY	18.8217
Birmingham, AL	18.8506

TABLE 4D.—AVERAGE HOURLY WAGE FOR URBAN AREAS—Continued

Urban area	Average hourly wage
Bismarck, ND	16.6736
Bloomington,IN	18.6271
Bloomington-Normal, IL	18.3900
Boise City, ID	19.0323
Boston-Worcester-Lawrence-Lowell-Brockton, MA-NH	23.4143
Boulder-Longmont, CO	20.8550
Brazoria, TX	18.5041
Bremerton, WA	22.9686
Brownsville-Harlingen-San Benito, TX	17.1138
Bryan-College Station, TX	16.2473
Buffalo-Niagara Falls, NY	19.9187
Burlington, VT	19.8983
Caguas, PR	9.1414
Canton-Massillon, OH	18.3114
Casper, WY	18.0774
Cedar Rapids, IA	18.3134
Champaign-Urbana, IL	18.1242

TABLE 4D.—AVERAGE HOURLY WAGE FOR URBAN AREAS—Continued

Urban area	Average hourly wage
Charleston-North Charleston, SC	18.9373
Charleston, WV	18.6776
Charlotte-Gastonia-Rock Hill, NC-SC	20.1245
Charlottesville, VA	21.3425
Chattanooga, TN-GA	18.8525
Cheyenne, WY	16.9321
Chicago, IL	21.7349
Chico-Paradise, CA	21.0787
Cincinnati, OH-KY-IN	19.9348
Clarksville-Hopkinsville, TN-KY	16.7045
Cleveland-Lorain-Elyria, OH	20.5401
Colorado Springs, CO	19.5098
Columbia, MO	18.5780
Columbia, SC	19.3016
Columbus, GA-AL	17.6831
Columbus, OH	20.3213
Corpus Christi, TX	17.6885
Cumberland, MD-WV	17.1237
Dallas, TX	19.4652
Danville, VA	18.7936
Davenport-Moline-Rock Island, IA-IL	17.4790
Dayton-Springfield, OH	19.9557
Daytona Beach, FL	18.9775
Decatur, AL	17.1056
Decatur, IL	16.6936
Denver, CO	21.4638
Des Moines, IA	17.5526
Detroit, MI	21.9074
Dothan, AL	16.3982
Dover, DE	19.4527
Dubuque, IA	17.0836
Duluth-Superior, MN-WI	20.6977
Dutchess County, NY	21.8781
Eau Claire, WI	17.8112
El Paso, TX	19.1468
Elkhart-Goshen, IN	19.3331
Elmira, NY	17.5367
Enid, OK	16.5863
Erie, PA	19.2614
Eugene-Springfield, OR	23.2566
Evansville, Henderson, IN-KY	17.7198
Fargo-Moorhead, ND-MN	19.7800
Fayetteville, NC	17.4302
Fayetteville-Springdale-Rogers, AR	17.8965
Flagstaff, AZ-UT	19.7032
Flint, MI	22.9184
Florence, AL	15.9479
Florence, SC	17.6631
Fort Collins-Loveland, CO	22.3767
Fort Lauderdale, FL	20.3766
Fort Myers-Cape Coral, FL	18.5790
Fort Pierce-Port St. Lucie, FL	21.2784
Fort Smith, AR-OK	15.8375
Fort Walton Beach, FL	17.8995
Fort Wayne, IN	18.7962
Fort Worth-Arlington, TX	20.1926
Fresno, CA	22.2323
Gadsden, AL	18.2411
Gainesville, FL	19.6396
Galveston-Texas City, TX	22.6345
Gary, IN	19.6025
Glens Falls, NY	17.6404
Goldsboro, NC	17.7222
Grand Forks, ND-MN	18.3589
Grand Junction, CO	17.2009
Grand Rapids-Muskegon-Holland, MI	20.7161
Great Falls, MT	18.4336
Greeley, CO	19.6480
Green Bay, WI	19.0230
Greensboro-Winston-Salem-High Point, NC	19.8355
Greenville, NC	19.6007
Greenville-Spartanburg-Anderson, SC	19.1612
Hagerstown, MD	21.1564
Hamilton-Middletown, OH	19.1833
Harrisburg-Lebanon-Carlisle, PA	20.9016
Hartford, CT	24.5817
Hattiesburg, MS	15.0868
Hickory-Morganton-Lenoir, NC	18.4995
Honolulu, HI	23.9148
Houma, LA	17.0314
Houston, TX	20.5460
Huntington-Ashland, WV-KY-OH	20.0441
Huntsville, AL	17.4211
Indianapolis, IN	20.4258
Iowa City, IA	19.6992
Jackson, MI	19.1645
Jackson, MS	17.2283
Jackson, TN	17.7852
Jacksonville, FL	18.4915
Jacksonville, NC	15.6996
Jamestown, NY	15.9148
Janesville-Beloit, WI	18.8060
Jersey City, NJ	24.0964
Johnson City-Kingsport-Bristol, TN-VA	18.2276
Johnstown, PA	17.9084
Jonesboro, AR	15.3904
Joplin, MO	16.3572
Kalamazoo-Battlecreek, MI	23.5418
Kankakee, IL	19.5674
Kansas City, KS-MO	20.0387
Kenosha, WI	18.9676
Killeen-Temple, TX	21.0041
Knoxville, TN	18.5294
Kokomo, IN	19.2700
La Crosse, WI-MN	18.5196
Lafayette, LA	17.1506
Lafayette, IN	18.3693
Lake Charles, LA	15.9437
Lakeland-Winter Haven, FL	18.5726
Lancaster, PA	19.8644
Lansing-East Lansing, MI	20.9650
Laredo, TX	15.2556
Las Cruces, NM	18.4298
Las Vegas, NV-AZ	23.7139
Lawrence, KS	17.9827
Lawton, OK	18.0698
Lewiston-Auburn, ME	19.0090
Lexington, KY	17.6740
Lima, OH	18.5932
Lincoln, NE	19.3291
Little Rock-North Little Rock, AR	17.6667
Longview-Marshall, TX	18.0723
Los Angeles-Long Beach, CA	25.1088
Louisville, KY-IN	18.8926
Lubbock, TX	17.6523
Lynchburg, VA	18.4907
Macon, GA	18.6578
Madison, WI	20.8155
Mansfield, OH	17.7305
Mayaguez, PR	9.1443
McAllen-Edinburg-Mission, TX	18.4765
Medford-Ashland, OR	20.8190
Melbourne-Titusville-Palm Bay, FL	19.1487
Memphis, TN-AR-MS	17.3726
Merced, CA	20.8449
Miami, FL	20.8119
Middlesex-Somerset-Hunterdon, NJ	23.1702
Milwaukee-Waukesha, WI	19.4387
Minneapolis-St. Paul, MN-WI	22.5517
Missoula, MT	19.0914
Mobile, AL	17.4040
Modesto, CA	21.4951
Monmouth-Ocean, NJ	23.5125
Monroe, LA	17.0762
Montgomery, AL	16.2493
Muncie, IN	19.5589
Myrtle Beach, SC	16.9930
Naples, FL	21.1457
Nashville, TN	19.6966
Nassau-Suffolk, NY	28.2430
New Haven-Bridgeport-Stamford-Waterbury-Danbury, CT	25.6149
New London-Norwich, CT	24.1351
New Orleans, LA	19.3440
New York, NY	30.0458
Newark, NJ	24.6548
Newburgh, NY-PA	23.1779
Norfolk-Virginia Beach-Newport News, VA-NC	17.1926
Oakland, CA	31.1506
Ocala, FL	19.0159
Odessa-Midland, TX	17.9849
Oklahoma City, OK1	8.0923
Olympia, WA	23.9389
Omaha, NE-IA	20.7181
Orange County, CA	23.9400
Orlando, FL	20.3876
Owensboro, KY	16.1460
Panama City, FL	17.6753
Parkersburg-Marietta, WV-OH	16.6559
Pensacola, FL	17.1334
Peoria-Pekin, IL	16.7415
Philadelphia, PA-NJ	23.6239
Phoenix-Mesa, AZ	19.9270
Pine Bluff, AR	16.4382
Pittsburgh, PA	20.3391
Pittsfield, MA	22.4781
Pocatello, ID	18.2669
Ponce, PR	9.9487
Portland, ME	19.8655
Portland-Vancouver, OR-WA	23.2244
Providence-Warwick, RI	22.4422
Provo-Orem, UT	20.5384
Pueblo, CO	18.1010
Punta Gorda, FL	18.7634
Racine, WI	18.9687
Raleigh-Durham-Chapel Hill, NC	20.3867
Rapid City, SD	17.0546
Reading, PA	19.1866

TABLE 4D.—AVERAGE HOURLY WAGE FOR URBAN AREAS—Continued

Urban area	Average hourly wage
Redding, CA	24.6374
Reno, NV	23.0512
Richland-Kennewick-Pasco, WA	21.3732
Richmond-Petersburg, VA	19.1375
Riverside-San Bernardino, CA	22.3498
Roanoke, VA	17.6802
Rochester, MN	24.3054
Rochester, NY	20.0636
Rockford, IL	17.8998
Rocky Mount, NC	18.7242
Sacramento, CA	24.8541
Saginaw-Bay City-Midland, MI	19.7109
St. Cloud, MN	19.9167
St. Joseph, MO	20.5465
St. Louis, MO-IL	19.0136
Salem, OR	20.5776
Salinas, CA	31.4614
Salt Lake City-Ogden, UT	19.5264
San Angelo, TX	15.8857
San Antonio, TX	16.8290
San Diego, CA	25.4828
San Francisco, CA	28.9989
San Jose, CA	28.7281
San Juan-Bayamon, PR	9.6051
San Luis Obispo-Atascadero-Paso Robles, CA	23.4029
Santa Barbara-Santa Maria-Lompoc, CA	23.2580
Santa Cruz-Watsonville, CA	29.0487
Santa Fe, NM	20.0537
Santa Rosa, CA	28.2508
Sarasota-Bradenton, FL	19.8054
Savannah, GA	20.9009
Scranton-Wilkes Barre-Hazleton, PA	17.2431
Seattle-Bellevue-Everett, WA	23.9482
Sharon, PA	18.3824
Sheboygan, WI	17.0899
Sherman-Denison, TX	17.8053
Shreveport-Bossier City, LA	19.5016
Sioux City, IA-NE	17.6215
Sioux Falls, SD	18.5158
South Bend, IN	20.4831
Spokane, WA	22.7055
Springfield, IL	18.1176
Springfield, MO	16.7688
Springfield, MA	22.8337
State College, PA	19.6319
Steubenville-Weirton, OH-WV	17.5119
Stockton-Lodi, CA	23.0115
Sumter, SC	16.8850
Syracuse, NY	19.5305
Tacoma, WA	21.5661
Tallahassee, FL	17.5545
Tampa-St. Petersburg-Clearwater, FL	18.9348
Terre Haute, IN	18.6798
Texarkana, AR-Texarkana, TX	17.6740
Toledo, OH	20.7579
Topeka, KS	20.3862
Trenton, NJ	21.8355
Tucson, AZ	18.7576
Tulsa, OK	17.5841
Tuscaloosa, AL	15.8762
Tyler, TX	18.3215
Utica-Rome, NY	17.4892
Vallejo-Fairfield-Napa, CA	27.8686
Ventura, CA	22.8835
Victoria, TX	17.4131
Vineland-Millville-Bridgeton, NJ	21.6923
Visalia-Tulare-Porterville, CA	20.9493
Waco, TX	17.3923
Washington, DC-MD-VA-WV	22.4534
Waterloo-Cedar Falls, IA	16.5347
Wausau, WI	20.2214
West Palm Beach-Boca Raton, FL	21.2323
Wheeling, OH-WV	15.8460
Wichita, KS	18.4872
Wichita Falls, TX	16.2686
Williamsport, PA	17.7778
Wilmington-Newark, DE-MD	24.6591
Wilmington, NC	19.4129
Yakima, WA	21.4371
Yolo, CA	23.3394
York, PA	19.5520
Youngstown-Warren, OH	20.3921
Yuba City, CA	22.5751
Yuma, AZ	20.8977

TABLE 4E.—AVERAGE HOURLY WAGE FOR RURAL AREAS

Nonurban area	Average hourly wage
Alabama	15.1554
Alaska	25.8250
Arizona	16.5996
Arkansas	15.0624
California	20.7330
Colorado	17.5278
Connecticut	25.0854
Delaware	18.2993
Florida	18.4445
Georgia	16.3888
Hawaii	22.6670
Idaho	17.6129
Illinois	16.4463
Indiana	17.4120
Iowa	16.1574
Kansas	15.2062
Kentucky	16.2977
Louisiana	15.4880
Maine	17.5914
Maryland	17.7750
Massachusetts	22.5095
Michigan	18.4407
Minnesota	17.8572
Mississippi	15.1920
Missouri	15.4837
Montana	17.4489
Nebraska	15.9437
Nevada	19.2311
New Hampshire	21.2761
New Jersey [1]	.....
New Mexico	17.1812
New York	17.8440

TABLE 4E.—AVERAGE HOURLY WAGE FOR RURAL AREAS—Continued

Nonurban area	Average hourly wage
North Carolina	16.8544
North Dakota	15.5776
Ohio	17.6991
Oklahoma	14.8012
Oregon	20.5901
Pennsylvania	18.0013
Puerto Rico	8.4766
Rhode Island [1]	.....
South Carolina	16.7176
South Dakota	15.5989
Tennessee	15.5660
Texas	15.7178
Utah	18.4060
Vermont	19.5637
Virginia	16.3242
Washington	21.7934
West Virginia	16.3620
Wisconsin	18.0980
Wyoming	18.2168

[1] All counties within the State are classified as urban.

TABLE 4F.—PUERTO RICO WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF)

Area	Wage index	GAF	Wage index—reclass. hospitals	GAF—reclass. hospitals
Aguadilla, PR	1.0295	1.0201	.....	.....
Arecibo, PR	1.0599	1.0406	.....	.....
Caguas, PR	0.9603	0.9726	0.9603	0.9726
Mayaguez, PR	0.9584	0.9713	.....	.....
Ponce, PR	1.0427	1.0290	.....	.....
San Juan-Bayamon, PR	1.0067	1.0046	.....	.....
Rural Puerto Rico	0.8884	0.9222	.....	.....

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: February 5, 1999.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Approved: February 10, 1999.

Donna E. Shalala,

Secretary.

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Federal Register

Thursday
February 25, 1999

Part III

Department of Labor

Employment and Training Administration

Planning Guidance and Instructions for Submission of the Strategic Five-Year Plan for Title I of the Workforce Investment Act of 1998 and the Wagner-Peyser Act; Notice

DEPARTMENT OF LABOR

Employment and Training Administration

Planning Guidance and Instructions for Submission of the Strategic Five-Year State Plan for Title I of the Workforce Investment Act of 1998 and the Wagner-Peyser Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The purpose of this notice is to provide interested parties with the final approved planning guidance for use of States in submitting their Strategic Five-Year State Plan for Title I of the Workforce Investment Act of 1998 and the Wagner-Peyser Act. The Planning Guidance and Instructions provide a framework for the collaboration of Governors, Local Elected Officials, businesses and other partners to design and build workforce investment systems that address customer needs; deliver integrated, user-friendly services; and are accountable to the customers and the public.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Johnson, Workforce Investment Implementation Taskforce Office, U.S. Department of Labor, 200 Constitution Avenue, NW, Room S5513, Washington, D.C. 20210, Telephone: (202) 219–0316 (voice) (This is not a toll-free number), or 1–800–326–2577 (TDD). Information may also be found at the website—http://usworkforce.org.

SUPPLEMENTARY INFORMATION: The Workforce Investment Act (WIA or Act), Pub.L. 105–220 (August 7, 1998) provides the framework for a reformed national workforce preparation and employment system designed to meet the needs of the nation's employers, job seekers and those who want to further their careers. Titles I, III, and V of the Act encourage States to reform existing employment and training programs to reach two important goals: (1) to think broadly about how Federal, state, local resources and the private sector can be brought together to increase the employment, retention, and earnings of participants, and (2) to increase occupational skill levels of customers. This will result in a more qualified workforce, a reduction in welfare dependency, and enhanced productivity and competitiveness for the Nation. The new law makes changes to the current workforce development system in many areas, including: funding streams; target populations; delivery system; performance accountability; long-term planning; and governance structure.

The most important aspect of the Act is its focus on meeting the training, education and employment needs of individuals as well as the needs of businesses for skilled workers. The Act will enable customers to obtain access to the information and services they need through the ''One-Stop'' system, empower adults with the information and resources to obtain the training they find most appropriate through Individual Training Accounts, establish performance measures and criteria for States, locals and training providers, and enable all State and local programs to more successfully meet customer expectations.

The Act includes several new features to ensure the full involvement of business, labor, and community organizations in designing and ensuring the quality of the new workforce investment system. Such features include the creation of State and Local Workforce Investment Boards, and Youth Councils. The Act requires the Governor to submit a five-year strategic plan to the Secretary of Labor. The State Boards in partnership with the Local Boards, will help the Governor develop the strategic vision and the statewide plan. The plan will describe statewide workforce investment activities, explain how the requirements of the Act will be implemented, and outline how special population groups will be served. States are encouraged to take advantage of the option to submit their plans electronically as indicated in the Plan Submission Requirements section of the attachment.

The Secretary of Labor is authorized to take appropriate actions to ensure an orderly transition from the Job Training Partnership Act (JTPA) to the Workforce Investment Act. The JTPA is repealed effective July 1, 2000. However, States which are ready may implement the WIA beginning July 1, 1999. DOL encourages States who are ready to make broad scale reforms to fully consider the positive gains available with early reform and implementation of the Act.

Signed at Washington, D.C., this 18th day of February 1999.

Raymond L. Bramucci,

Assistant Secretary of Labor, Employment and Training Administration.

ATTACHMENT: PLANNING GUIDANCE AND INSTRUCTIONS FOR SUBMISSION OF THE STRATEGIC FIVE YEAR STATE PLAN FOR TITLE I OF THE WORKFORCE INVESTMENT ACT OF 1998 AND THE WAGNER-PEYSER ACT

OMB Control No. 1205–0398

Expires August 31, 1999

State Planning Guidance for Title I of the Workforce Investment Act of 1998 (Workforce Investment Systems) and the Wagner-Peyser Act

Statement of Purpose

The purpose of this document is to provide guidance to States and localities on the development of the five-year strategic Plan for Title I of the Workforce Investment Act and for the Wagner-Peyser Act. The Planning Guidance and Instructions provide a framework for the collaboration of Governors, Local Elected Officials, businesses and other partners to design and build workforce investment systems that address customer needs; deliver integrated, user-friendly services; and are accountable to the customers and the public.

Background

Technological change and the global economy have radically changed workers' lives from the lifelong employment they knew just one generation ago. Today's workers, whether new or experienced, must engage in a continuing process of developing their skills and abilities to perform effectively in changing work environments. All must be ready, willing and able to make multiple job changes—either with one employer or with several employers—just as successful businesses often have to make changes in markets or market focus.

The dynamic nature of the global economy requires forward thinking and quick action to take advantage of the opportunities being created. Workers and employers must be increasingly informed about available and emerging employment and training options in order to make decisions that will ensure both their short and long-term success.

The Workforce Investment Act (WIA) of 1998 represents a national consensus on the need to restructure a multitude of workforce development programs into an integrated workforce investment system that can better respond to the employment needs of its customers—current workers, unemployed workers, workers laid-off due to restructuring or downsizing, and new entrants to the labor force, as well as employers. Passage of this legislation completes a four-year bipartisan effort of the Administration and the Congress to design, in collaboration with States and local communities, revitalized workforce investment systems. These locally-operated, demand-driven workforce investment systems will increase the employment, retention, earnings and occupational skill

attainment of participants through improved career information and guidance, job search assistance, and Individual Training Accounts. Employers' needs will be identified and used to help drive decisions of job seekers. Achieving these goals will improve the quality of the workforce, reduce welfare dependency, and enhance the productivity and competitiveness of the Nation.

WIA reflects a strong commitment among managers, providers and investors in the public employment and training system to fundamentally refocus the entire system on customer service and performance accountability. The Act incorporates several key principles that are to guide this redirection:

- Streamlining services through the integration of multiple employment and training programs, including WIA and the Wagner-Peyser Act, at the ''street level'' through One-Stop service centers;
- Empowering individuals with the information and resources they need to manage their own careers through Individual Training Accounts and better statistics on the performance of service providers, as well as on the skills demanded by employers;
- Universal access for all job seekers to a core set of career decision-making and job search tools;
- Increased accountability of the delivery system to achieve improved results in job placement, earnings, retention in unsubsidized employment, skill gains, and occupational/academic credentials earned;
- Strong role for local boards and the private sector by shifting emphasis from ''nitty-gritty'' operational details to strategic planning and oversight of the One-Stop delivery system;
- State and local flexibility to ensure that delivery systems are responsive to the needs of local employers and individual communities; and
- Improved youth programs that strengthen linkages between academic and occupational learning and other youth development activities.

Focus on Customer Service

One-stop partnerships to expand services for adults

Under WIA, workforce investment systems will be the trusted source for training and labor exchange services. Programs will be aligned to provide an extensive menu of demand-driven, high-quality labor market information and services that can be easily accessed.

The cornerstone of this new workforce investment system is One-Stop service delivery, which makes available numerous training, education and employment programs in a single, customer-focused, user-friendly service system at the local level.

The Act specifies nineteen required One-Stop partners and five optional partners to help maximize customer choice. For example, the unemployment insurance (UI) program is a critical item on the menu of assistance, as the temporary income support component of the larger effort to quickly return unemployed workers to suitable employment. WIA requires coordination among all Department of Labor-funded workforce programs—including the Wagner-Peyser Act programs, unemployment insurance, Veterans Employment and Training Service (VETS), Trade Adjustment Assistance (TAA), North American Free Trade Agreement/Transitional Adjustment Assistance (NAFTA/TAA), and the Welfare-to-Work program—as well as other federal employment and training programs administered by the Departments of Education, and Housing and Urban Development. For example, the Act requires that Individual Training Accounts be offered only when Education-funded Pell grants are insufficient, which will require new mechanisms for coordination between the two programs.

Real World Examples of Existing One-Stop Integration

- Housed in a 62,000 square foot building, accessible by public transportation, this One-Stop Center offers a fully integrated and consolidated delivery system consisting of 16 partners providing comprehensive employment and training services. The partnership includes agencies administering employment and training programs under JTPA, the Employment Service,child care resources, the technical college, the county human services agency, the local school district, a community action agency, the senior community service employment program, various community-based organizations and a number of private for-profit organizations. The Center has one outreach campaign directed toward job seekers and employers, and one single point of contact for employers,which brokers all available employment and training programs and services, regardless of partner affiliation. This One-Stop Center also has one client/management/financial information system which allows any partner to access and input information. From providing personalized career counseling and employment services that help job seeker establish career goals and update their skills, to providing businesses with much needed personnel resources and customized action plans to help them locate skilled workers, this One-stop Center has forged a vital link between employers and those seeking employment.
- Another One-Stop partnership includes representatives of 38 programs and organizations, from the Community College districts to the Employment Security Agency to the Department of Social Services. This One-Stop places a high priority on the needs of the employer customer, as well as those of the job seeker. Unlike the first example, this One-Stop system is not housed at just one physical location, but rather includes a number of ''no wrong door'' Centers or ''campuses'' that are customized to the needs of different customer groups. These include a One-Stop at the local mall serving youth, a Next Step Center for veterans, and a One-Stop for seniors, with additional entry points through the Community College Districts. The anchor campus focuses on adult job seekers and services to employers. It houses JTPA services, the Employment Service, a job club for professionals, and a state of the art resource center with core job search services for the public. The campus setting encourages collaboration and fosters a growing sense of working together for the benefit of the customer, not the separate agencies. As new partners joint the One-Stop, they bring new resources, talents, and options to the table that enable the system to better serve its customers. The strength and commitment of this partnership was a key factor in the PIC's customer satisfaction index rising from 80% in 1995 to 93% in 1998.

The Act also encourages coordination with all other relevant programs, such as those administered by the Departments of Agriculture, Health and Human Services, and Transportation. All of these Departments will be working together to ensure greater communication and collaboration at the federal level. At the local level, the Department expects that the list of partners will be expanded to include a variety of community resources that will help serve One-Stop customers.

The Department also expects that the concept of partnership will move well beyond traditional coordination to operational collaboration, thus making more and better services available to the individual customer. States and local areas should think expansively, working with all partners to develop integrated One-Stop systems with comprehensive, seamless, responsive service delivery to all customers, including recent graduates, new entrants to the labor

force, welfare recipients, incumbent workers, unemployed workers, displaced homemakers, individuals seeking nontraditional training, older workers, workers with disabilities and others with multiple barriers to employment, as well as businesses. For example, collaboration between the workforce investment and welfare systems is critical, since the focus of both is helping people—often the same people—find, keep, and move into progressively better jobs.

In order to better serve our customers, the Act specifically requires that at least one physical location be established in each workforce investment area with access to all required One-Stop services. In addition, satellite offices can be electronically linked to facilitate easy access to services through multiple ''no wrong door'' entry points for customers. In order to make services available to all customers, the One-Stop system must be accessible by persons with disabilities and should be accessible by those who rely on public transportation.

Intergovernmental partnerships between all three levels of government—federal, state and local—will also be critical to successfully building and implementing this new workforce investment system. The Department intends that its Regional Offices will work in partnership with their State and local partners in designing the new workforce environment, helping to ensure creation of a responsive, locally-driven system characterized by real program integration, sound governance structures, high quality service providers and built-in accountability. Ideally, this intergovernmental partnership will begin in the planning and Plan-writing stages and continue throughout implementation. We see this partnership as essential to the success and continuous improvement of the system.

While the workforce investment system has already taken great strides toward integration and partnership, moving this transition forward will be challenging. But with WIA as the catalyst for change, its planning process becomes the critical opportunity for States and local stakeholders to develop a shared vision and strategy to move their systems forward.

The Role of the Employment Service

A State's five-year strategic Plan for WIA Title I will integrate the Wagner-Peyser Act planning requirements, replacing the annual Wagner-Peyser Act Plans. Funding remains distinct, however. As a result, the programs must remain distinctly accountable to Congress.

Nonetheless, WIA requires the Employment Service to provide services within the One-Stop system so that services appear seamless to customers (both job seekers and employers). In particular, the Employment Service has played and should continue to play a critical role in One-Stop service delivery as the primary job matching resource for employers and job seekers, including unemployment insurance (UI) claimants, in order that they return more quickly to the workforce, as well as for other targeted groups, such as veterans, and migrant and seasonal farmworkers, who may need more intensive services. Customers in need of specialized Wagner-Peyser Act-funded services, such as veterans, should have easy access to all services through the One-Stop system. Furthermore, labor exchange services to employers should be integrated with all other employer services available in the local area.

- Improved Youth Opportunities

WIA also encourages youth programs to be connected to the One-Stop system, as one way to connect youth to all available community resources. Furthermore, the Act envisions improved youth opportunities. This is apparent by the fact that Congress specifically authorized youth councils, as part of local Boards, with authority for developing the youth-related portions of the Local Plans, recommending youth service providers to the local Boards, coordinating youth services, and conducting oversight of local youth programs and eligible providers of youth programs.

These youth councils have been charged with the responsibility to design youth programs that connect youth with the full range of services and community resources that will lead to academic and employment success. To do so, councils must coordinate with all available resources, such as Job Corps, School-to-Work, educational agencies, Youth Opportunity Grants, welfare agencies, community colleges, and other youth-related programs and agencies.

- Meeting Employer and Local Labor Market Needs

The effectiveness of all of these services for adults and youth will be directly proportional to how well they meet the needs of local employers—small, medium and large—in the local labor markets. As a critical customer group, employers should be extensively involved in setting job and skill requirements, which are reflected in job orders as well as the local labor market information available through the One-Stop delivery system. Thus, local Boards must be led by key employers and have the flexibility and authority to develop systems tailored to current and projected local labor market needs.

Performance Accountability for Programs Under Title I of WIA

- Individual Training Accounts

Through the One-Stop system, all adults have the opportunity to access core services, which range from job search and placement assistance to labor market information. If needed, the One-Stop delivery system provides access to intensive and training services, including Individual Training Accounts (ITAs) for eligible participants. Along with an ITA, consumer information will be available regarding the performance of each training provider. Eligible participants will select training that best meets their needs from the training provider that has the best outcomes. Furthermore, this provider data will equip local Boards to play a key gatekeeping role, by certifying only those providers with good outcomes. Thus, ITAs will inject increased competition into the public and private training market. Good providers will attract students and flourish in the WIA system; poor providers will not. This market-driven system will ultimately produce better training and greater participant success in the labor market, which will be reflected in local performance.

- Negotiated Performance Indicators

Beyond the required core, intensive and training services, WIA allows considerable flexibility in system design, in exchange for both accountability for a key set of outcomes and improving those outcomes over time. To accomplish this, the Act requires the Secretary of Labor and the Governor of each State to reach agreement on the State's performance levels for the core indicators of performance, and for a customer satisfaction indicator that measures employers' and participants' satisfaction.

Timing such negotiations may be challenging, since the Governor and Secretary must reach agreement prior to approval of the State plan. Thus, early in this process, the Department will work with a broad range of State and local partners to develop guidance on the core performance measures, reporting requirements, and incentive and sanction policies.

The negotiated performance levels for the first three program years must be included in the State's five-year Plan (with levels for the fourth and fifth years to be agreed to before the beginning of the fourth program year). These levels of performance become the basis for sanctions for failed performance and, with additional performance levels under Adult Education and Vocational Education, the basis for incentive grants.

Over the coming months, the Department will begin updating its own strategic plan required under the Government Performance and Results Act (GPRA) to reflect WIA and the changes that accompany its enactment. New national goals will be proposed which will serve as a departure point in negotiating core performance indicators with States. To assist in identifying and negotiating performance levels, the Department will also work with States to provide State and local Job Training Partnership Act (JTPA) performance information.

Although the Act provides for a ninety-day period after Plan submission in which to finalize the performance levels specified in the Plan, the Department expects States to enter into preliminary discussions with the local boards and the Employment and Training Administration's Regional Administrators before submitting the State Plan. States are expected to come to the negotiating table with support from their local boards for the proposed performance goals. Entering into preliminary discussions prior to Plan submission will maximize the time available to States, local areas, and the Department to develop a shared set of goals. ETA Regional Administrators will coordinate with other Department of Labor program administrators, including the Veterans' Employment and Training Service (VETS) Regional Administrators, to assure comprehensive Departmental participation. The Department will provide additional guidance regarding the negotiation process at a later date.

- Continuous Improvement

The Act requires that the State's performance goals reflect continuously improving performance over time. Continuous improvement is a cyclical, never-ending process of planning, implementing, evaluating, and improving services. Such improvements may be defined in terms of quantity and quality, and should result in more customers being served; better employment, earnings and skill attainment outcomes; attainment of self-sufficiency; and higher levels of customer satisfaction. There are many ways to achieve continuous improvement. For example, tracking performance will give States the information needed to evaluate and improve services; enhancing partnerships will expand the Boards' ability to drive good outcomes; and strategic investments in training and technology will increase State and local productivity and effectiveness.

Clearly, the Act is envisioning a workforce investment system comprised of organizations driving toward high performance. This challenge can only be met by building a workforce investment system made up of high performance organizations at the local, State, regional and national levels of that system—one that is grounded on proven quality principles and practices, and that aligns resources to meet and then exceed shared goals. This system-wide deployment of an effective continuous improvement strategy will require not only cultural changes within the workforce investment system at all levels, but also the development of new kinds of skills and knowledge among the individuals who work in that system. The Department is strongly committed to this system-wide continuous improvement approach, and will be providing further technical assistance on its design and implementation based upon consultations with stakeholders at the local, state and national levels.

Planning for Title I of WIA and The Wagner-Peyser Act

The strength of the State Plan hinges on the working partnerships in place between the Governor, local elected officials, local boards, and other partners in the workforce investment system. The State planning document should be the culmination of strong collaboration and partnership-building at both the State and local levels. For example, the plan should take into consideration the agreement reached between the Secretary and the State regarding veterans' employment programs, pursuant to Section 322 of WIA. The local elected officials and the local workforce boards, working with the business community, service providers and community-based organization leaders, together play vital roles in shaping the vision and customizing the system to respond to specific local labor market needs. Emphasizing the importance of these relationships during the developmental stages of planning will help ensure that the State's five-year strategic plan is broad enough to encompass differing State and local approaches, yet specific enough to reflect local visions, needs and economic development strategies.

The planning process, then, spearheaded by the Governor and State Board in collaboration with local elected officials and local boards, becomes the way to secure the partners' full endorsement of the vision, along with performance goals and the critical strategies needed to attain them.

The plan document describes the destination, lays out the strategic roadmap, and identifies the key landmarks that will let the system know it is on track. This five-year strategic plan—with the statewide vision, goals, strategies, policies, criteria and measures—becomes a living document, a management tool that federal, State, and local partners will use to guide the evolution of the workforce investment system and to assess progress toward the State goals.

The Plan will be invaluable because it will allow the Governor and State Board to continually check State and local progress against their long-term goals and vision, and make adjustments as needed. However, for the Plan to be a true management tool, it will also require ongoing modification. Strategies and visions are based on assumptions regarding the economic and operating environments that are, after all, dynamic. Also, WIA encourages experimentation and risk-taking, which will inevitably result in failures as well as successes. Accordingly, State and local partners must view planning as more than simply a one-time event that ends with the submission and approval of the Plan.

The strategies outlined in the State Plan, augmented by local strategies, should lead to continuously improving results for the workforce investment system. Achieving continuous improvements in performance will be a function of the following:

- Leadership: The ability of State and local boards to establish a clear vision of how the workforce investment system can be responsive to their customers, to develop critical partnerships, including partnerships with business and community-based organizations, and to mobilize sufficient resources.
- Services: The responsiveness of services to varying customer needs.
- System Infrastructure: The effectiveness of service and management support systems to achieve quality results and customer service.
- *Performance Management:* The ability to track key measures of success and to use that data to improve performance.

Accordingly, the State Plan should focus on these critical areas, with the

leadership, services, system infrastructure, and performance management systems all supporting continuous progress toward the State's vision and goals. The State Plan must also address all WIA and Wagner-Peyser Act statutory planning requirements.

- The Critical Role of the Boards

Strong State Workforce Investment Boards (SWIBs) will be led by top business executives who can ensure that the system is responsive to current and projected job market realities, will contain a broad range of partners needed to develop a comprehensive vision for the workforce investment system, and will focus on strategic decisions, not operational management. WIA requires a broad range of Board members because having all partners ''at the table'' is key to developing a comprehensive vision and effective strategies. For this reason, the Planning Instructions require States that use an alternative entity to show how they have involved all the required Board members in planning and implementation.

At the local level, it is equally important that strong, business-led Boards contain key partners who are involved in shaping a clear local vision in a way that is consistent with the State's vision and goals and that is responsive to local needs.

Both Boards take responsibility for making several critical decisions on how to achieve the Plan goals:

- How best to organize the service system to most effectively serve customers, including dislocated workers (including displaced homemakers), low-income individuals (including welfare recipients), individuals training for non-traditional employment, other individuals with multiple barriers to employment (including older workers and individuals with disabilities), veterans, women, and minorities (including persons with limited English speaking ability);
- How best to deploy available resources to achieve desired results and build capacity for continuous improvement; and
- How to expand the resource base and service capability through the development of strategic partnerships and integrated service delivery.

The State Board's actions should increase the ability of the local Boards to respond to local needs and to achieve results in their respective local areas. Correspondingly, the actions of the local Boards should increase One-Stop providers' ability to respond to the needs of their job seeker and employer customers. To do so, local Boards will need significant flexibility to set policies that will determine what services to make available, how to deliver services, and how to effectively engage local employers. To maximize their value to the system, State and local Boards may want to track the satisfaction of their internal customers (for States, the local Boards; and for local Boards, service providers), to get feedback on their performance and make improvements.

The State Board also plays a critical role in shaping youth services by defining the criteria for membership on local youth councils. These youth councils are essential to ensuring the provision of coordinated services that meet the needs of youth, as well as of the local community. Thus, it is important that they represent a wide range of community resources, including local board members with special interest or expertise in youth services, representatives of youth services agencies, parents, and other individuals and organizations that have experience with youth. The youth councils will be central to developing the portions of the local Plan that pertain to youth, recommending providers of youth services, holding the providers accountable to established performance goals and coordinating youth activities in the area.

All of these responsibilities focus the activities of the State and local Boards and the local youth councils on strategic, not operational, management. Making investments that expand and enhance service and management capacity will be *the* critical and, for many, new role of the State and local Boards and the local youth councils.

State Plan Submission

- State Readiness

States must complete the transition to WIA no later than July 1, 2000 and submit a complete five-year State Plan by April 1, 2000. Thus, the Department anticipates that Governors and local elected officials will begin as soon as possible to form partnerships, develop plans and begin implementation. Recognizing that States are starting from different points, this guidance provides flexible approaches for all States to begin the process.

The Act requires the Department to approve State Plans that are consistent with WIA (§ 112(c)). A Plan will be considered complete and responsive to the Act if it addresses all of the planning requirements in Attachment A, including such critical elements as:

- State Board, including conflict of interest provisions.
- State criteria for the appointment of local Board members.
- Local Workforce Investment Areas.
- Allocation formulas.
- Procedures for certifying training providers for inclusion on the list of eligible providers.
- Procedures to manage the operation of the Individual Training Account system.
- Procedures to operate the consumer report card system.
- Strategies to coordinate services provided through the local One-Stop system.
- Financial and management information systems.
- Performance measurement systems, including those necessary for wage record follow-up of employment and earnings.

All States must be in compliance with WIA, including all of the elements listed above prior to July 1, 2000 when JTPA expires, and must submit a complete five-year Plan by April 1, 2000. Single workforce investment area States must also submit a Local Plan, instructions for which can be found in Attachment D.

The Department encourages States to move ahead as quickly as possible to implement WIA anytime between July 1, 1999 and July 1, 2000. States intending to implement WIA beginning on July 1, 1999, should submit their State Plans no later than April 1, 1999. States planning to implement WIA sometime between July 1, 1999 and July 1, 2000, may submit their plans at any time, but no later than April 1, 2000. The Department will provide additional transition guidance through regulations, policy issuances, and training to help all States implement WIA as smoothly as possible.

There are four ways a State can develop and submit a Plan to make the transition to WIA.

- Option 1: Full Early Implementation. States that have all of the critical elements in place and can fully address all of the planning requirements (in Attachment A) may submit a complete five-year WIA Plan and request review for full Plan approval.
- Option 2: Transition Plan. States that do not have all of these elements in place may submit a Transition Plan that includes a description of how PY 99 funds will be used during the State's transition to WIA operation by July 1, 2000. This Plan must address all Plan requirements, but where transition is not yet complete, the Plan should describe and include a timeline demonstrating how the State plans to become fully operational by dates

specified in the Plan, but no later than July 1, 2000. Transition Plans will be reviewed for compliance with the planning guidance and statutory requirements. Transition Plans will be approved to authorize expenditure of PY 99 JTPA funds in accordance with the transition provisions of the Plan and will be conditionally approved for full WIA operation on July 1, 2000 or such date specified in the Plan. Full WIA plan approval will be conditioned upon supplemental Plan descriptions, and modifications when necessary, in those areas that were not completely described in the initial Transition Plan. Under this option, in PY 1999, States may transition to WIA even though all policies, procedures and systems are not fully developed. Correspondingly, States may allow local areas to transition to WIA individually as each local area is ready to do so.

- Option 3: July 1, 2000 Implementation. States planning to submit State Plans by April 1, 2000 for WIA implementation beginning on July 1, 2000 may transition to WIA using JTPA authority, existing waiver authority (including Work-Flex waivers), and the authority under WIA to spend up to two percent of JTPA funds for planning WIA implementation. For instance, States may use this flexibility to engage in strategic planning, establish State and local Boards, consult with One-Stop partners, and establish ITA systems and consumer report systems. The Department encourages States to take advantage of this flexibility, and plans to issue further transition guidance and technical assistance. States may also work with their Regional Administrators for an informal ''check'' on portions of their Plans before they are submitted as part of the formal Plan submission.
- Option 4: Unified Plan. All States, whether they submit a State Plan under Option 1, 2, or 3, may submit the State Plan as part of a Unified Plan in accordance with WIA section 501. The Department will keep States informed about the status of Unified Planning Guidance (developed jointly with the other responsible federal departments).

All States may use up to 2% of their JTPA funds for WIA planning, to begin the transition. States wishing to spend more than 2% of their JTPA funds on transition to and implementation of WIA provisions should consider submitting a Plan under Option 1 or 2.

The amendments to the Wagner-Peyser Act take effect on July 1, 1999. Therefore, States that submit a full Plan or a Transition Plan that covers (at a minimum) the Wagner-Peyser planning requirements prior to May 1, 1999 do not have to submit a separate Wagner-Peyser Plan. States that opt to submit their full five-year or Transition Plan after May 1, 1999 must submit an annual Wagner-Peyser Plan for PY 99 by May 1, 1999 unless a State waiver has been granted. Further guidance will be forthcoming.

- Plan Submission Requirements

The Secretary of Labor has designated the Employment and Training Administration (ETA) to administer WIA. Plans must have an original signature of the Governor, and the name of the Governor must be typed below the signature. States should submit their State Plan (with an original signature) along with two copies to the U.S. Department of Labor, WIA Task Force as follows: Mr. Raymond L. Bramucci, Assistant Secretary Employment and Training Administration, U.S. Department of Labor, 200 Constitution Ave., NW, Room S–5513, Washington, DC 20210, ATTN: Eric Johnson, Director, WIA Task Force, (wia98tf@doleta.gov).

One copy of the Plan (with an original signature) must also be sent simultaneously to the appropriate ETA Regional Administrator listed in Attachment C.

States may also submit State Plans via diskette or e-mail. In order to transmit electronically, States must have WordPerfect or Microsoft Word format. (Macintosh versions cannot be accepted.) States submitting State Plans electronically should transmit one copy of the plan to the U.S. Department of Labor, WIA Task Force at the address or e-mail address identified above, and one copy to the appropriate ETA Regional Administrator listed in Attachment C. States that submit State Plans electronically will not have to submit additional paper copies, but must submit signature pages with an original signature to both the national and regional offices.

For States wishing to implement WIA beginning on July 1, 1999, the Department must receive their Plans by April 1, 1999. Earlier submissions will also be accepted. States wishing to implement WIA between July 1, 1999 and July 1, 2000 may submit their Plans anytime before April 1, 2000. All States must have their full Plans in no later than April 1, 2000.

Whenever a State submits its Plan, section 404 of WIA (which amends Title I of the Rehabilitation Act of 1973) requires the State to submit its Vocational Rehabilitation State Plan on the same date.

- Plan Review

While the Department expects States to enter into preliminary discussions with the local boards and the Regional Offices on the negotiated levels of performance before Plan submission, State Plans submitted pursuant to section 112 will be formally reviewed for up to ninety days for compliance with the provisions of the Workforce Investment Act and requirements described in section 8(a) of the Wagner-Peyser Act. Plans that are consistent with and meet all provisions of the Acts and that establish acceptable levels of performance will be considered approved.

- Grant Packages

ETA will issue separate grant instruction packages (grant agreement, assurances/ certifications, electronic account forms, etc.) to the States. Sufficient lead time will be provided for the completion of the package and for execution of the grant documents. Grant funds will be provided in accordance with the allotments published in the **Federal Register** for the appropriate Program Year, if the State has met the Plan and Grant Agreement submission requirements pursuant to sections 112 and 189(c) of the Act, respectively.

Plan Modifications

Modifications will likely be needed in any number of areas to keep the Plan a viable, living document over its five-year life. The Act gives States authority to modify WIA Plans based on unanticipated circumstances, and the Department expects that States will modify their Plans if changes in economic conditions, or federal or State law or policy seriously affect the Strategic Plan's viability. Accordingly, States should submit a modification if there are substantial changes in State law, the statewide vision, strategies, policies, performance indicators or goals, under either Title I or the Wagner-Peyser Act. For example, changes in the methodology used to determine substate allocations, and reorganizations which change the working relationships with system employees or result in reassigned responsibilities will require a modification. States will also be required to submit a plan modification to adjust their mix of services if performance goals are not met after the first year. States may wish to use the annual report process as an opportunity to review their State Plan and develop modifications as needed. Modifications to the State Plan are subject to the same public review and comment requirements that apply to the

development of the original State Plan. States should direct any questions about the need to submit a plan modification to their Regional Office contact listed in Attachment C.

Description of Attachments

Attachment A: Planning Instructions.
Attachment B: Optional Table for State Performance Indicators and Goals.
Attachment C: Regional Office Addresses.
Attachment D: Local Planning Guidance for Single Workforce Investment Area States.

Inquiries

Inquiries should be addressed to the appropriate ETA Regional Office, listed in Attachment C.

Attachment A

STRATEGIC FIVE-YEAR STATE WORKFORCE INVESTMENT PLAN FOR TITLE I OF THE WORKFORCE INVESTMENT ACT OF 1998 (WORKFORCE INVESTMENT SYSTEMS) AND THE WAGNER-PEYSER ACT

STATE/COMMONWEALTH OF

For the period of
☐ Full Plan
☐ Transition Plan

State Planning Instructions

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Preamble

These instructions are based on the planning requirements of Title I of the Workforce Investment Act, found primarily in sections 111 and 112, and the Wagner-Peyser Act and regulations. These instructions do not follow the order of the requirements found in the Acts; rather, they have been formatted to help States to create viable strategic plans.

States that opt to submit a Transition Plan for conditional approval must address all of the planning requirements outlined in the instructions. For those elements that are still in transition, the Plan should describe their strategies and timeline for implementation by July 1, 2000.

States should develop Plans that are as long or short as needed to address the following requirements; however, the Department suggests that Plans be less than 50 single-spaced pages (without attachments).

Executive Summary

Enclose a brief summary (e.g., two pages or less) of the State Plan that gives a general overview of the State's workforce investment system. This executive summary should include a discussion of your State's economic and workforce development goals, and how the statewide workforce investment system will support them. It should also include an overview of major accomplishments in the development of your system as it exists today; a brief description of the system as it looks today; a snapshot of how the system (including major partner involvement) will change over the five-year period; and a description of how performance will improve as a result.

I. Plan Development Process

WIA gives States and local areas a unique opportunity to develop employment and training systems tailored specifically to States' and local areas' needs. Since the State Plan is only as effective as the partnerships that can operationalize it, it should represent a collaborative process among State and local elected officials, Boards and partners (including private sector partners) to create a shared understanding of the State's workforce investments needs, a shared vision of how the workforce investment system can be designed to meet those needs, and agreement on the key strategies to attain this vision. This type of collaborative planning at all stages—from the initial planning discussions through drafting the State Plan document—will enable the State Plan to both drive local system improvements and allow room for strategies tailored to local needs. Plan development must also include an opportunity for stakeholder and public review and comment.

In this section, States will describe their Plan development process, including a discussion of how comments were incorporated wherever possible.

A. Describe the process for developing the State Plan (including a timeline) that ensures meaningful public comment. Include a description of the Governor's and the State Board's involvement in drafting, reviewing and commenting on the Plan. What actions did your State take to collaborate in the development of the State plan with local elected officials, local workforce boards and youth councils, the business community (including small businesses), labor organizations, educators, vocational rehabilitation agencies, and the other interested parties, such as service providers, welfare agencies, community-based organizations, transportation providers and advocates? (§§ 111(g), 112(b)(1), 112(b)(9).)

B. Include all comments received (or a summary), and demonstrate how comments were considered in the plan development process. (§ 112(b)(9).)

II. State Vision and Goals

A vision creates organizational alignment around a picture of a transformed future. It propels the organization toward achieving difficult but attainable strategic goals. Vision drives systematic improvements and produces outcomes. It is dynamic, not static. Performance indicators and goals are used to track the organization's progress.

WIA envisions broad and dramatic changes that result in a reinvigorated, integrated workforce investment system that coordinates more resources, serves more people, and achieves better outcomes. States and local areas should work with all required and, where appropriate, optional partners to creatively design integrated One-Stop systems, with seamless services for all customers. For example, collaboration between the workforce investment and welfare systems is critical, since the focus of both is to help people prepare for work, find jobs, retain jobs, and increase earnings. States should take the lead in assuring the maximum use of Individual Training Accounts. States and local boards should also think expansively to design youth programs that broaden and enhance young people's connections to post-secondary education opportunities, leadership development activities, mentoring, training, community service, and other community resources.

In this section, you will identify your State's broad strategic economic and workforce development goals (e.g., ''All people who want to work can find jobs. There will be a growing number of business start-ups. Fewer people will rely on welfare assistance.'').

You will then describe the shared vision of how the WIA workforce investment system will support attainment of these goals; and finally, performance indicators and goals, which the entire statewide system can use to track its progress toward the strategic goals.

The Act requires States to track the core indicators of performance described in section 136 (e.g., entered unsubsidized employment, retention and earnings, attainment of education or occupational credentials and/or skills, and the customer satisfaction indicator). While the State and local areas may choose to use additional indicators, at a minimum, your State must identify its goals for each of these required indicators for the first three program years.

A. What are the State's broad strategic economic and workforce development goals? (§§ 111(d)(2), 111(d)(6), 112(a), 112(b)(3).)

B. Provide (in a few paragraphs) the State's vision of how the WIA statewide workforce investment system will help the State attain these strategic goals. This vision should address the specific emphases of Title I of the Act and provide a brief description of what the State's workforce investment system will look like at the end of the five-year period covered by this Plan. Some specific questions that should be answered by the vision statement are:

- In five years, how will services be further streamlined?
- What programs and funding streams will support service delivery through the One-Stop system?
- Typically, what information and services will be provided and how will customers

access them? How will the goal of universal access be assured?

• For customers who need training, how will informed customer choice and the use of the Individual Training Accounts (ITAs) be maximized?

• How will Wagner-Peyser Act and unemployment insurance services be fully integrated into the system?

• How will the State's workforce investment system help achieve the goals of the State's welfare, education, and economic development systems?

• How will the youth programs be enhanced and expanded so young people have the resources and skills they need to succeed in the State's economy? (§§ 111(d)(2), 112(a).)

Summary of WIA's Core Indicators of Performance

• For Adults, Dislocated Workers and Youth 19–21

1. Entry into Unsubsidized Employment

2. 6-Months Retention in Unsubsidized Employment

3. 6-Months Earnings Received in Unsubsidized Employment

4. Attainment of Educational or Occupational Skills Credential by participants who enter unsubsidized employment or by youth who enter postsecondary education, advanced training or unsubsidized employment

• For Youth 14–18

1. Attainment of Basic Skills, Work Readiness and/or Occupational Skills

2. Attainment of Secondary School Diplomas/ Equivalents

3. Placement and Retention in Post-Secondary Education/Advanced Training, Military, Employment, or qualified Apprenticeships

• Customer Satisfaction Indicator for Participants and Employers

C. Identify the performance indicators and goals the State has established to track its progress toward meeting its strategic goals and implementing its vision for the workforce investment system. At a minimum, States must identify the performance indicators required under section 136, and, for each indicator, the State must develop an objective and quantifiable performance goal (the ''State-adjusted level of performance'') for each of the first three program years. States may want to use a chart such as the one in Attachment B. (Further guidance, including definitions of specific indicators, will be provided separately.) States are encouraged to address how the performance goals for local workforce investment areas and training providers will help them attain their Statewide performance goals. (§§ 112(b)(3), 136.)

III. Assessment: To achieve your vision, you start by assessing where you are today—your current market realities and your system's readiness. This assessment provides the foundation for mapping out strategies to achieve your vision.

In this section, you will identify your customers, their needs, and your ability to fulfill them. You will also address the systems and policies you already have in place to achieve the State goals, and identify strengths to build on, weaknesses to improve on, opportunities for action and challenges to progress.

A. Market Analysis

1. Describe the key trends that are expected to shape the economic environment of the State during the next five years. Which industries are expected to grow? Which will contract? What are the economic development needs of the State? What data sources support the State's market analysis? (§ 112(b)(4).)

2. Identify the implications of these trends in terms of overall availability of employment opportunities by occupation, and the job skills necessary in key occupations. (§ 112(b)(4).)

3. Who are the customers of the State's workforce investment system?

States may wish to identify major customer segments. (For example, the adult population might be segmented into dislocated workers, public assistance recipients, older workers, veterans, migrant and seasonal farmworkers, Native Americans, persons with disabilities, women, and minorities. The employer customer might be segmented into growth employers, large and small businesses, employers that currently use the workforce investment system and employers that do not. The youth population might be segmented into in-school and out-of-school youth.) (§§ 112(b)(4), 112(b)(17).)

4. Given the projected job skills needed in the State, identify for each of your customer segments their projected skill development needs. (§ 112(b)(4).)

B. State Readiness Analysis

1. Leadership

a. State Workforce Investment Board.

i. Describe the organization and structure of the State Workforce Investment Board. Did you create a new Board or did you ''grandfather'' an alternative entity as the Board? If you ''grandfathered'' an existing Board, (1) state whether the Board existed on December 31, 1997, (2) state whether the Board was established under the Job Training Partnership Act (as a State Human Resource Investment Council or State Job Training Coordinating Committee under JTPA section 122 or Title VII) or is ''substantially similar'' to the WIA membership requirements, and (3) describe how the Board includes, at a minimum, representatives of businesses and labor organizations in the State. (§§ 111, 112(b)(1).)

ii. Identify the organizations or entities represented on the Board. If you are using an alternative entity which does not contain all the members required under section 111(b)(1), describe how each of the entities required under this section will be involved in planning and implementing the State's workforce investment system as envisioned in WIA. How will this alternative entity achieve the State's WIA goals? (§§ 111(a–c), 111(e), 112(b)(1).)

iii. Describe the process your State used to identify your State Board members. How did you select Board members, including business representatives, who have optimum policy-making authority and who represent diverse regions of the States as required under WIA? Describe how the Board's membership enables you to achieve your vision described above. (§§ 111(a–c), 112(b)(1).)

iv. Describe how the State Board will carry out its functions. How will this Board provide direction-setting leadership for the statewide system? (§§ 111(d), 112(b)(1).)

v. How will the State Board coordinate and interact with the local WIBs? (§ 112(b)(1).)

vi. How will the State Board ensure that the public (including people with disabilities) has access to Board meetings and information regarding State Board activities, including membership and meeting minutes? (§§ 111(g), 112(b)(1).)

b. Identify the circumstances which constitute a conflict of interest for any State or local Workforce Investment Board member, including voting on any matter regarding the provision of service by that member or the entity that s/he represents, and any matter that would provide a financial benefit to that member or his or her immediate family. (§§ 111(f), 112(b)(13), 117(g).)

c. Identify the criteria the State has established to be used by the chief elected official(s) in the local areas for the appointment of local Board members based on the requirements of section 117. (§§ 112(b)(6), 117(b).)

d. Allocation Formulas.

i. If applicable, describe the methods and factors (including weights assigned to each factor) your State will use to distribute funds to local areas for the 30% discretionary formula adult employment and training funds and youth funds pursuant to sections 128(b)(3)(B) and 133(b)(3)(B). Describe how the allocation methods and factors help ensure that funds are distributed equitably throughout your State and that there will be no significant shifts in funding levels to a local area on a year-to-year basis. (§§ 112(b)(12)(A–B), 128(b)(3)(B), 133(b)(3)(B).)

ii. Describe the State's allocation formula for dislocated worker funds pursuant to section 133(b)(2)(B). (§§ 112(b)(12)(C), 133(b)(2)(B).)

iii. For each funding stream, include a chart that identifies the formula allocation to each local area for the first fiscal year, describe how the individuals and entities represented on the State Board were involved in the development of factors, and describe how consultation with local boards and local elected officials occurred. (§ 112(b)(12)(A).)

e. Describe the competitive and non-competitive processes that will be used at the State level to award grants and contracts for activities under Title I of WIA, including how potential bidders are being made aware of the availability of grants and contracts. (§ 112(b)(16).)

f. Identify the criteria to be used by local Boards in awarding grants for youth activities, including criteria used by the Governor and local Boards to identify effective and ineffective youth activities and providers. (§ 112(b)(18)(B).)

g. If you did not delegate this responsibility to local Boards, provide your State's definition regarding the sixth youth eligibility criterion at section 101(13)(C)(vi)

(''an individual who requires additional assistance to complete an educational program, or to secure and hold employment''). (§§ 101(13), 112(b)(18)(A).)

h. State Policies and Requirements. (§ 112(b)(2).)

i. Describe major State policies and requirements that have been established to direct and support the development of a statewide workforce investment system not described elsewhere in this Plan. These policies may include, but are not limited to:

- State guidelines for the selection of One-Stop providers by local Boards;
- The State's process to work with local boards and local Chief Elected Officials to certify existing One-Stop operators;
- Procedures to resolve impasse situations at the local level in developing MOUs to ensure full participation of all required partners in the One-Stop delivery system;
- Criteria by which the State will determine if local WIBs can run programs in-house;
- Performance information that on-the-job training and customized training providers must provide;
- Reallocation policies;
- State policies for approving transfer authority (not to exceed 20%) between the Adult and Dislocated Worker funding streams at the local level;
- Policies related to priority of service for recipients of public assistance and other low-income individuals under WIA, and veterans or other groups under the Wagner-Peyser Act;
- Policies related to displaced homemakers, nontraditional training for low-income individuals, older workers, low-income individuals, disabled individuals and others with multiple barriers to employment and training; and
- Policies limiting ITAs (e.g., dollar amount or duration).

ii. Describe how consultation with local boards and local Chief Elected Officials occurred.

iii. Are there any State policies or requirements that would act as an obstacle to developing a successful statewide workforce investment system?

2. Services: Describe the current status of One-Stop implementation in the State, including:

a. Actions your State has taken to develop a One-Stop integrated service delivery system statewide;

b. The degree of existing collaboration for WIA Title I, the Wagner-Peyser Act, and all other required and optional partners (sections 112(b)(8)(A), 121(b)(1–2), 134(c));

Optional Partners

- Temporary Assistance for Needy Families
- Food Stamps Employment & Training
- National and Community Service Act programs
- Other appropriate federal, State, or local programs (e.g., transportation, child care, community colleges, and economic development)

Required Partners

- Adult, Dislocated Worker and Youth Activities under WIA Title I (including Veterans Workforce Investment Programs, Migrant and Seasonal Farmworker Programs, Indian and Native American Programs, Job Corps and youth Opportunity Grants)
- Employment Service
- Adult Education
- Postsecondary Vocational Education
- Vocational Rehabilitation
- Welfare-to-Work
- Title V of the Older Americans Act
- Trade Adjustment
- NAFTA Transitional Adjustment Assistance
- Veterans Employment and Training Programs
- Community Services Block Grant
- Employment and training activities carried out by the U.S. Department of Housing and Urban Development

3. System Infrastructure

a. Local Workforce Investment Areas.

i. Identify the State's designated local workforce investment areas, including those that were automatically designated and those receiving temporary designation. How do these areas compare in size and number with the Service Delivery Areas under JTPA? (§§ 112(b)(5).)

ii. Include a description of the process used to designate such areas. Describe how the State considered the extent to which such local areas are consistent with labor market areas; geographic areas served by local and intermediate educational agencies, post-secondary educational institutions and area vocational schools; and all other criteria identified in section 116(a)(1) in establishing area boundaries, to assure coordinated planning. Describe the State Board's role, including all recommendations made on local designation requests pursuant to section 116(a)(4). (§§ 112(b)(5), 116(a)(1).)

iii. Describe the appeals process used by the State to hear appeals of local area designations. If any appeals were made, identify them and indicate the status of the appeal. (§§ 112(b)(15), 116(a)(5).)

b. Regional Planning (§§ 112(b)(2), 116(c).)

i. Describe any intrastate or interstate regions and their corresponding performance measures.

ii. Include a discussion of the purpose of these designations and the activities (such as regional planning, information sharing and/or coordination activities) that will occur to help improve performance. (For example, regional planning efforts could result in the sharing of labor market information or in the coordination of transportation and support services across the boundaries of local areas.)

iii. For interstate regions (if applicable), describe the roles of the respective governors, SWIBs, and LWIBs.

c. Selection of Service Providers for Individual Training Accounts. (§§ 112(b)(17)(A)(iii), 122, 134(d)(2)(F).)

i. Identify policies and procedures your State established for determining the initial eligibility of local level training providers, how performance information will be used to determine continuing eligibility (including a grievance procedure for providers denied eligibility), and the agency responsible for carrying out these activities.

ii. Describe how the State solicited recommendations from local boards and training service providers and interested members of the public, including representatives of business and labor organizations, in the development of these policies and procedures.

iii. How will the State maintain the provider list?

iv. What performance information on training providers will be available at every One-Stop center?

v. Describe the State's current capacity to provide customers access to the statewide list of eligible training providers and their performance information.

vi. Describe the process for removing providers from the list.

d. What is your State's current capacity to deliver high quality employment statistics information to customers—both job seekers and employers—of the One-Stop system? Your response should address the products that have been developed as part of America's Labor Market Information System, the Bureau of Labor Statistics Federal-State cooperative statistical programs, and other State-generated employment statistics. (§§ 111(d)(8), 112(b)(1), 134(d)(2)(E).)

e. Describe how the work test and feedback requirements (under § 7(a)(3)(F) of the Wagner-Peyser Act) for all UI claimants are met. How is information provided to the UI agency regarding claimant registration, claimant job referrals, and the results of referrals? (§ 112(b)(7).)

f. Describe how the Wagner-Peyser Act staff participate (if applicable) in the conduct of the Eligibility Review Program reviews. Describe the follow-up that occurs to ensure that UI eligibility issues are resolved in accordance with section 5(b)(2) of the Wagner-Peyser Act. (§ 112(b)(7).)

C. Assessment of Strengths and Improvement Opportunities

1. In sum, how closely aligned is your current system to your vision? Assess your current system's ability to meet the customer and economic needs identified above. What are your key strengths? What weaknesses will you need to address to move forward? Describe any opportunities or challenges to achieving your vision, including any economic development, legislative or reorganization initiatives anticipated that could impact on the performance and effectiveness of your State's workforce investment system. (§§ 111(d)(2), 112(a).)

2. In moving your current system towards your vision, what are your State's priorities? (§§ 111(d)(2), 112(a).)

IV. Strategies for Improvement: Strategies move you from the current state of readiness toward the State vision and enable you to achieve your performance goals. They align your resources and focus energy on services to meet customer needs and systems to ensure continuous improvement

In this section, you will describe the strategies and tactics you will pursue to move the system toward your vision and achieve the performance goals identified above. While the Act give States wide latitude to develop systems that meet their unique needs, the Act also contains a number of service requirements which must be incorporated into your statewide strategies. Each strategy described should build on

strengths, correct weaknesses, maximize opportunities and deflect challenges, as identified above.

A. Leadership: How will you overcome challenges to align your current system with your vision? How will the State implement WIA's key principles of local flexibility and a strong role for local Boards and for businesses? In your discussion, you must address the following required elements:

1. Describe the steps the State will take to improve operational collaboration of the workforce investment activities and other related activities and programs outlined in section 112(b)(8)(A), at both the state and local level (e.g., joint activities, memoranda of understanding, planned mergers, coordinated policies, etc.). How will the State Board and Agencies eliminate any existing State-level barriers to coordination? (§§ 111(d)(2), 112(b)(8)(A).)

2. Describe how the State will assist local areas in the evolution of existing local One-Stop delivery systems. Include any statewide requirements for One-Stop systems, how the State will help local areas identify areas needing improvement, how technical assistance will be provided, and the availability of state funding for One-Stop development. Be sure to address any system weaknesses identified earlier in the plan. Include any state level activities that will assist local areas in coordinating programs. (§ 112(b)(14).)

3. How will your State build the capacity of Local Boards and youth councils to develop and manage effective programs? (§§ 111(d)(2), 112(b)(14).)

4. Describe how any waivers or workflex authority (both existing and planned) will assist the State in developing its workforce investment system. (§§ 189(i)(1), 189(i)(4)(A), 192(a).)

B. Services: How will you meet the needs of each of the major customer groups identified in Section III? How will the State implement WIA's key principles of streamlined services, empowered individuals, universal access and improved youth services? In your discussion, you must address the following required elements: (§§ 111(d)(2), 112(b)(10), 112(b)(17)(A)(iv), 112(b)(17)(B)), 112(b)(18).)

1. Describe the types of employment and training activities that will be carried out with the adult and dislocated worker funds received by the State through the allotments under section 132. How will the State maximize customer choice in the selection of training activities? (§§ 112(b)(17)(A)(i), 132, 134.)

2. How will the services provided by each of the required and optional One-Stop partners be coordinated and made available through the One-Stop system? Be sure to address how your State will coordinate Wagner-Peyser Act funds to avoid duplication of labor exchange services. (§ 112(b)(8)(A).)

3. Describe how the funds will be used to leverage other federal, State, local and private resources (e.g, shared One-Stop administration costs). Specify how the State will use its 10 percent funds under section 7(b) of the Wagner-Peyser Act. Describe and provide examples of how these coordinated and leveraged funds will lead to a more effective program that expands the involvement of businesses, employees and individuals. (§ 112(b)(10).)

4. Describe how the needs of dislocated workers, displaced homemakers, low-income individuals such as migrants and seasonal farmworkers, public assistance recipients, women, minorities, individuals training for non-traditional employment, veterans, and individuals with multiple barriers to employment (including older individuals, people with limited English-speaking ability, and people with disabilities) will be met. How will the State ensure nondiscrimination and equal opportunity? (§ 112(b)(17).)

5. Describe the criteria developed by the State for local boards to use in determining that adult funds are limited and that priority of service applies. Describe the guidelines, if any, the State has established for local boards regarding priority when adult funds have been determined to be limited. (§§ 112(b)(17)(A)(iv), 134(d)(4)(E).)

6. Describe how the needs of employers will be determined in the local areas as well as on a statewide basis. Describe how services (e.g., systems to determine general job requirements and list jobs), including Wagner-Peyser Act services, will be delivered to employers through the One-Stop system. How will the system streamline administration of federal tax credit programs within the One-Stop system to maximize employer participation? (20 CFR part 652.3(b), § 112(b)(17)(A)(i).)

7. Describe the reemployment services you will provide to Worker Profiling and Reemployment Services claimants in accordance with section 3(c)(3) of the revised Wagner-Peyser Act. (§ 112(b)(7).)

8. Specifically describe the Wagner-Peyser Act-funded strategies you will use to serve persons with disabilities. (Wagner-Peyser Act § 8(b), WIA § 112(b)(7).)

9. How will Wagner-Peyser Act funds be used to serve veterans? How will your State ensure that veterans receive priority in the One-Stop system for labor exchange services? (§ 112(b)(7).)

10. What role will LVER/DVOPS staff have in the One-Stop system? How will your State ensure adherence to the legislative requirements for veterans staff? How will services under this plan take into consideration the agreement reached between the Secretary and the State regarding veterans' employment programs? (§§ 112(b)(7), 322, 38 U.S.C. Chapter 41 and 20 CFR part 1001–120).

11. Describe how the State will provide Wagner-Peyser Act-funded services to the agricultural community—specifically, outreach, assessment and other services to migrant and seasonal farmworkers, and services to agricultural employers. How will you provide equitable services to this population in the One-Stop system? (20 CFR part 653, § 112(b)(7).)

12. Describe how Wagner-Peyser Act funds will provide a statewide capacity for a three-tiered labor exchange service strategy that includes (1) self-service, (2) facilitated self-help service, and (3) staff-assisted service. Describe your State's strategies to ensure that Wagner-Peyser Act-funded services will be delivered by public merit staff employees. (§ 112(b)(7), §§ 3(a) and 5(b) of the Wagner-Peyser Act).)

13. Describe how your State will provide rapid response activities with funds reserved under section 133(a)(2), including how the State will use information provided through the WARN Act to determine when to provide such activities.

a. Identify the entity responsible to provide rapid response services.

b. How will your State's rapid response unit's activities involve the local Boards and local Chief Elected Officials? If rapid response functions are shared between your State unit and local areas, identify the functions of each and describe how rapid response funds are allocated to local areas.

c. Describe the assistance available to employers and dislocated workers, particularly how your State determines what assistance is required based on the type of lay-off, and the early intervention strategies to ensure that dislocated workers who need intensive or training services (including those individuals with multiple barriers to employment and training) are identified as early as possible. (§ 112(b)(17)(A)(ii).)

14. Describe your State's strategy for providing comprehensive services to eligible youth, including any coordination with foster care, education, welfare and other relevant resources. Include any State requirements and activities to assist youth who have special needs or barriers to employment, including those who are pregnant, parenting, or have disabilities. Describe how coordination with Job Corps, youth opportunity grants, and other youth programs will occur. (§ 112(b)(18).)

15. Describe how your State will, in general, meet the Act's provisions regarding youth program design, in particular:

- preparation for postsecondary educational opportunities;
- strong linkages between academic and occupational learning;
- preparation for unsubsidized employment opportunities;
- effective linkages with intermediaries with strong employer connections;
- alternative secondary school services;
- summer employment opportunities;
- paid and unpaid work experiences;
- occupational skill training;
- leadership development opportunities;
- comprehensive guidance and counseling;
- supportive services; and
- follow-up services. (§§ 112(b)(18), 129(c).)

C. System Infrastructure: How will the State enhance the systems necessary to operate and manage your workforce investment system? (§§ 111(d)(2), 112(b)(1), 112(b)(8)(B).) In your discussion, you must address the following required elements:

1. How will the locally-operated ITA system be managed in the State to maximize usage and improve the performance information on training providers? How will the State ensure the quality and integrity of the performance data? (§§ 112(b)(14), 112(b)(17)(A)(iii), 122.)

2. How will your State improve its technical and staff capacity to provide services to customers and improve entered

employment outcomes in accordance with section 7(a)(3)(f) of the Wagner-Peyser Act? How will your State use technology such as Jobline, ''swipe card'' technology, a community voice mail system or other methods to build a mediated and electronic labor exchange network? How will the State use America's Job Bank/State Job Bank Internet linkages to encourage employers to enter their own job orders on the Internet? (§ 112(b)(7).)

3. How will the State improve its employment statistics system to ensure that One-Stop system customers receive timely, accurate and relevant information about local, State and national labor markets? (§§ 111(d)(2), 111(d)(8), 112(b)(1), 134(d)(2)(E).)

V. Performance Management

Improved performance and accountability for customer-focused results are central features of WIA. To improve, you not only need systems in place to collect data and track performance, but also systems to analyze the information and modify strategies to improve performance.

In this section, you will describe how you measure the success of your strategies in achieving your goals, and how you use this data to continuously improve the system.

A. For each of the core indicators identified in Section II of these instructions, the customer satisfaction indicator and additional state measures, explain how the State worked with local boards to determine the level of the performance goals. Include a discussion of how the levels compare with the State-adjusted levels of performance established for other States (if available), taking into account differences in economic conditions, the characteristics of participants when they entered the program and the services to be provided. Include a description of how the levels will help you achieve customer satisfaction and continuous improvement over the five years of the Plan. (§§ 112(b)(3), 136(b)(3).)

B. Does your State have common data system and reporting processes in place to track progress? If so, describe what data will be collected from the various One-Stop partners (beyond that required by DOL), your use of quarterly wage records, and how the statewide system will have access to the information needed to continuously improve. If not, describe the State's timeframe and plans for transitioning from the JTPA to the WIA tracking system, your planned use of quarterly wage records, and the projected time frame for the system to be operational. (§ 112(b)(8)(B).)

C. Describe the system(s) by which your State measures customer satisfaction for both job seekers and employers (beyond those elements required by the Department). How will customer satisfaction data be evaluated, disseminated locally, and used to improve services and customer satisfaction? Describe any targeted applicant groups under WIA Title I, the Wagner-Peyser Act or Title 38 (Veterans Employment and Training Programs) that your State will track. If no system is currently in place, describe your State's timeframe and plan to collect this information. (§§ 111(d)(2), 112(b)(3), 136(b)(2)(B).)

D. Describe any actions the Governor and State Board will take to ensure collaboration with key partners and continuous improvement of the statewide workforce investment system. (§§ 111(d)(2), 112(b)(1).)

E. How will the State and local Boards evaluate performance? What corrective actions (including sanctions and technical assistance) will the State take if performance falls short of expectations? How will the Boards use the review process to reinforce the strategic direction of the system? (§§ 111(d)(2), 112(b)(1), 112(b)(3).)

VI. Assurances

1. The State assures that it will establish, in accordance with section 184 of the Workforce Investment Act, fiscal control and fund accounting procedures that may be necessary to ensure the proper disbursement of, and accounting for, funds paid to the State through the allotments made under sections 127 and 132. (§ 112(b)(11).)

2. The State assures that it will comply with section 184(a)(6), which requires the Governor to, every two years, certify to the Secretary, that—

(A) the State has implemented the uniform administrative requirements referred to in section 184(a)(3);

(B) the State has annually monitored local areas to ensure compliance with the uniform administrative requirements as required under section 184(a)(4); and (C) the State has taken appropriate action to secure compliance pursuant to section 184(a)(5). (§ 184(a)(6).)

3. The State assures that the adult and youth funds received under the Workforce Investment Act will be distributed equitably throughout the State, and that no local areas will suffer significant shifts in funding from year to year during the period covered by this plan. (§ 112(b)(12)(B).)

4. The State assures that veterans will be afforded employment and training activities authorized in section 134 of the Workforce Investment Act, to the extent practicable. (§ 112(b)(17)(B).)

5. The State assures that the Governor shall, once every two years, certify one local board for each local area in the State. (§ 117(c)(2).)

6. The State assures that it will comply with the confidentiality requirements of section 136(f)(3).

7. The State assures that no funds received under the Workforce Investment Act will be used to assist, promote, or deter union organizing. (§ 181(b)(7).)

8. The State assures that it will comply with the nondiscrimination provisions of section 188, including an assurance that a Methods of Administration has been developed and implemented ((§ 188.)

9. The State assures that it will collect and maintain data necessary to show compliance with the nondiscrimination provisions of section 188. (§ 185.).

10. The State assures that it will comply with the grant procedures prescribed by the Secretary (pursuant to the authority at section 189(c) of the Act) which are necessary to enter into grant agreements for the allocation and payment of funds under the Act. The procedures and agreements will be provided to the State by the ETA Office of Grants and Contract Management and will specify the required terms and conditions and assurances and certifications, including, but not limited to, the following:

- General Administrative Requirements:

29 CFR part 97—Uniform Administrative Requirements for State and Local Governments (as amended by the Act).

29 CFR part 96 (as amended by OMB Circular A–133)—Single Audit Act.

OMB Circular A–87—Cost Principles (as amended by the Act)

- Assurances and Certifications:

SF 424 B—Assurances for Nonconstruction Programs.

29 CFR part 31, 32—Nondiscrimination and Equal Opportunity Assurance (and regulation).

CFR part 93—Certification Regarding Lobbying (and regulation).

29 CFR part 98—Drug Free Workplace and Debarment and Suspension Certifications (and regulation).

- Special Clauses/Provisions:

Other special assurances or provisions as may be required under Federal law or policy, including specific appropriations legislation, the Workforce Investment Act, or subsequent Executive or Congressional mandates.

11. The State certifies that the Wagner-Peyser Act Plan, which is part of this document, has been certified by the State Employment Security Administrator.

12. The State certifies that veterans' services provided with Wagner-Peyser Act funds will be in compliance with 38 U.S.C. Chapter 41 and 20 CFR part 1001.

13. The State certifies that Wagner-Peyser Act-funded labor exchange activities will be provided by merit-based public employees.

14. The State certifies that Workforce Investment Act section 167 grantees, advocacy groups as described in the Wagner-Peyser Act (e.g., veterans, migrant and seasonal farmworkers, people with disabilities, UI claimants), the State monitor advocate, agricultural organizations, and employers were given the opportunity to comment on the Wagner-Peyser Act grant document for agricultural services and local office affirmative action plans and that affirmative action plans have been included for designated offices.

15. The State assures that it will comply with the annual Migrant and Seasonal Farmworker significant office requirements in accordance with 20 CFR part 653.

16. The State has developed this Plan in consultation with local elected officials, local workforce boards, the business community, labor organizations and other partners.

17. The State assures that it will comply with section 504 of the Rehabilitation Act of 1973 (29 USC 794) and the American's with Disabilities Act of 1990 (42 USC 12101 et seq.).

18. The State assures that funds will be spent in accordance with the Workforce Investment Act and the Wagner-Peyser Act legislation, regulations, written Department of Labor Guidance, and all other applicable Federal and State laws.

VII. Program Administration Designees and Plan Signature

Name of WIA Title I Grant Recipient Agency

Address
Telephone Number:
Facsimile Number:
E-mail Address:

Name of State WIA Title I Administrative Agency (if different from the Grant Recipient)
Address
Telephone Number:
Facsimile Number:
E-mail Address:

Name of WIA Title I Signatory Official

Address:
Telephone Number:
Facsimile Number:
E-mail Address:

Name of WIA Title I Liaison

Address
Telephone Number:
Facsimile Number:
E-mail Address:

Name of Wagner-Peyser Act Grant Recipient/ State Employment Security Agency
Address

Name of Wagner-Peyser Act Grant Recipient/ State Employment Security Agency
Telephone Number:
Facsimile Number:
E-mail Address:

Name and title of State Employment Security Administrator (Signatory Official)

Address
Telephone Number:
Facsimile Number:
E-mail Address:

As the Governor, I certify that for the State/ Commonwealth of _____, the agencies and officials designated above have been duly designated to represent the State/ Commonwealth in the capacities indicated for the Workforce Investment Act, Title I, and Wagner-Peyser Act grant programs. Subsequent changes in the designation of officials will be provided to the U.S. Department of Labor as such changes occur.

I further certify that we will operate our Workforce Investment Act and Wagner-Peyser Act programs in accordance with this Plan and the assurances herein.

Typed Name and Signature of Governor
Date

Attachment B

Optional Table for State Performance Indicators and Goals [1]

WIA requirement at section 136(b)	Corresponding performance indicator(s)	Previous year performance	Performance goals out-years		
			1	2	3
Adults:					
Entry into Unsubsidized Employment					
6-Months Retention in Unsubsidized Employment					
6-Months Earnings received in Unsubsidized Employment					
Attainment of Educational or Occupational Skills Credential					
Dislocated Workers:					
Entry into Unsubsidized Employment					
6-Months Retention in Unsubsidized Employment					
6-Months Earnings received in Unsubsidized Employment					
Attainment of Educational or Occupational Skills Credential					
Youth Aged 19–21:					
Entry into Unsubsidized Employment					
6-Months Retention in Unsubsidized Employment					
6-Months Earnings received in Unsubsidized Employment					
Attainment of Educational or Occupational Skills Credential					
Youth 14–18:					
Attainment of Basic, Work Readiness and/or Occupational Skills					
Attainment of Secondary School Diplomas/ Equivalents					
Placement and Retention in Post-Secondary Education/Training, or Placement in Military, Employment, Apprenticeships					
Participant Customer Satisfaction					
Employer Customer Satisfaction					
Additional State-Established Measures					

[1] Further guidance, including definitions of specific indicators, will be provided separately.

Attachment C—Regional Office Addresses

Region I—BOSTON

Robert J. Semler, Regional Administrator, JFK Federal Building, Room E–350, Boston, MA 02203, (617) 565–3630, (617) 565–2229—fax, RAI@doleta.gov

Region II—NEW YORK

Marilyn Shea, Regional Administrator, 201 Varick Street, Room 755, New York, New York 10014, (212) 337–2139, (212) 337–2144—fax, RAII@doleta.gov

Region III—PHILADELPHIA

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Attachment D—Local Planning Guidance for Single Workforce Investment Area States

I. Local Plan Submission

Section 118 of the Workforce Investment Act requires that the Board of each local workforce investment area, in partnership with the appropriate chief elected official, develop and submit a comprehensive 5-year Local Plan for activities under Title I of WIA to the Governor for his or her approval. In States where there is only one local workforce investment area, the Governor serves as both the State and local Chief Elected Official. In this case, the State must submit both the State and Local Plans to the Department of Labor for review and approval. States may (1) submit their Local Plan as an attachment to the State Plan or (2) include these elements within their State Plan, and reference them in an attachment.

The State Planning Guidance on Plan modifications and the Plan approval process applies to a single workforce investment area State Local Plan, with one addition: The Department will approve a Local Plan within ninety days of submission, unless it is inconsistent with the Act and its implementing regulations, or deficiencies in activities carried out under the Act have been identified and the State has not made acceptable progress in implementing corrective measures. (§ 112(c).)

II. Plan Content

In the case of single workforce investment area States, much of the Local Plan information required by section 118 of WIA will be contained in the State Plan. At a minimum, single workforce investment area State Local Plans shall contain the additional information described below, and any other information that the Governor may require. For each of the questions, if the answers vary in different areas of the State, please describe those differences.

A. Plan Development Process

1. Describe the process for developing the Local Plan. Describe the process and timeline used to provide an opportunity for public comment, including how local Chief Elected Officials, representatives of businesses and labor organizations, and other appropriate partners provided input into the development of the Local Plan, prior to the submission of the Plan. (§ 118(b)(7).)

2. Attach any comments received on the Local Plan (or a summary), and demonstrate how comments were considered in the Plan development process. (§ 118(c)(3).)

B. Services

1. Describe the one-stop system(s) that will be established in the State. Describe how the system(s) will ensure the continuous improvement of eligible providers of services and ensure that such providers meet the employment and training needs of employers, workers and job seekers throughout the state. Describe the process for the selection of One-Stop operator(s), including the competitive process used or the consortium partners. (§ 118(b)(2)(A).)

2. Include a copy of each memorandum of understanding between the Board and each One-Stop partner (including the Wagner-Peyser Act agency). (§ 118(b)(2)(B).)

3. Describe and assess the type and availability of adult and dislocated worker employment and training activities. (§ 118(b)(4).)

4. Describe and assess the type and availability of youth activities, including an identification of successful providers of such activities. (§ 118(b)(6).)

C. System Infrastructure

1. Identify the entity responsible for the disbursal of grant funds, as determined by the Governor. Describe how funding for areas within the State will occur. Provide a description of the relationship between the State and within-State areas regarding the sharing of costs where co-location occurs. (§ 118(b)(8).)

2. Describe the competitive process to be used to award the grants and contracts in the State for WIA Title I activities. (§ 118(b)(9).)

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Federal Register

Thursday
February 25, 1999

Part IV

Office of Management and Budget

1997 North American Industry Classification System—Completion Activities for 2002; Notice

OFFICE OF MANAGEMENT AND BUDGET

1997 North American Industry Classification System—Completion Activities for 2002

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

ACTION: Notice of intention to complete portions of the North American Industry Classification System (NAICS) for 2002.

SUMMARY: Under Title 44 U.S.C. 3504(e), the Office of Management and Budget (OMB), through the Economic Classification Policy Committee (ECPC), is seeking public comment (please see Part V of the Supplementary Information section below) on a proposal to complete portions of the North American Industry Classification System (NAICS) for 2002. NAICS was jointly developed by Canada, Mexico, and the United States. The proposed completion activities will focus on the Construction and Wholesale Trade sectors of NAICS. Currently, these sectors are comparable among all three countries only at the highest levels of aggregation. The ECPC also will consider narrowly defined Retail Trade issues related to the national industries for department stores and nonstore retailers as well as specific problems that may be identified in the implementation of NAICS 1997. It is not the intent of the ECPC to open for consideration all areas of NAICS that currently lack three-country comparability nor to revise sectors other than those specifically listed above. Work is under way to determine if 5-digit agreement can be reached among Canada, Mexico, and the United States in Construction and Wholesale Trade.

DATES: To ensure consideration, all proposals for sector hierarchies and new industries must be made in writing and should be submitted as soon as possible, but should be received no later than April 26, 1999. In addition, all comments on the usefulness and advisability of completion of the Construction and Wholesale Trade sectors, modifications to national industries for department stores and nonstore retailers, changes to alleviate implementation problems, and timing of completion activities must be submitted in writing and be received no later than April 26, 1999.

ADDRESSES: Correspondence concerning the usefulness and advisability of completion of the Construction and Wholesale Trade sectors, modifications to national industries for department stores and nonstore retailers, changes to alleviate implementation problems, and timing of completion activities should be made to Carole Ambler, Chair, Economic Classification Policy Committee, Bureau of the Census, Room 2633–3, Washington, D.C. 20233, E-mail address: cambler@ccmail.census.gov, Telephone number: (301) 457–2668, FAX number: (301) 457–1343.

All proposals for the hierarchical structure of the Construction sector and Wholesale Trade sector as well as for new industries in these sectors, or for changes to the national industries for department stores and nonstore retailers based on the production-oriented conceptual framework of NAICS, should be addressed to: John Murphy, Co-chair, Administrative Subcommittee of the ECPC, Bureau of Labor Statistics, 2 Massachusetts Avenue N.E., Room 4840, Washington, DC 20212, E-mail address: Murphy__John@bls.gov, Telephone number: (202) 606–6475, FAX number (202) 606–6645.

Electronic Availability: This document is available on the Internet from the Census Bureau Internet site via WWW browser. To obtain this document, connect to ''http://www.census.gov'' then select ''Subjects A to Z,'' then select ''N,'' then select ''NAICS (North American Industry Classification System).'' This WWW page contains previous NAICS United States **Federal Register** notices, ECPC Issues Papers, ECPC Reports, the current structure of NAICS United States, and related documents.

Public Review Procedure: All comments and proposals received in response to this notice will be available for public inspection at the Bureau of the Census, U.S. Department of Commerce, Suitland Federal Center, Suitland, Maryland. Please telephone the Census Bureau at (301) 457–2672 to make an appointment to enter the Federal Center. All proposals recommended by the ECPC will be published in the **Federal Register** for review and comment prior to final action by OMB. Those making proposals will be notified directly of action taken by the ECPC; others will be advised through the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: John Murphy, Co-chair, Administrative Subcommittee of the ECPC, Bureau of Labor Statistics, 2 Massachusetts Avenue NE, Room 4840, Washington, DC 20212, E-mail address: Murphy__John@bls.gov, Telephone number: (202) 606–6475, FAX number (202) 606–6645.

SUPPLEMENTARY INFORMATION: The Supplementary Information section of this notice is divided into five parts: Part I summarizes the background for NAICS 1997; Part II contains areas of less than full comparability at the individual detailed industry level of NAICS; Part III details the process that the ECPC will use to develop its recommended actions for the sectors targeted for completion; Part IV outlines a work plan that will be used for the proposed completion of the NAICS sectors for Construction and Wholesale Trade, and the national industries for department stores and nonstore retailers; and Part V highlights areas in which the ECPC is soliciting public comment..

Part I: Background of NAICS 1997

NAICS is a system for classifying establishments by type of economic activity. Its purposes are: (1) to facilitate the collection, tabulation, presentation, and analysis of data relating to establishments, and (2) to promote uniformity and comparability in the presentation and analysis of statistical data describing the economy. NAICS is used by Federal statistical agencies that collect or publish data by industry. It is also widely used by State agencies, trade associations, private businesses, and other organizations.

Mexico's Instituto Nacional de Estadística, Geografae Informática (INEGI), Statistics Canada, and the United States Office of Management and Budget (OMB), through its Economic Classification Policy Committee (ECPC), collaborated on NAICS to make the industry statistics produced by the three countries comparable. NAICS is the first industry classification system developed in accordance with a single principle of aggregation, the principle that producing units that use similar production processes should be grouped together in the classification. NAICS also reflects in a much more explicit way the enormous changes in technology and in the growth and diversification of services that have marked recent decades. Industry statistics presented using NAICS also are comparable with statistics compiled according to the latest revision of the United Nations' International Standard Industrial Classification (ISIC, Revision 3) for some sixty high-level groupings.

For the three countries, NAICS provides a consistent framework for the collection, tabulation, presentation, and analysis of industry statistics used by government policy analysts, by academics and researchers, by the business community, and by the public. However, because of different national economic and institutional structures as well as limited resources and time for constructing NAICS, its structure was

not made entirely comparable at the individual industry level across all three countries. For some sectors and subsectors, the statistical agencies of the three countries agreed to harmonize NAICS based on sectoral boundaries rather than on a detailed industry structure. The portions of NAICS that are not comparable at the detailed industry level are delineated in Part II of this section.

The four principles of NAICS are:

NAICS is erected on a production-oriented conceptual framework. This means that producing units that use the same or similar production processes are grouped together in NAICS.

NAICS gives special attention to developing production-oriented classifications for (a) new and emerging industries, (b) service industries in general, and (c) industries engaged in the production of advanced technologies.

Time series continuity is maintained to the extent possible. Adjustments will be required for sectors where Canada, Mexico, and the United States have incompatible industry classification definitions in order to produce a common industry system for all three North American countries.

The system strives for compatibility with the two-digit level of the International Standard Industrial Classification of All Economic Activities (ISIC Rev. 3) of the United Nations.

The ECPC is committed to maintaining the principles of NAICS as it develops further refinements. The current round of completion activities is limited in scope based on the NAICS' principle regarding time series continuity. The ECPC realizes that this completion activity may occur before all users have initially implemented NAICS. The narrow focus of the completion activities, and the importance of Construction and Wholesale Trade to the economies of all three countries, will outweigh the time series breaks and resulting noncomparability of time series. Users are encouraged to implement the 2002 revision of NAICS once it becomes official.

NAICS uses a hierarchical structure to classify establishments from the broadest level to the most detailed level using the following format:

Sector	2-digit	Sectors represent the highest level of aggregation. There are 20 sectors in NAICS representing broad levels of aggregation.
Subsector	3-digit	Subsectors represent the next, more detailed level of aggregation in NAICS. There are 96 subsectors in NAICS.
Industry Group	4-digit	Industry groups are more detailed than subsectors. There are 311 industry groups in NAICS.
NAICS Industry	5-digit	NAICS industries are the level that, in most cases, represents the lowest level of three country comparability. There are 721 5-digit industries in NAICS.
National Industry	6-digit	National industries are the most detailed level of NAICS. These industries represent the national level detail necessary for economic statistics in an industry classification. There are 1170 U.S. industries in NAICS United States.

Sectoral hierarchies and specific industry proposals will be considered within the structure presented above.

Part II: NAICS Areas Without Full Comparability at the Detailed Industry Level

The NAICS sectors that currently are not comparable at the detailed industry level are: utilities; construction; wholesale trade; retail trade; finance and insurance; and public administration. The subsectors that are not comparable at the detailed industry level are: Real Estate; Waste Management and Remediation Services; as well as other services including Personal and Laundry Services, and Religious, Grantmaking, Civic, Professional and Similar Organizations. Separate agreements providing for detailed industry comparability between Canada and the United States were reached for the Utilities, Retail Trade, and Finance and Insurance Sectors. To distinguish the three countries' versions of NAICS, they are called NAICS Canada, NAICS Mexico (SCIAN Mexico, in Spanish), and NAICS United States.

The ECPC recognizes the need for complete comparability in the NAICS structures being used in the three countries. The ECPC also recognizes the time sensitive nature of any revisions for 2002. For this reason, the ECPC will limit consideration of work for completion to those areas of NAICS where there currently is comparability at the two-digit (sector) level only. The Public Administration sector is not a priority for the ECPC at this time. Although there is only two-digit comparability for Public Administration, the governmental structures in each of the three countries are very different, and there is no great need for comparable statistics within the Public Administration sector at the detailed industry level in all three countries. There is agreement between NAICS Canada and NAICS United States in the Retail Trade sector at the five-digit level. Further work in this area also is not a priority for the ECPC. The Finance and Insurance sector is currently comparable at the 3-, 4-, or 5-digit level with Canada and Mexico. This sector is the subject of various legislative efforts in the United States, and significant change in the structure of the industry may occur in the next five years. For this reason, the United States would recommend postponing any further work in Finance and Insurance until 2007 or later.

Revisions to Construction and Wholesale Trade will create significant disruptions for data users but are considered worthwhile if lower level comparability can be achieved with our partners in Canada and Mexico. The ECPC will strive to minimize any disruptions by revising only those sectors of critical importance in all three countries where there is currently two-digit comparability.

Part III: U.S. Procedures and Solicitation of Proposals for Hierarchies and Detailed Industries

1. Proposals for sectoral hierarchies in Construction and Wholesale Trade should be consistent with the production-oriented conceptual framework incorporated in the principles of NAICS. When formulating proposals, please note the hierarchies should contain only those activities currently included by all three countries in the sector that is addressed by a proposal. The scope of existing sectors and industries in NAICS is detailed in the NAICS United States Manual. Copies of this manual can be purchased from the National Technical Information Service (NTIS) at (800) 553–6847 or *http://www.ntis.gov*. Proposals must be in writing and should include the following information:

(a) Subsector(s) (3-digit level), and industry group(s) (4-digit level), detail for the entire sector. These breakouts

should be based on a production-oriented breakout to be used at the higher levels of the sectoral hierarchy. A narrative description of the production-oriented justification that forms the basis for a sectoral hierarchy should be included. These 3-digit and 4-digit breakouts will form the basis used to create lower level industries. For example, a sectoral proposal for Construction might include the following detail:

Sector 23	Construction
Subsector 231	Wood Construction.
Industry Group 2311	Wood Residential Buildings.
Industry Group 2312	Wood Nonresidential Construction.
Subsector 232	Masonry Construction.
Industry Group 2321	Masonry Residential Buildings.
Industry Group 2322	Masonry Nonresidential Construction.
Subsector 233	Steel and Concrete Construction.
Industry Group 2331	Steel and Concrete Buildings.
Industry Group 2332	Other Steel and Concrete Construction.

In this hypothetical proposal, the building material and related processes are the production-oriented justification for higher level breakouts within the Construction sector. The sectoral hierarchy proposals may contain information at the NAICS industry (5-digit level) as well as the national industry level (6-digit), if desired.

(b) Specific indication of the relationship of the proposed sectoral hierarchy(ies) to the 1997 NAICS United States sector, subsector, industry group, NAICS industry, and national level industry detail.

2. Proposals for new or revised 6-digit industries in the Construction and Wholesale Trade sectors and the detailed national level industries for department stores and nonstore retailers should be consistent with the production-oriented conceptual framework incorporated into the principles of NAICS. When formulating proposals, please note that an industry classification system groups the economic activities of establishments or producing units, which means that products and activities of the same producing unit cannot be separated in the industry classification system. Proposals must be in writing and should include the following information:

(a) Specific detail about the economic activities to be covered by the proposed industry, especially its production processes, specialized labor skills, and any unique materials used. This detail should demonstrate that the proposal groups establishments that have similar production processes in accordance with the NAICS production-oriented industry concept (see ECPC Issues Paper No. 1, ECPC Reports Nos. 1 and 2).

(b) Specific indication of the relationship of the proposed industry to existing NAICS United States 6-digit industries.

(c) Documentation of the size and importance of the proposed industry in the United States.

(d) Information about the proposed industry in Canada and Mexico would be helpful, if available.

Evaluation Criteria

Proposals submitted to the ECPC recommending a sectoral hierarchy or requesting the creation of, or a revision to, a 6-digit industry will be evaluated using production-oriented criteria. The ECPC and its subcommittees will evaluate proposals for sectoral hierarchies before evaluating specific industry proposals. Please note that a detailed industry proposal that meets the production-oriented conceptual framework of NAICS may not be accepted if it is in conflict with an accepted sectoral hierarchy proposal. ECPC Issues Paper No. 4, ''Criteria for Determining Industries,'' describes some measures that may be used, e.g., the specialization ratio and the heterogeneity measure (see also ECPC Report No. 2, ''The Heterogeneity Index: A Quantitative Tool to Support Industry Classification''). Other measures of the similarity among establishments will be considered and developed where necessary. For example, a coefficient of variation measure may be applied where applicable. However, all these statistical measures will supplement, not supplant, industry expertise and expert judgments about industry production processes and similarities.

Proposed industries must also include a sufficient number of companies so that Federal agencies can publish industry data without disclosing information about the operations of individual firms. The ability of government agencies to classify, collect, and publish data on the proposed basis will also be taken into account (see ECPC Issues Paper No. 3). Proposed changes must be such that they can be applied by agencies within their normal processing operations.

Proposals will be exchanged with Statistics Canada and INEGI, and reviewed jointly in the completion of NAICS. It would be helpful, although not required, if written proposals for new industries in NAICS present any available information on whether the proposed industry exists in Canada or Mexico, and whether the proposal can be implemented in those countries.

Part IV: Work Plan

Within the framework of Parts II and III above, the ECPC intends to begin the completion of targeted sectors. This notice requests specific proposals for NAICS. Public comments and input from government agencies that collect, compile, and use data that are categorized by economic classifications will contribute to the completion of targeted sectors in NAICS. The ECPC will charter a subject matter subcommittee to address wholesale trade proposals and a second subcommittee to address construction proposals. The Administrative Subcommittee of the ECPC will address proposals for national industries related to department stores and nonstore retailers, as well as implementation problems that may arise. The Administrative Subcommittee will coordinate and review the efforts of the subject matter subcommittees and submit detailed recommendations to the ECPC. The completion activities will take a top down approach to the targeted sectors. First, a subsector and industry group structure will be developed and agreed upon by the ECPC, INEGI, and Statistics Canada. Creation of NAICS and national level industries will be based on the sectoral structures developed. The specific milestones for additional activities of the ECPC are as follows:

Publish **Federal Register** notice of proposed ECPC recommendations for public comment. (Fall 1999)

Publish **Federal Register** notice of final OMB decisions. (Spring 2000) Begin implementation activities. (Fall 2000)

Part V: Request for Comments

The ECPC is seeking comments on: (1) the usefulness and advisability of completing the Construction and Wholesale Trade sectors in NAICS, modifying the national industries for department stores and nonstore retailers, and addressing specific problems that may be identified in the implementation of NAICS 1997; and (2) the timing of the proposed completion activities. Using the procedures discussed in Part III above, the ECPC is also seeking proposals for: (1) the hierarchical structures of the Construction sector and the Wholesale Trade sector, (2) new industries for the Construction and Wholesale Trade sectors, and (3) modifications to the national industries for department stores and nonstore retailers based on

the production-oriented conceptual framework used in NAICS.

Donald R. Arbuckle,

Acting Administrator and Deputy Administrator, Office of Information and Regulatory Affairs.

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Federal Register

Thursday
February 25, 1999

Part V

Department of Education

National Institute on Disability and Rehabilitation Research; Notice of Proposed Funding Priorities for Fiscal Years 1999–2000 for Certain Centers and Projects; Notice

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research; Notice of Proposed Funding Priorities for Fiscal Years 1999–2000 for Certain Centers and Projects

AGENCY: Department of Education.

ACTION: Notice of proposed funding priorities for fiscal years 1999–2000 for certain centers and projects.

SUMMARY: The Secretary proposes funding priorities for four Rehabilitation Research and Training Centers (RRTCs) 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 29, 1999.

ADDRESSES: All comments concerning these proposed priorities should be addressed to Donna Nangle, U.S. Department of Education, 600 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 Centers 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 four RRTCs related to: rehabilitation for persons with long-term mental illness; rehabilitation for children with disabilities with special health care needs; policies affecting the provision of services to children with emotional disturbances and their families; and improving services and supports to children with emotional disturbances and their families. The notice also contains proposed priorities for two DRRPs related to: rehabilitation for women with disabilities; and analysis of service delivery and policies affecting emerging disability populations. The proposed priorities refer 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.

Proposed General Requirements

The Secretary proposes that the following requirements apply to these RRTCs pursuant to these absolute priorities unless noted otherwise. An applicant's proposal to fulfill these proposed requirements will be assessed using applicable selection criteria in the peer review process. The Secretary is interested in receiving comments on these proposed requirements:

Each RRTC must provide: (1) training on research methodology and applied research experience; and (2) training on knowledge gained from the Center's research activities to persons with disabilities and their families, service providers, and other parties, as appropriate.

Each RRTC must develop and disseminate 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.

Each RRTC must involve individuals with disabilities and, if appropriate, their representatives, in planning and implementing its research, training, and dissemination activities, and in evaluating the Center.

Each RRTC must conduct a state-of-the-science conference and publish a comprehensive report on the final outcomes of the conference. The report must be published in the fourth year of the grant.

Each RRTC must coordinate with other entities carrying out related research or training activities.

Priorities

Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet the following priorities. The Secretary proposes to fund under this competition only applications that meet one of these absolute priorities.

Proposed Priority 1: Rehabilitation for Persons With Long-term Mental Illness

Introduction

Chapter Two of NIDRR's proposed LRP addresses the employment status of persons with mental illness (63 FR 57197—57198) and Chapter Six (63 FR 57208) sets forth the background to research addressing their rehabilitation needs within the framework of community integration. The National Institute of Mental Health estimates that there are over 3 million adults ages 18–69 who have a serious mental illness (Manderscheid, R.W. & Sonnenschein, M.A. (Eds.), Mental Health, United States 1992 U.S. Department of Health and Human Services, Rockville, MD; DHHS Publication No.(SMA) 92–1942).

The psychiatric rehabilitation model includes recovery as an outcome for persons experiencing long-term mental illness (LTMI). The recovery paradigm is defined as the personal, unique process of changing one's attitudes, values, skills, and roles to maximize personal functioning (Psychiatric Rehabilitation Services, Inc., http://www.psychdismgmt.com/index.html). It refers to persons with LTMI regaining social function and developing new meaning and purpose in their lives through understanding and accepting their disability, taking personal responsibility, developing hope, and effectively utilizing support. There is a need to determine the effectiveness of the recovery approach to rehabilitation for persons with LTMI.

Proposed Priority

The Secretary, in collaboration with the Substance Abuse and Mental Health Services Administration and the Center for Mental Health Services, proposes to establish an RRTC on rehabilitation for persons with LTMI to address the employment status of persons with LTMI and investigate the effectiveness of functional recovery. The RRTC must:

(1) Investigate individual and environmental factors that facilitate or hinder recovery, and describe the recovery process;

(2) Investigate whether the recovery process differs for individuals based on diagnosis, ethnicity, and history of physical or psychological abuse;

(3) Investigate the relationships between recovery and job training, education, and employment; and

(4) Investigate the impact of various alternative health care practices and wellness activities such as exercise, diet, meditation, peer support, and personal assistance services on employment outcomes for persons with LTMI.

Proposed Priority 2: Rehabilitation for Children With Disabilities With Special Health Care Needs

Introduction

Chapter Four of NIDRR's proposed LRP addresses health care and health care systems for persons with disabilities (63 FR 57202—57203). For the purposes of this proposed priority, children with disabilities with special health care needs have a chronic physical, developmental, behavioral, or emotional condition and also require health and related services of a type or amount beyond that required by children generally.

As the trend toward enrolling Medicaid-eligible populations in capitated healthcare delivery programs (e.g., health maintenance organizations) continues, States have begun to address the challenges of providing coordinated, high quality health care to high cost populations. Children with disabilities with special health care are among those high cost populations because they tend to need multiple services, advanced technologies, and specialized services. Research is needed to determine whether cost control strategies are preventing children with disabilities with special health care needs from receiving access to the range of specialized and support services, and technologies that they need to treat their condition and prevent further disability.

Proposed Priority

The Secretary proposes to establish an RRTC to improve rehabilitation outcomes for children with disabilities with special health care needs. The RRTC must:

(1) Investigate access to pediatric rehabilitation, including specialized and support services, and technologies, by children with disabilities with special health care needs;

(2) Analyze the impact of cost control strategies on the provision of health care to children with disabilities with special health care needs;

(3) Identify best practices in the transition from pediatric to adult medical care in capitated managed care settings;

(4) Assess the effectiveness and appropriateness of using telerehabilitation to provide health care services to children with disabilities with special health care needs in remote settings; and

(5) Identify training issues for service providers who diagnose and assess the assistive technology needs of children with disabilities who have special health care needs.

In carrying out these purposes, the RRTC must coordinate with the Maternal and Child Health Bureau and the Office of Policy and Planning in the Department of Health and Human Services, the Office of Special Education Programs, the Federal Interagency Coordinating Council, and the

Rehabilitation Engineering Research Center on Telerehabilitation.

Two Priorities Addressing Children With Emotional Disturbances

Chapter Seven of NIDRR's proposed LRP (63 FR 57213) addresses public policy issues for people with disabilities including the integration of service systems. Children with emotional disturbances and their families are likely to receive services from a number of social service systems. Gaining a better understanding of the policies that serve as the foundation for these services, and their interaction, may contribute to improvements in the quality of services.

Approximately 3.5 to 4 million youngsters (from ages 9–17) are estimated to have an emotional disturbance accompanied by substantial functional impairment (Center for Mental Health Services, Publication SMA96–308, Chapter 6, 1996).

Proposed Priority 3: Policies Affecting the Provision of Services to Children With Emotional Disturbances and Their Families

Introduction

Many children with emotional disturbances receive services over extended periods of time from multiple agencies including child welfare and protective services agencies, schools and local educational agencies, and elements of the juvenile justice system. Coordination of the delivery of services from multiple agencies is a difficult undertaking that may be facilitated by ensuring that the public policies authorizing the services are compatible and promote coordination and collaboration.

The costs, or part of the costs, of mental health services provided to children with emotional disturbances are routinely covered by insurance programs. Research is needed to understand the impact of changes in the field of health care financing on mental health services provided to children with emotional disturbances.

Proposed Priority

The Secretary, in collaboration with the Substance Abuse and Mental Health Services Administration and the Center for Mental Health Services, proposes to establish an RRTC to improve policies affecting the provision of services to children with emotional disturbances and their families. The RRTC must:

(1) Develop an analytical framework for assessing: family characteristics and policies, structure of service systems, service delivery processes, interagency coordination and collaboration, and outcomes for children with emotional disturbances and their families;

(2) Using the methodology developed above, determine the effectiveness of specific policies, implementation strategies, service delivery procedures, and coordination practices in meeting the needs of children with an emotional disturbances and their families;

(3) Identify the impact of specific characteristics of interagency collaboration and coordination on the provision of services to children with emotional disturbances and their families;

(4) Assess the impact of specific policies on access to services of children with emotional disturbances from diverse cultural, linguistic, ethnic and socioeconomic backgrounds; and

(5) Investigate the impact of changes in health care financing, particularly the State Children's Health Insurance Program, on mental health services provided to children with emotional disturbances.

In carrying out these purposes, the RRTC must:

- Coordinate with the Center for Mental Health Services and the Office of Policy and Planning in the Department of Health and Human Services, the Office of Special Education Programs, and the Federal Interagency Coordinating Council; and
- Establish practical statistical methodologies and measurement tools that specifically assess the policies affecting families of children with serious emotional disturbance.

Proposed Priority 4: Improving Services and Supports to Children With Emotional Disturbances and Their Families

Introduction

Families of children with emotional disturbances face multiple challenges and need appropriate services for their children as well as supportive services for the family. Early identification of an emotional disturbance is beneficial not only to the child, but also to the family who must learn to address the impact of their child's behavior on the family and to navigate various service systems. In order to address family needs and be successful advocates for their child, families must learn to communicate effectively with providers. At the same time, service providers must have the ability to understand families' needs and respond positively to those needs.

Proposed Priority

The Secretary, in collaboration with the Substance Abuse and Mental Health Services Administration and the Center for Mental Health Services, proposes to establish an RRTC to improve services and supports for children with emotional disturbances and their families. The RRTC must:

(1) Develop and evaluate service delivery models for children with an emotional disturbance and their families, including family centered and culturally sensitive services;

(2) Define and evaluate the formal and informal components of family support and identify successful family support interventions;

(3) Identify and evaluate early intervention strategies; and

(4) Identify, develop, and evaluate communication skills to enable families and service providers to communicate effectively with each other.

In carrying out these purposes, the RRTC must coordinate with the Center for Mental Health Services and the Office of Policy and Planning in the Department of Health and Human Services, the Office of Special Education Programs, and the Federal Interagency Coordinating Council.

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 Priority 5: Improved Economic Outcomes for Women With Disabilities

Introduction

Chapter One of NIDRR's proposed LRP (63 FR 57192) addresses the need for research to explore new ways of measuring and assessing disability in context, taking into account the effects of physical, policy, and social environments, and the dynamic nature of disability over the life span and across environments. Among the

objectives for persons with disabilities are satisfactory employment, economic self-sufficiency, and the opportunity to participate in mainstream community life.

There is evidence that the economic conditions of women with disability are comparatively poor. Disabled women have lower levels of educational attainment, lower employment rates regardless of education, and lower earnings. Also, they are more likely to be dependent on public income supports, to live in poverty, and to be single parents at some time during their lives, with responsibility for the care and support of children (*Introduction to Disability*, McColl, M. and Bickenbach, J., Eds., W.B. Saunders Co., 1998).

NIDRR expects this project to contribute to our understanding of strategies that women with disabilities can use to achieve greater economic independence. The project may focus on ways to maximize earnings from work, self-employment, and financial life planning. In the effort to maximize earnings, some women with disabilities at various educational levels are setting career goals, attaining appropriate training and education throughout the life span, and developing networks and support systems to improve their employment outcomes. Some disabled women, especially those with young children, are now considering the advantages and disadvantages of home-based employment.

Proposed Priority

The Secretary proposes to establish a DRRP to evaluate the economic status of women with disabilities and identify strategies to improve employment outcomes and economic independence.

(1) Analyze, using existing data sources, the employment conditions and economic status of disabled women, including uses of public and private income supports;

(2) Analyze the skills and conditions that promote lifelong economics self-sufficiency for disabled women;

(3) Identify innovative strategies to improve employment outcomes, including earnings, career progression, and benefits packages, for women with disabilities; and

(4) Identify innovative strategies, including peer support strategies, to assist disabled women to develop plans to increase lifelong economic security.

Proposed Priority 6: Analysis of Service Delivery and Policies Affecting Emerging Disability Populations

Introduction

Chapter 2 of NIDRR's proposed LRP (63 FR 57196–57198) describes what has become known as the ''emerging universe of disability.'' Demographic, social and environmental trends affect the prevalence and distribution of various types of disability as well as the demands of those disabilities on social policy and service systems. Studies of such emergent disabilities address factors that include: (1) changing etiologies for existing disabilities; (2) growth in segments of the population with higher prevalence rates for certain disabilities, including the aging of the population of individuals with disabilities; (3) the consequences of changes in public policy and in health care services and technologies; and (4) the appearance of new disabilities.

Proposed Priority

The Secretary proposes to establish a DRRP to improve the provision of services to persons with emerging disabilities. The DRRP must:

(1) Evaluate the implications of emerging disabilities for service systems and social policy; and

(2) Assess the particular needs, with attention to identifying unmet needs of the emerging universe for independent living services, assistive technology services, community-based supports, and other services such as vocational rehabilitation, special education, medical and psychosocial rehabilitation, income supports, and medical assistance.

In carrying out these purposes the DRRP must:

- Use a range of existing data sources to estimate and describe the emerging universe of disability and predict future trends;
- Assess the feasibility of using existing, or establishing new surveillance systems in order to improve the accuracy of predicting changes in the emerging universe;
- Identify etiologies, including environmental or social factors, associated with these emerging disabilities;
- Design a practical and prioritized agenda for a future research program to address gaps in service delivery, to develop interventions and to develop policy approaches to address the disability-related problems of various segments of the emerging universe; and
- Convene a conference to discuss the Center's findings and their implications, with an emphasis on dissemination of results of the conference to appropriate NIDRR grantees.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.html

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To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the preceding sites. If you have questions about using the pdf, call the U.S. Government Printing Office at (202) 512–1530 or, toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

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 SW, Washington, DC, 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.

(Catalog of Federal Domestic Assistance Number 84.133A, Disability and Rehabilitation Research Projects, and 84.133B, Rehabilitation Research and Training Centers)

Program Authority: 29 U.S.C. 760–762.

Dated: February 19, 1999.

Curtis L. Richards,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 99–4736 Filed 2–24–99; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Thursday
February 25, 1999

Part VI

Department of Justice

Bureau of Prisons

28 CFR Parts 511, 524, 541, 551, 552

Classification and Program Review: Team Meetings; Birth Control, Pregnancy, Child Placement, and Abortion; Searches of Housing Units, Inmates, and Inmate Work Areas, and Persons Other Than Inmates: Electronic Devices; Inmate Discipline: Prohibited Acts; Final and Proposed Rules

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 524

[BOP–1068–F]

RIN 1120–AA64

Classification and Program Review: Team Meetings

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: The Bureau of Prisons is amending its regulations on classification and program review to discontinue the practice of permitting inmates to waive appearance at classification team meetings for program reviews. The purpose of this change is to ensure that inmates participate in their own program reviews.

EFFECTIVE DATE: March 29, 1999.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its regulations on classification and program review (28 CFR part 524, subpart B). A proposed rule on this subject was published in the **Federal Register** on April 21, 1997 (62 FR 19430).

Program reviews provide the inmate with an opportunity to discuss staff's assessment of the inmate's performance in the institution's programming, conduct, sanitation, release preparation, etc. Regulations in § 524.12(c) permitted an inmate to elect not to attend program reviews subsequent to the initial classification meeting. In order to ensure that the inmate participates in program reviews, the Bureau proposed to eliminate the inmate's option not to attend program reviews. Sanctions for an inmate's unexcused absence, contained in the Bureau's regulations on inmate discipline (see 28 CFR 541.13), remained unchanged.

The Bureau received eight comments on the proposed rule. All of the comments were opposed to the change. Three of the commenters argued that the inmate should not be forced to attend a program review when the inmate did not wish to do so. These commenters stated that the inmate could be more productively occupied in an educational program or in a work assignment. Another commenter questioned the value of program reviews citing two examples of perfunctory program reviews. Another commenter questioned the value of attending program reviews when the inmate would remain ineligible for camp placement because of the characterization of the inmate's instant offense as violent.

The Bureau is committed to ensuring that all inmates will have the opportunity to communicate directly with staff who make classification decisions. While specific educational programs and work assignments all may have obvious productive benefits, it is shortsighted to argue that the immediate benefit outweighs the benefits that can accrue from attending the program review and interacting with institution staff responsible for assessing the inmate's performance in various areas. The Bureau notes that institution transfers are not the only topics to be considered at program reviews. As to specific complaints about the operation of any particular program review, these complaints can be addressed under the Bureau's Administrative Remedy Program (see 28 CFR part 542).

Another commenter objected in general to rulemaking and requested a copy of all Bureau of Prisons and Department of Justice rules. The general public has access to such rules in the Code of Federal Regulations which can be purchased from Government Printing Office bookstores or found in public or college libraries. Regulations for the Bureau and for the Department are available in inmate law libraries in Bureau institutions.

Another commenter objected to eliminating totally the inmate's option not to attend program reviews. This commenter recommended instead that inmates be expected to attend program reviews within 18 months of their projected release date, and that inmates with Immigration and Naturalization (INS) deportation orders could continue to waive program reviews regardless of the projected release date. This commenter argued that forcing inmates who have INS detainers or distant release dates would cause disruption among the inmate population. In response, the Bureau notes that many other issues or concerns in addition to INS status are discussed at a program review. As noted above, the Bureau is committed to ensuring that inmates have the opportunity to communicate directly with staff making classification decisions in these matters.

Another commenter objected to the regulatory flexibility determination that the proposed rule did not have a significant impact on a substantial number of small entities. This commenter stated that all rules affect the taxpayer. The Regulatory Flexibility Act is intended to address the economic impact of regulations. As defined in the Regulatory Flexibility Act, the term ''small entity'' has the same meaning as ''small business,'' ''small organization,'' or ''small governmental jurisdiction''. As noted in the proposed rule and also in this final rule, the rule does not have a significant impact.

In accordance with the reasons cited above, the Bureau is adopting the proposed rule as final without change. Members of the public may submit further comments concerning this rule by writing to the previously cited address. These comments will be considered but will receive no response in the **Federal Register**.

Executive Order 12866

This rule falls within a category of actions that the Office of Management and Budget (OMB) has determined not to constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866 and, accordingly, it was not reviewed by OMB.

Executive Order 12612

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on 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.

Regulatory Flexibility Act

The Director of the Bureau of Prisons, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons: This rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

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

deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

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

Plain Language Instructions

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write Roy Nanovic, Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First St., Washington, DC 20534; telephone (202) 514–6655.

List of Subjects in 28 CFR Part 524

Prisoners.

Kathleen Hawk Sawyer

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), part 524 in subchapter B of 28 CFR, chapter V is amended as set forth below.

SUBCHAPTER B—INMATE ADMISSION, CLASSIFICATION, AND TRANSFER

PART 524—CLASSIFICATION OF INMATES

1. The authority citation for 28 CFR part 524 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3521–3528, 3621, 3622, 3624, 4001, 4042, 4046, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 21 U.S.C. 848; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. In § 524.12, paragraph (c) is revised to read as follows:

§ 524.12 Initial classification and program reviews.

* * * * *

(c) Staff shall notify an inmate at least 48 hours prior to that inmate's scheduled appearance before the classification team (whether for the initial classification or subsequent program review). An inmate may waive in writing the 48-hour notice requirement. The inmate is expected to attend the initial classification and all subsequent program reviews. If the inmate refuses to appear at a scheduled meeting, staff shall document on the Program Review Report the inmate's refusal and, if known, the reasons for refusal. A copy of this report is to be forwarded to the inmate. The inmate is responsible for becoming aware of, and will be held accountable for, the classification team's actions.

* * * * *

[FR Doc. 99–4732 Filed 2–24–99; 8:45 am]

BILLING CODE 4410–05–P

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 551

[BOP–1030–F]

RIN 1120–AA31

Birth Control, Pregnancy, Child Placement, and Abortion

AGENCY: Bureau of Prisons, Justice.

ACTION: Final Rule.

SUMMARY: This document finalizes the interim rule pertaining to birth control, pregnancy, child placement, and abortion regulations for female inmates. The interim rule removed references to restrictions on the Bureau of Prisons' funding of an elective abortion to conform to changes in legislative authority. The interim rule also made various editorial or organizational changes for the sake of clarity. There are no changes necessary to the interim rule.

EFFECTIVE DATE: February 25, 1999.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is finalizing its regulations in 28 CFR part 551, Subpart C, on Birth Control, Pregnancy, Child Placement, and Abortion. A final rule on this subject was published in the **Federal Register** June 29, 1979 (44 FR 38252) and was amended December 30, 1986 (51 FR 47179). An interim rule on this subject was published in the **Federal Register** on December 6, 1994. The Bureau received comment from two respondents.

Both commenters, writing for public interest organizations, agreed with the general intent of the regulations (28 CFR § 551.23) allowing women prisoners to have elective abortions. However, both stressed that the rule should clearly state that the Bureau of Prisons will assume all medical and transportation costs related to the abortion.

Federal Bureau of Prisons' regulations must conform with current law, and implementing text within Bureau policy instructs staff on the appropriate policies and procedures regarding this matter. Currently, the law states that the Bureau may not use appropriated funds to require any person to perform or facilitate the performance of an abortion. The Bureau may only pay for those abortions in which the life of the mother would be in danger if the fetus was carried to full term or in cases of rape. In all other cases, non-Bureau funds must be obtained to pay for any abortion procedure, or else the planned abortion may not be performed. In all cases, however, the Bureau will expend funds to escort the inmate to an appropriate facility outside the facility to receive the procedure.

While not the subject of the interim rule, both commenters were also concerned with timely access to counseling services for women prisoners seeking abortion. They noted their concern that counseling be provided in an expeditious manner and that any delay in receipt of counseling services not prevent the planned abortion from being performed.

The Bureau believes that counseling services will be provided in a timely manner so that women prisoners will receive adequate counseling before making the decision whether to carry the fetus to full term or to have an elective abortion.

The second commenter was also concerned that the inmates' privacy will be compromised by placement of documentation of counseling sessions in the inmates' central file and by requiring the inmate to submit a written statement to the unit manager rather than directly to medical staff. By placing such documentation only in the inmates' medical file and by requiring the written statement to be submitted only to medical staff, Federal and state confidentiality provisions are invoked. The Bureau believes this concern to be overstated. Bureau staff are required to keep all inmate information, that is not public information, confidential and are guided by the Privacy Act and Bureau of Prisons policy in so doing.

The second commenter further raised concerns regarding child placement provisions. This commenter felt that

prisoners should have access to information and resources to include access to telephones to discuss placement with family members, outside agencies, and other individuals. Bureau telephone regulations are governed by 28 CFR part 540 subpart I, and allow for inmates to use the telephone to maintain community ties and in compelling circumstances such as a family emergency. Also, staff and counselors are available to assist the inmate in finding a suitable placement for her child.

Executive Order 12866

This rule falls within a category of actions that the Office of Management and Budget (OMB) has determined not to constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866 and, accordingly, it was not reviewed by OMB.

Executive Order 12612

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on 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.

Regulatory Flexibility Act

The Director of the Bureau of Prisons, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons: This rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

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

Plain Language Instructions

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write Roy Nanovic, Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First St., Washington, DC 20534; telephone (202) 514–6655.

List of Subjects in 28 CFR Part 551

Prisoners.

Kathleen Hawk Sawyer,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), the interim rule published December 6, 1994 (59 FR 62968) amending part 551 in subchapter C of 28 CFR, is adopted as a final rule with no changes.

[FR Doc. 99–4733 Filed 2–24–99; 8:45 am]

BILLING CODE 4410–05–P

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Parts 511 and 552

[BOP–1089]

RIN 1120–AA90

Searches of Housing Units, Inmates, and Inmate Work Areas, and Persons Other Than Inmates: Electronic Devices

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed Rule.

SUMMARY: In this document, the Bureau of Prisons is proposing to amend its regulations on searches of persons other than inmates, searches of inmates, housing units, and inmate work areas with respect to the use of electronic devices. This amendment is intended to provide for the continued efficient and secure operation of the institution and to prevent the introduction of contraband into Bureau institutions.

DATES: Comments due by April 26, 1999.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is proposing to amend its regulations on searches of persons other than inmates (28 CFR part 511, subpart B) and searches of inmates, housing units, and inmate work areas (28 CFR part 552, subpart B). A final rule on searching, detaining, or arresting persons other than inmates was published in the **Federal Register** on November 1, 1984 (49 FR 44057), and was amended on July 18, 1986 (51 FR 26126), February 1, 1991 (56 FR 4159), February 8, 1994 (59 FR 5924 and 5925), and March 10, 1998 (63 FR 11818). A final rule on searches of housing units, inmates, and inmate work areas was published in the **Federal Register** on November 13, 1980 (45 FR 75134) and was amended on October 21, 1983 (48 FR 48970) and May 6, 1991 (56 FR 21036).

The Bureau's regulations allow for the use of electronic devices as part of its general security measures. While in some instances the regulations refer to electronic devices in general, other references merely refer to metal detectors. At the time the Bureau's regulations were issued, the most commonly used electronic devices by the Bureau were metal detectors.

Metal detectors serve to reduce the potential for introducing weapons into the institutions. Due to advances in technology, new types of electronic devices are now available which are able to detect other types of contraband, such as narcotics or illegal drugs. The Bureau is therefore revising its regulations to remove possible confusion regarding the use of the various electronic devices.

More specifically, current procedures for searching visitors state that the Warden may require visitors entering the institution to submit to a search by electronic means (28 CFR 511.12(b)(1)). However, in the definition of reasonable suspicion at 28 CFR 511.11(a), we state that a reasonable suspicion may be based on a positive reading of a metal detector. We are revising the definition to state that a reasonable suspicion may be based on a positive reading of an electronic detection device. The reference to electronic means in § 511.12(b)(1) is revised to read electronic devices to maintain consistency.

The regulations on searches of housing units, inmates, and inmate work areas note that staff shall employ the least intrusive method of search practicable, as indicated by the type of contraband and the method of suspected introduction. The procedures governing pat searches of inmates (§ 552.11(a)) further note that a metal detector search may be done under the same circumstances (i.e., on a routine or random basis to control contraband). We are revising these provisions to clarify the role of electronic devices in general. The existing procedures in § 552.11 are being redesignated in order to make room for a new paragraph (a) pertaining to electronic devices. Listing electronic devices first emphasizes the non-intrusive nature of such searches.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., HOLC Room 754, Washington, DC 20534. Comments received during the comment period will be considered before final action is taken. Comments received after the expiration of the comment period will be considered to the extent practicable. All comments received remain on file for public inspection at the above address. The proposed rule may be changed in light of the comments received. No oral hearings are contemplated.

Executive Order 12866

This rule falls within a category of actions that the Office of Management and Budget (OMB) has determined not to constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866 and, accordingly, it was not reviewed by OMB.

Executive Order 12612

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on 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.

Regulatory Flexibility Act

The Director of the Bureau of Prisons, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons: This rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

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

Plain Language Instructions

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write Roy Nanovic, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534, 202–514–6655.

List of Subjects 28 CFR Parts 511 and 552

Prisoners.

Kathleen Hawk Sawyer,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), parts 511 and 552 in subchapters A and C respectively of chapter V, 28 CFR, are proposed to be amended as set forth below.

SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION

PART 511—GENERAL MANAGEMENT POLICY

1. The authority citation for 28 CFR part 511 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 751, 752, 1791, 1792, 1793, 3050, 3621, 3622, 3624, 4001, 4012, 4042, 4081, 4082 (Repealed as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99, 6.1.

2. In § 511.11, paragraph (a) is revised to read as follows:

§ 511.11 Definitions.

(a) *Reasonable suspicion.* As used in this rule, ''reasonable suspicion'' exists if the facts and circumstances that are known to the Warden warrant rational inferences by a person with correctional experience that a person is engaged, or attempting or about to engage, in criminal or other prohibited behavior. A reasonable suspicion may be based on reliable information, even if that information is confidential; on a positive reading of an electronic device; or when contraband or an indicia of contraband is found during search of a visitor's personal effects.

* * * * *

3. In § 511.12, paragraph (b)(1) is revised to read as follows:

§ 511.12 Procedures for Searching Visitors.

* * * * *

(b) * * *

(1) By electronic device (for example, metal detector, or ion spectrometry device).

* * * * *

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 552—CUSTODY

4. The authority citation for 28 CFR part 552 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984, as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

5. In § 552.11, the section heading is revised, paragraphs (a) through (c) are redesignated as paragraphs (b) through (d), a new paragraph (a) is added, and newly redesignated (b) is revised to read as follows:

§ 552.11 Searches of inmates.

(a) *Electronic devices.* An inspection of an inmate, using electronic devices (for example, metal detector, or ion spectrometry device) that does not require the inmate to remove clothing. The inspection includes a search of the inmate's clothing and personal effects. Staff may conduct an electronic device search of an inmate on a routine or random basis to control contraband.

(b) *Pat search.* An inspection of an inmate, using the hands, that does not require the inmate to remove clothing. The inspection includes a search of the inmate's clothing and personal effects. Staff may conduct a pat search of an inmate on a routine or random basis to control contraband.

* * * * *

[FR Doc. 99–4734 Filed 2–24–99; 8:45 am]

BILLING CODE 4410–05–P

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 541

[BOP–1083–P]

RIN 1120–AA78

Inmate Discipline: Prohibited Acts

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rule.

SUMMARY: In this document the Bureau of Prisons is proposing to amend its regulations on inmate discipline respecting violations of the telephone and smoking policies. The existing prohibited act concerning unauthorized use of the telephone is broadly stated and does not address an inmate's use of the telephone to further criminal activity. The Bureau therefore is establishing a greatest severity category prohibited act for use of the telephone to further criminal activity and a high severity category for use of the telephone for abuses other than criminal activity. Other minor telephone infractions remain covered by the existing low severity category prohibited act. The intended effect of these revisions is to address the seriousness of certain types of telephone abuse and deter criminal activity and protect the security and good order of the institution. The existing low category prohibited act for violations of the smoking policy is elevated to a moderate category prohibited act. The intended effect of this revision is to assist the Bureau in achieving its goal of a smoke free environment.

DATES: Comments due by April 26, 1999.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is proposing to amend its regulations on inmate discipline (28 CFR part 541, subpart B). A final rule on this subject was published in the **Federal Register** on January 5, 1988 (53 FR 197), and was amended on October 17, 1988 (53 FR 40686), September 22, 1989 (54 FR 38987 and 54 FR 39095), July 21, 1993 (58 FR 39095), September 26, 1997 (62 FR 50788). The Bureau of Prisons is also proposing to amend its regulations on smoking. A final rule on this subject was published in the **Federal Register** on July 6, 1994 (59 FR 34742)

The existing low severity prohibited act concerning unauthorized use of the telephone does not adequately address the more serious problem of inmates engaging in or continuing criminal activity through abuse of their telephone privileges. The Bureau's goal is to ensure that inmates, once incarcerated, do not use telephones to continue criminal activity. Therefore, the Bureau is proposing to establish a greatest severity prohibited act for use of the telephone to further criminal activity, and a high severity prohibited act for use of the telephone for abuses other than criminal activity. Examples of what the Bureau considers a violation of a high severity prohibited act are third-party calls, third-party billing; possession of and/or use of another inmate's PIN number, and talking in code. The current low severity prohibited act remains for minor

telephone infractions such as talking beyond the 15-minute time period and using the telephone in an unauthorized area.

The health risks associated with tobacco smoke and passive inhalation of second-hand smoke by nonsmokers is well established by medical and public health authorities. Currently, smoking is permitted in designated outdoor areas and certain indoor designated areas. We are elevating the seriousness of violations of the smoking policy to emphasize the importance of limiting exposure to tobacco smoke to the designated areas.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., HOLC Room 754, Washington, DC 20534. Comments received during the comment period will be considered before final action is taken. Comments received after the expiration of the comment period will be considered to the extent practicable. All comments received remain on file for public inspection at the above address. The proposed rule may be changed in light of the comments received. No oral hearings are contemplated.

Executive Order 12866

This rule falls within a category of actions that the Office of Management and Budget (OMB) has determined not to constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866 and, accordingly, it was not reviewed by OMB.

Executive Order 12612

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on 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.

Regulatory Flexibility Act

The Director of the Bureau of Prisons, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons: This rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

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

Plain Language Instructions

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write Roy Nanovic, Rules Unit, Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534, 202–514–6655.

List of Subjects in 28 CFR Part 541

Prisoners.

Kathleen Hawk Sawyer,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), part 541 in subchapter C of 28 CFR, chapter V is proposed to be amended as set forth below.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 541—INMATE DISCIPLINE AND SPECIAL HOUSING UNITS

1. The authority citation for 28 CFR part 541 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161–4166 (Repealed as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. In § 541.13, Table 3 is amended by adding a new code 197 prohibited act under the greatest category, adding a new code 297 under the high category prohibited act, adding a new code 332 moderate category prohibited act, revising code 403 under the low moderate category prohibited act, and revising code 406 under the low moderate category prohibited act.

§ 541.13 Prohibited acts and disciplinary severity scale.

* * * * *

TABLE 3.—PROHIBITED ACTS AND DISCIPLINARY SEVERITY SCALE

Code	Prohibited acts	Sanctions
	Greatest Category	
*	* * * * * *	*
197	Use of the telephone to further criminal activity.	
*	* * * * * *	*
	High Category	

TABLE 3.—PROHIBITED ACTS AND DISCIPLINARY SEVERITY SCALE—Continued

Code	Prohibited acts	Sanctions
*	* * * * * * *	
297	Use of the telephone for abuses other than criminal activity (e.g., circumventing telephone monitoring procedures, possession and/or use of another inmate's PIN number; third-party calling; third-party billing; using credit card numbers to place telephone calls, conference calling; talking in code).	
*	* * * * * * *	
	Moderate Category	
*	* * * * * * *	
332	Smoking where prohibited.	
*	* * * * * * *	
	Low Moderate Category	
*	* * * * * * *	
403	(Not to be used).	
*	* * * * * * *	
406	Unauthorized use of mail or telephone (e.g., exceeding the 15-minute time limit for telephone calls; using the telephone in an unauthorized area; placing of an unauthorized individual on telephone list) (Restriction, or loss for a specific period of time, of these privileges may often be an appropriate sanction G) (May be categorized and charged in terms of greater severity, according to the nature of the unauthorized use; e.g., the mail is used for planning, facilitating, committing an armed assault on the institution's secure perimeter, would be charged as a Code 101 Assault).	
*	* * * * * * *	

[FR Doc. 99–4735 Filed 2–24–99; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Olives grown in—

California; comments due by 3-1-99; published 1-28-99

COMMERCE DEPARTMENT

Export Administration Bureau

Export administration regulations:

License exception CTP; high performance computers exports to China; comments due by 3-1-99; published 1-14-99

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Atlantic highly migratory species

Regulations consolidation; comments due by 3-4-99; published 1-20-99

Atlantic highly migratory species—

Atlantic bluefin tuna fishery; comments due by 3-4-99; published 2-25-99

Northeastern United States fisheries—

Northeast multispecies; comments due by 3-5-99; published 1-5-99

West Coast States and Western Pacific fisheries—

Pacific Fishery Management Council; hearings; comments due by 3-3-99; published 1-14-99

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Affirmative action in Federal procurement; reform

Correction; comments due by 3-1-99; published 12-29-98

Cost-reimbursement architect-engineer contracts; comments due by 3-1-99; published 12-29-98

Increased payment protection; comments due by 3-1-99; published 12-29-98

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:

Perchloroethylene emissions from dry cleaning facilities—

California; comments due by 3-1-99; published 1-28-99

California; comments due by 3-1-99; published 1-28-99

Air pollution; standards of performance for new stationary sources:

Synthetic organic chemical manufacturing industry wastewater; volatile organic compound emissions; comments due by 3-5-99; published 2-5-99

Air quality implementation plans; approval and promulgation; various States:

Florida; comments due by 3-5-99; published 2-3-99

Georgia; comments due by 3-1-99; published 1-29-99

Pennsylvania; comments due by 3-4-99; published 2-2-99

Texas; comments due by 3-1-99; published 1-28-99

Drinking water:

National primary drinking water regulations—

Microbes, lead, and magnesium; analytical methods; comments due by 3-1-99; published 1-14-99

Hazardous waste program authorizations:

Nevada; comments due by 3-1-99; published 1-29-99

Hazardous waste:

Municipal solid waste landfills and non-municipal waste disposal units; State permit program adequacy determination; State implementation rule

Amendments and technical corrections; comments due by 3-1-99; published 1-28-99

Amendments and technical corrections; comments due by 3-1-99; published 1-28-99

Toxic substances:

Lead-based paint activities—

Residences and child-occupied facilities; identification of dangerous levels of lead; comments due by 3-1-99; published 1-14-99

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Fixed satellite service and terrestrial system in Ku-band; comments due by 3-2-99; published 2-16-99

Radio and television broadcasting:

Broadcast and cable EEO rules and policies; comments due by 3-1-99; published 2-23-99

FEDERAL ELECTION COMMISSION

Contribution and expenditure limitations and prohibitions:

Corporate and labor organizations—

Membership association member; definition; public hearing; comments due by 3-1-99; published 2-19-99

Presidential primary and general election candidates; public financing:

Eligibility requirements and funding expenditure and repayment procedures; public hearing; comments due by 3-1-99; published 2-19-99

Rulemaking petitions:

Bopp, James, Jr.; comments due by 3-5-99; published 2-3-99

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):

Affirmative action in Federal procurement; reform

Correction; comments due by 3-1-99; published 12-29-98

Cost-reimbursement architect-engineer contracts; comments due by 3-1-99; published 12-29-98

Increased payment protection; comments due by 3-1-99; published 12-29-98

Federal property management:

Utilization and disposal—

Excess personal property reporting requirements; comments due by 3-1-99; published 12-29-98

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Administrative practice and procedure:

Meetings, correspondence, and public calendars; comments due by 3-2-99; published 12-17-98

Food additives:

Polymers—

Nylon MXD-6 resins; comments due by 3-3-99; published 2-1-99

Human drugs:

Investigational new drug and new drug applications—

Clinical hold requirements; comments due by 3-1-99; published 12-14-98

Clinical hold requirements; comments due by 3-1-99; published 12-14-98

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Cactus ferruginous pygmy owl

Critical habitat designation; comments due by 3-1-99; published 12-30-98

Huachuca water umbel (plant from Cochise and Santa Cruz counties, AZ)—

Critical habitat designation; comments due by 3-1-99; published 12-30-98

Preble's meadow jumping mouse; comments due by 3-5-99; published 1-29-99

Short-tailed albatross; comments due by 3-2-99; published 11-2-98

LABOR DEPARTMENT

Programs and activities receiving Federal financial assistance; nondiscrimination based on age; comments due by 3-1-99; published 12-29-98

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):

Affirmative action in Federal procurement; reform

Correction; comments due by 3-1-99; published 12-29-98

Cost-reimbursement architect-engineer contracts; comments due by 3-1-99; published 12-29-98

Increased payment protection; comments due by 3-1-99; published 12-29-98

Management fee prohibition; grant and cooperative agreement handbook; comments due by 3-1-99; published 12-29-98

NATIONAL CREDIT UNION ADMINISTRATION

Credit unions:

Credit union service organizations; investments and loans; comments due by 3-1-99; published 11-30-98

Organization and operations—

Fidelity bond and insurance coverage; insurance requirements; comments due by 3-5-99; published 1-4-99

Credit Unions:

Organization and operations—

Safe deposit box service; elimination; comments due by 3-5-99; published 1-4-99

NUCLEAR REGULATORY COMMISSION

Acquisition regulations; comments due by 3-1-99; published 12-8-98

PERSONNEL MANAGEMENT OFFICE

Employment:

Suitability for employment in competitive service positions and Senior Executive Service career appointments; determinations and procedures; comments due by 3-1-99; published 1-28-99

TRANSPORTATION DEPARTMENT

Coast Guard

Load lines:

Unmanned dry cargo river barges on Lake Michigan routes; exemption from Great Lakes load line requirements; comments due by 3-4-99; published 12-28-98

Ports and waterways safety:

Kill Van Kull Channel et al., NY and NJ; regulated navigation area; comments due by 3-1-99; published 12-31-98

Strait of Juan de Fuca and Northwest Washington coast; regulated navigation area; comments due by 3-1-99; published 10-1-98

Regattas and marine parades:

Empire State Regatta; comments due by 3-5-99; published 1-4-99

Waterfront facilities:

Class 1 (explosive) materials or other dangerous cargoes, handling; improved safety procedures; comments due by 3-1-99; published 1-12-99

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Boeing; comments due by 3-1-99; published 12-31-98

Empresa Brasileira de Aeronautica S.A.; comments due by 3-1-99; published 1-29-99

Pratt & Whitney; comments due by 3-1-99; published 12-31-98

Westland Helicopters Ltd.; comments due by 3-1-99; published 12-30-98

Class E airspace; comments due by 3-3-99; published 1-19-99

Colored Federal airways; comments due by 3-1-99; published 1-14-99

Jet routes; comments due by 3-1-99; published 1-14-99

VOR Federal airways; comments due by 3-1-99; published 1-14-99

TRANSPORTATION DEPARTMENT

Federal Railroad Administration

Freight and other non-passenger trains and equipment; brake system safety standards; comments due by 3-1-99; published 1-21-99

Railroad consolidations, mergers, and acquisitions of control:

Safety integration plans; comments due by 3-1-99; published 12-31-98

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Grants and cooperative agreements; availability, etc.:

Alcohol-impaired driving prevention projects—

Incentive grants; comments due by 3-1-99; published 12-29-98

Seat belt use:

State observational surveys; uniform criteria; comments due by 3-1-99; published 2-23-99

TRANSPORTATION DEPARTMENT

Surface Transportation Board

Railroad consolidations, mergers, and acquisitions of control:

Safety integration plans; comments due by 3-1-99; published 12-31-98

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Credit for increasing research activities; comments due by 3-2-99; published 12-2-98